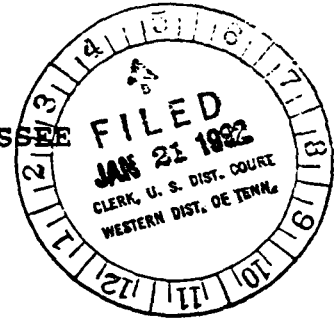




MR-TN-003-005

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE



UNITED STATES OF AMERICA

Plaintiff,

v.

STATE OF TENNESSEE, Ned McWherter,
Governor of the State of Tennessee;
Evelyn C. Robertson Jr., Director,
Tennessee Department of Mental Health
and Mental Retardation; Mona Reeves-
Winfrey, Superintendent, Arlington
Developmental Center

Defendants.

Civil Action No.

92 2062 HA

Complaint

Civil Rights

THE UNITED STATES OF AMERICA alleges:

1. This action is brought by the Attorney General on behalf of the United States pursuant to the Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C. § 1997 et seq., to enjoin the named defendants from depriving persons residing at the Arlington Developmental Center ("Arlington") of rights, privileges or immunities secured or protected by the Constitution of the United States and the Education of the Handicapped Act, 20 U.S.C. § 1400 et seq.

JURISDICTION

2. This Court has jurisdiction over this action under 28 U.S.C. § 1345.

3. The United States has standing to maintain this action pursuant to 42 U.S.C. § 1997a.

4. The Attorney General has certified that all the pre-filing requirements specified in 42 U.S.C. § 1997b have been met.

The certificate of the Attorney General is appended to this Complaint and is incorporated herein.

5. Venue in the Western District of Tennessee is proper pursuant to 28 U.S.C. §1391. All claims set forth in the Complaint arose in said District.

DEFENDANTS

6. Defendant STATE OF TENNESSEE owns and operates Arlington, a state facility for mentally retarded and developmentally disabled persons located in Arlington, Tennessee.

7. Defendant NED MCWHERTER is the Governor of Tennessee, and in this capacity heads the Executive Branch of the State government and, among other duties, reviews and approves budget requests submitted by Executive Branch agencies. He selects and appoints the Director of the Tennessee Department of Mental Health and Mental Retardation.

8. Defendant EVELYN C. ROBERTSON, JR. is the Director of the Tennessee Department of Mental Health and Mental Retardation and, in this capacity, exercises administrative control of, and responsibility for, Arlington.

9. Defendant MONA REEVES-WINFREY is the Superintendent of Arlington and is responsible for its day-to-day operations.

10. The individual Defendants named in paragraphs 7, 8, and 9 are officers of the Executive Branch of the State of Tennessee and are sued in their official capacities.

11. Arlington is an institution within the meaning of 42 U.S.C. §1997(1).

12. Persons residing at Arlington include individuals who are mentally retarded and developmentally disabled.

13. Defendants are legally responsible, in whole or in part, for the operation of and conditions at Arlington, as well as for the care and treatment of persons residing at that institution.

14. At all relevant times, defendants have acted or failed to act, as alleged herein, under color of state law.

FACTUAL ALLEGATIONS

15. Defendants have failed and are continuing to fail to ensure that Arlington residents are protected from abuse and neglect, including medical neglect.

16. Defendants have failed and are continuing to fail to provide adequate medical care to Arlington residents.

17. Defendants have failed and are continuing to fail to provide residents of Arlington with that level of individualized training and behavioral programming necessary to ensure that residents are free from undue bodily restraint, including chemical restraint, and unreasonable risks to their personal safety.

18. Defendants have failed and are continuing to fail to ensure that there is an adequate number of sufficiently trained direct care and professional staff to render and implement professional judgments regarding care and treatment of Arlington residents.

19. Defendants have failed and are continuing to fail to maintain professionally based recordkeeping and record review systems to ensure that resident records contain accurate, up-to-date and relevant information necessary to enable staff to exercise professional judgment regarding treatment and training of Arlington residents.

20. Defendants have subjected and are continuing to subject Arlington residents to unreasonable risks of harm from fire and fire hazards.

21. Defendants have failed and are continuing to fail to provide Arlington residents under 22 with a free appropriate public education.

22. The acts and omissions alleged in paragraphs 15 through 20 constitute patterns or practices of resistance to the full enjoyment of rights, privileges or immunities secured or protected by the Constitution of the United States, and deprive Arlington residents of such rights, privileges or immunities.

23. The acts and omissions alleged in paragraph 21 constitute deprivations of rights secured by the Education of the Handicapped Act, 20 U.S.C. § 1400 et seq.

24. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 15 through 21 which deprive residents of Arlington of rights, privileges, or immunities secured or protected by the Constitution of the United States and the Education of the

Handicapped Act, and cause irreparable harm to Arlington residents.

25. The Attorney General is authorized under 42 U.S.C. § 1997 to seek only equitable relief.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their agents, employees, subordinates, successors in office, and all those acting in concert or participation with them from continuing the acts, practices and omissions at Arlington set forth in paragraphs 15 through 21 above, and to require Defendants to take such action as will provide constitutional conditions of care to persons who reside at Arlington. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,



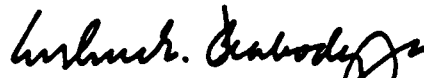
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