



Promoting Dignity, Equality
and Self-Determination

People First of Wash. v. Rainier RHC



MR-WA-002-001

People First vs. Rainier RHC

Case Summary

The Washington Protection and Advocacy System (WPAS) filed a major class action lawsuit concerning dangerous conditions at Rainier School, the state's largest residential habilitation center (RHC) for people with mental retardation and developmental disabilities. According to the lawsuit, filed in federal court October 21, Rainier residents are subjected to abuse, neglect, injury, and inappropriate physical and chemical restraint and the defendants have violated the rights of residents under the following laws: U.S. Constitution, Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Social Security Act. One of the lawsuit's demands is the transfer of many Rainier residents to appropriate community placements. Similar litigation in other states has resulted in the closure of institutions for people with developmental disabilities. This lawsuit could have a dramatic impact on the lives of people with developmental disabilities in Washington.

Plaintiffs

Named as plaintiffs in *People First vs. Rainier RHC* are six individuals with developmental disabilities who currently reside at Rainier and four organizations: People First of Washington, The Arc of Washington State, the Autism Society of Washington, and the Washington Protection and Advocacy System (WPAS).

The six individual plaintiffs are: **James Campbell**, who has lived at Rainier since 1983; **Chris Olson**, who has lived at Rainier since 1970; **Houston Williams**, who has lived at Rainier since 1956; **Peter Bohnke**, who has lived at Rainier since 1947; **Dawn Lavery**, who has lived at Rainier since 1973; and **John Mann**, who has lived at Rainier since 1947.

People First of Washington, a nonprofit corporation, is a statewide self-advocacy organization governed entirely by people with developmental disabilities. More than 1000 Washington citizens are members of People First through its 33 chapters and support groups.

The Arc of Washington State, a nonprofit corporation, is the state's oldest and largest membership organization for individuals with developmental disabilities, their families, friends, and persons providing services to them. The Arc's membership includes individuals who are at risk of institutionalization at Rainier because of their developmental disabilities.

The Autism Society of Washington, a nonprofit corporation, is a local chapter of the Autism Society of America, which provides advocacy, support, and education on issues affecting persons with autism and their families and friends. The Autism Society's members include individuals with autism and other similar disabilities, as well as their families and friends.

Washington Protection & Advocacy System

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The Washington Protection and Advocacy System (WPAS), a nonprofit corporation, is designated by the Governor to protect and advocate for the legal and civil rights of people in Washington who have physical or mental disabilities. WPAS has the authority and responsibility to pursue legal, administrative, and other appropriate remedies to protect and advocate for the rights of those state citizens who are or who may be eligible for treatment, services or habilitation due to their developmental, mental or physical disabilities.

Defendants

The following are named as defendants in *People First vs. Rainier RHC*: **The Rainier Residential Habilitation Center**, a state-owned and state-operated institution in Buckley, Washington; **Michael Lowry**, in his official capacity as Governor of the State of Washington; **The Washington Department of Social and Health Services**; **Lyle Quasim**, in his official capacity as the Secretary of the Washington Department of Social and Health Services; **The Washington Division of Developmental Disabilities**; **Norm Davis**, in his official capacity as the Director of the Washington Division of Developmental Disabilities; **Leanna Lamb**, in her official capacity as the Superintendent of the Rainier Residential Habilitation Center; **The Washington Office of Financial Management**; and **Gary Robinson**, in his official capacity as the Acting Director of the Washington Office of Financial Management.

Description of class

The class represented in the lawsuit consists of all persons who: (1) presently reside at Rainier; (2) may be admitted or are at risk of being admitted to Rainier; or (3) have been discharged from Rainier to group homes, nursing facilities, intermediate care facilities for individuals with mental retardation and developmental disabilities, and other community living arrangements funded, operated, or licensed by the defendants after October 1, 1991, and at risk of reinstitutionalization in the future due to inadequate supports and services. Approximately 459 individuals currently reside at Rainier. Approximately 30 individuals have been discharged from Rainier in the past 5 years. The number of class members who may be admitted or are at risk of institutionalization at Rainier is not known at the present time.

Primary Allegations

People First vs. Rainier RHC includes, but is not limited to, the following allegations:

Harmful Conditions: The conditions at Rainier are dangerous, and have caused and continue to pose an immediate and great threat of harm to the individuals residing there. In addition, Rainier is a segregated, inhumane and disrespectful environment.

Inadequate Basic Care: At Rainier, many of the plaintiffs' basic care needs are frequently ignored. For example, residents are often left alone for hours, staff ratios in many units are inadequate to meet residents' basic care and attendant support needs, and, due to the inadequate staffing, some of the staff on duty commonly ignore their clients and leave residents unattended. In some cases, this practice has led to serious injury and death.

