



MR-WI-001-002

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IN THE UNITED STATES DISTRICT COURT
FOR
THE WESTERN DISTRICT OF WISCONSIN

JW SKUPNIEWITZ
CLERK US DIST COURT
WD OF WI

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 THE STATE OF WISCONSIN;)
 the Honorable TOMMY G. THOMPSON,)
 Governor of the State of Wisconsin;)
 JOSEPH S. LEEAN, Secretary of the)
 Department of Health & Family Services;)
 JAMES HUTCHISON, Superintendent of)
 the Southern Wisconsin Center for)
 the Developmentally Disabled; and)
 STEVE WATTERS, Acting Superintendent of)
 the Central Wisconsin Center for the)
 Developmentally Disabled,)
)
 Defendants.)
)
)

Civil Action No.

'97 0 0231 0

COMPLAINT

1. The Attorney General of the United States brings this action on behalf of the United States of America, pursuant to the Civil Rights of Institutionalized Persons Act of 1980 ("CRIPA"), 42 U.S.C. §§ 1997-1997j, to enjoin the named Defendants from depriving persons residing at the Southern Wisconsin Center for the Developmentally Disabled ("SWC") in Union Grove, Wisconsin, and the Central Wisconsin Center for the Developmentally Disabled ("CWC") in Madison, Wisconsin, of rights, privileges or immunities secured or protected by the laws and Constitution of the United States.

JURISDICTION, STANDING AND VENUE

2. This Court has jurisdiction over this action pursuant to 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 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 United States District Court for the Western District of Wisconsin is proper pursuant to 28 U.S.C. § 1391.

DEFENDANTS

6. Defendant STATE OF WISCONSIN ("State") owns and operates SWC and CWC ("the institutions"), facilities housing individuals with mental retardation or other developmental disabilities. Some of the individuals are also elderly and mentally ill.

7. Defendant TOMMY G. THOMPSON is the Governor of the State of Wisconsin, and, in this capacity, heads the Executive Branch of the State's government and, among other duties, reviews and approves budget requests submitted by Executive Branch agencies regarding the institutions. He selects and appoints the Secretary of the Department of Health and Family Services.

8. Defendant JOSEPH S. LEEAN is the Secretary of the Department of Health and Family Services and, in this capacity,

exercises administrative control of, and responsibility for, the institutions.

9. Defendant JAMES HUTCHISON is the Superintendent of SWC, and is responsible for the administration and day-to-day operations of SWC.

10. Defendant STEVE WATTERS is the Superintendent of CWC, and is responsible for the administration and day-to-day operations of CWC.

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

12. SWC and CWC are institutions as that term is defined in 42 U.S.C. § 1997(1)(A), (1)(B)(i) and (1)(B)(v).

13. Persons residing at the institutions are individuals with mental retardation or other developmental disabilities, and some of the individuals are also elderly and mentally ill. Persons residing at the institutions are "qualified individual[s] with a disability" under the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §§ 12101, 12131.

14. The State of Wisconsin and the Wisconsin Department of Health and Family Services are "public entities" under Title II of the ADA, 42 U.S.C. § 12131.

15. Defendants are legally responsible, in whole or in part, for the operation of and conditions at the institutions, as well as for the care and treatment of persons residing at those institutions.

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

FACTUAL ALLEGATIONS

17. Defendants have failed and are continuing to fail to provide reasonably safe conditions and to ensure the reasonable safety and personal security of the institutions' residents.

18. Defendants have failed and are continuing to fail to provide adequate medical care and related services, including psychiatric care, to the institutions' residents.

19. Defendants have failed and are continuing to fail to ensure that residents of the institutions are free from undue or unreasonable restraint.

20. Defendants have failed and are continuing to fail to ensure that chemical and physical restraints are administered to residents at the institutions by appropriately qualified professionals in keeping with accepted professional standards, and are not used as punishment, in lieu of treatment, or for the convenience of staff.

21. Defendants have failed and are continuing to fail to ensure that medications are prescribed and administered to residents at the institution by appropriately qualified professionals in keeping with accepted professional standards, and are not used as punishment, in lieu of treatment, or for the convenience of staff.

22. Defendants have failed and are continuing to fail to provide the institutions' residents with that level of training

necessary to protect the residents' liberty interests, including their right to training sufficient to ensure their safety and freedom from undue restraint.

23. Defendants have failed and are continuing to fail to provide a sufficient number of adequately trained staff to render the essential care, treatment and training outlined above in paragraphs 17 through 22 as required by the laws and Constitution of the United States.

24. 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 provide adequate care, treatment, and training to the institutions' residents.

25. Defendants have failed and are continuing to fail to ensure that citizens living at the institutions are adequately evaluated for community placement, that those individual residents who professionals determine should be placed in community programs are placed in such programs, and that all residents are served in the most integrated setting appropriate to each resident's individual needs.

26. Defendants have failed and are continuing to fail to meet the requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations promulgated pursuant thereto, by excluding the citizens living at the institutions, by reason of their disability, from participation

in or by denying them the benefits of services, programs, or activities, or by subjecting them to discrimination, and by failing to administer services, programs, and activities in the most integrated setting appropriate to their needs.

VIOLATIONS ALLEGED

27. The acts and omissions alleged in paragraphs 17 through 26 infringe upon the residents' legal rights and substantive liberty interests and constitute resistance to their full enjoyment of rights, privileges or immunities secured or protected by the laws and Constitution of the United States, and deprive the institutions' residents of such rights, privileges or immunities.

28. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 17 through 26 that deprive residents of the institutions of rights, privileges, or immunities secured or protected by the laws and Constitution of the United States, and cause irreparable harm to those residents.

PRAYER FOR RELIEF

29. The Attorney General is authorized under 42 U.S.C. § 1997a to seek only equitable 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 the institutions set forth in paragraphs 17 through 26, and to require Defendants to take such action as will bring Defendants into compliance with federal law and provide constitutional conditions of care to persons who presently reside at the institutions. The United States further

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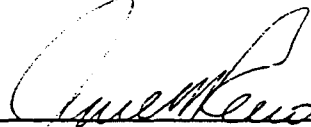
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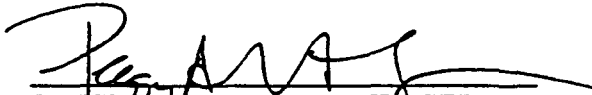
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prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,



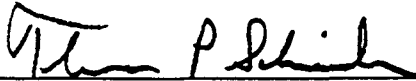
JANET RENO
Attorney General of the
United States



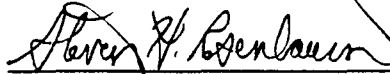
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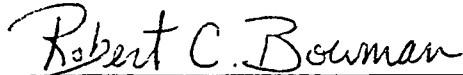
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CERTIFICATE OF THE ATTORNEY GENERAL

I, Janet Reno, Attorney General of the United States, certify that with regard to the foregoing Complaint, I have complied with all subsections of 42 U.S.C. § 1997b(a)(1). I certify as well that I have complied with all subsections of 42 U.S.C. § 1997b(a)(2). I further certify, pursuant to 42 U.S.C. § 1997b(a)(3), my belief that this action by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the laws and Constitution of the United States.

I further certify that I have "reasonable cause to believe" set forth in 42 U.S.C. § 1997a to initiate this action. Finally, I certify that all prerequisites to the initiation of suit under 42 U.S.C. §§ 1997-1997j have been met.

Pursuant to 42 U.S.C. § 1997a(c), I have personally signed the foregoing Complaint. Pursuant to 42 U.S.C. § 1997b(b), I am personally signing this Certificate.

Signed this 5 day of March, 1997
at Washington, D.C.



JANET RENO
Attorney General
of the United States