Inadequate Medical Care: Many members of the plaintiff class do not receive adequate and timely medical care or dental care. Medical staffing at Rainier is grossly inadequate. Residents' health problems often go unrecognized and untreated. The one part-time psychiatrist at Rainier is completely inadequate to supervise and monitor the care of the hundreds of Rainier residents who receive psychoactive medications or require intensive behavioral supports.

Excessive Injury and Abuse: Residents' safety at Rainier is constantly at risk. The rate of injury is alarmingly high. Many of the injuries are of unknown cause and were unobserved at the time they occurred. The defendants do not make reasonable professional attempts to prevent injuries. Verbal abuse of residents is widespread at Rainier and neglect of residents is common.

Inadequate Habilitation and Training: Habilitation is the teaching and training process required by persons with significant disabilities so that they can reach their fullest potential in physical, social and mental growth. The amount of habilitation services offered to class members at Rainier is grossly inadequate to meet their individual needs or to qualify as active treatment. Habilitation at Rainier does not lead to greater independence, productivity and integration. The quality of life of persons at Rainier is unacceptable because it offers no opportunity for progress, participation in valued life activities, daily lifestyle choices, privacy, safety, or dignity.

Inadequate Behavior Management: Appropriate behavior management programs and supports are important components of habilitation and active treatment. However, at Rainier, programs to deal with plaintiffs' behavioral problems are seriously deficient. As a result, physical and chemical restraints are used as a substitute for appropriate care and programs, with the consequence that residents' behavioral problems are exacerbated and escalate.

Inadequate Discharge Planning: Post-discharge planning and follow-along services at Rainier are inadequate. Several Rainier residents have been discharged from the institution without adequate effort to assure that they will receive the proper support in an alternative community-based setting. As a result, these Rainier residents who have been discharged are at risk of harm and of readmission to Rainier. During the past five years, Rainier has discharged thirty residents, often without proper planning and provision of the services needed to meet their individual needs.

Needless Regression: Rainier residents have suffered regression with respect to their individual skills and abilities. Members of the plaintiff class who were in good health now have serious, even life-threatening health problems, including damaged lungs and difficulties with breathing and digestion. Due to the numbing effect of idleness and the institution's barren environment, many class plaintiffs have lost cognitive skills, the ability to relate to others and to respond to their environment. Other class plaintiffs have lost the ability to speak and communicate.

Discriminatory Exclusion from Community-Based Services: The defendants refuse to refer many members of the plaintiff class for community placement. Although community services are not more expensive, the defendants have chosen to allocate the majority of their fiscal resources for developmental disability services to the institutions. Many of the class plaintiffs are placed at Rainier because beds are available, not because that service meets their individual needs.

Demands

The primary goal of *People First vs. Rainier RHC* is to change harmful conditions at Rainier and allow residents to be transferred to community placements. Specific demands include the following:

- To establish a system to prevent abuse and neglect of Rainier residents, to thoroughly and promptly investigate allegations of abuse and neglect and to establish appropriate consequences for abuse and neglect of residents by Rainier staff.
- To arrange for independent evaluation, by qualified professionals not employed by the state, of the individual habilitation and treatment needs of each plaintiff class member to determine whether adequate treatment is being provided and whether any injuries have resulted from inadequate treatment at Rainier;
- To hire sufficient numbers of professional and direct care staff at Rainier, including sufficient numbers of qualified physicians, physical therapists, occupational therapists, speech and language pathologists, psychologists, and aides;
- To develop and provide adequate training programs for professional and direct care staff at Rainier, and assure that all staff are able to demonstrate the skills and competencies to provide active treatment to the class members they serve;
- To cease admitting individuals to Rainier or from transferring present residents from Rainier unless such transfer is to the most integrated community setting appropriate to their needs, and appropriate developmental disability services are provided to them;

The State Legislature's Conclusions on Community Placement

In 1992, the state Legislative Budget Committee (LBC) conducted an extensive investigation on the issue of moving people with developmental disabilities out of institutions and into the community. The LBC concluded that individuals in the state's developmental disability institutions and community residential programs and services, generally speaking, were not distinct in terms of problem behaviors, daily living skills, and needed services and supports. Their findings, distributed in early 1993, included the following:

- Many of the current residents at state institutions could be supported successfully in home and community-based placements;
- Placement in home and community-based settings is most conducive to personal growth and independence, and is generally more cost-effective than institutional care; and
- Services provided in both community and institutional settings should be designed to promote the acquisition of independent living skills and self-sufficiency.