



1 R. Alexander Acosta
Assistant Attorney General
2 Bradley J. Schlozman
Deputy Assistant Attorney General
3 Shanetta Y. Cutlar
Chief
4 Special Litigation Section
Judy C. Preston
5 Deputy Chief
Special Litigation Section
6 Daniel H. Weiss
Shennie Patel
7 Trial Attorneys
Civil Rights Division
8 U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
9 Washington, D.C. 20530
(202) 616-6594

10 Attorneys for the Plaintiff United States of America

11
12 IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ARIZONA

13 CV'04 1926 PHX EHC
No.

14 United States of America,

15 Plaintiff,

16 vs.

17 The State of Arizona;)
18 Janet Napolitano, Governor of)
the State of Arizona;)
19 The Arizona Department of)
Juvenile Corrections, Michael)
20 Branham, Director;)
Joseph Jericho, Superintendent,)
21 Adobe Mountain School;)
Judy Dyess, Superintendent,)
22 Black Canyon School;)
Manuel Lopez, Superintendent,)
23 Catalina Mountain School,)

24 Defendants.)
25)
26)

COMPLAINT

27 1. This action is brought by the Attorney General, on
28 behalf of the United States, pursuant to the pattern or

1 practice provision of the Violent Crime Control and Law
2 Enforcement Act of 1994, 42 U.S.C. § 14141, to enjoin the
3 State of Arizona from depriving youth confined in Arizona's
4 Adobe Mountain School ("Adobe"), Black Canyon School ("Black
5 Canyon") in Phoenix, Arizona and Catalina Mountain School
6 ("Catalina") in Tucson, Arizona of rights, privileges or
7 immunities secured or protected by the Constitution and Laws
8 of the United States.

9 **JURISDICTION, STANDING AND VENUE**

10 2. This Court has jurisdiction over this action under
11 28 U.S.C. §§ 1331 and 1345.

12 3. The United States is authorized to initiate this
13 action pursuant to 42 U.S.C. § 14141.

14 4. Venue in the District of Arizona is proper pursuant
15 to 28 U.S.C. § 1391. All claims set forth in this Complaint
16 arose in this District.

17 **DEFENDANTS**

18 5. Defendant State of Arizona ("State") is
19 responsible for the administration of juvenile justice in
20 the State. The State operates all secure juvenile
21 facilities in the State. This action concerns the
22 administration of Adobe, Black Canyon, and Catalina
23 (collectively, "the facilities"). The facilities house
24 youth in State custody who are confined for periods of time
25 established by the juvenile courts.

26 6. Defendant Michael Branham is the Director of the
27 Arizona Department of Juvenile Corrections and, in this
28 capacity, exercises administrative control of, and

1 responsibility for, Adobe, Black Canyon, and Catalina.

2 7. Defendant Joseph Jericho is the Superintendent of
3 Adobe Mountain School and is responsible for the
4 administration and day-to-day operations of Adobe.

5 8. Defendant Judy Dyess is the Superintendent of
6 Black Canyon School and is responsible for the
7 administration and day-to-day operations of Black Canyon.

8 9. Defendant Manuel Lopez is the Superintendent of
9 Catalina Mountain School and is responsible for the
10 administration and day-to-day operations of Catalina.

11 10. The individual Defendants named in paragraphs 6,
12 7, 8, and 9 above are officers of the Executive Branch of
13 the State of Arizona and are sued in their official
14 capacities.

15 11. Defendants are legally responsible, in whole or in
16 part, for the operation of and conditions at the facilities;
17 for ensuring that all youth in the facilities receive
18 appropriate treatment, training, and education commensurate
19 with their needs and abilities; and for ensuring that
20 programs in the facilities are consistent with the Arizona
21 Department of Juvenile Correction's mission to provide
22 opportunities for the treatment and rehabilitation of youth.

23 12. All relevant acts or omissions described below
24 have been undertaken by the State, a political subdivision
25 of the State, or an official, employee, agent or person
26 acting on behalf thereof.

27

28

1 FACTUAL ALLEGATIONS

2 13. Defendants are governmental authorities or agents
3 thereof with responsibility for the administration of
4 juvenile justice or the incarceration of youth within the
5 meaning of 42 U.S.C. § 14141.

6 14. Defendants have engaged, and continue to engage,
7 in a pattern or practice of failing to ensure that the youth
8 at Adobe, Black Canyon, and Catalina are adequately
9 protected from harm and from undue risk of harm from staff
10 abuse and abusive institutional practices.

11 15. Defendants have engaged, and continue to engage,
12 in a pattern or practice of subjecting youth at Adobe, Black
13 Canyon, and Catalina to unreasonable isolation, and failing
14 to provide adequate due process for youth.

15 16. Defendants have engaged, and continue to engage,
16 in a pattern or practice of failing to ensure that youth at
17 Adobe, Black Canyon, and Catalina receive adequate mental
18 health care and rehabilitative treatment.

19 17. Defendants have engaged, and continue to engage,
20 in a pattern or practice of failing to ensure that youth at
21 Adobe, Black Canyon, and Catalina receive adequate medical
22 care.

23 18. Defendants have engaged, and continue to engage,
24 in a pattern or practice of failing to ensure that youth
25 with disabilities at Adobe, Black Canyon, and Catalina
26 receive adequate special education services.

27 19. Defendants receive federal financial assistance
28 and, as such, are subject to Section 504 of the

1 Rehabilitation Act of 1973, 29 U.S.C. § 794, and the
2 regulations promulgated thereunder.

3 20. The youth residing at Adobe, Black Canyon, and
4 Catalina include youth with mental illness, mental
5 retardation, and other learning disabilities who fall within
6 the meaning of "children with disabilities" as defined in
7 the Individuals with Disabilities Education Act, 20 U.S.C.
8 § 1401 (a)(1), and "individual[s] with a disability" as
9 defined in Section 504 of the Rehabilitation Act of 1973, 29
10 U.S.C. § 705(20).

11 VIOLATIONS ALLEGED

12 21. Through the acts, practices, and omissions alleged
13 in paragraphs 13 through 17, Defendants have engaged, and
14 continue to engage, in a pattern or practice of depriving
15 youth confined at Adobe, Black Canyon, and Catalina of
16 rights, privileges, or immunities secured by the
17 Constitution of the United States, including the Fourteenth
18 Amendment, and in violation of 42 U.S.C. § 14141(a).

19 22. Through the acts, practices and omissions alleged
20 in paragraph 18, 19, and 20, Defendants have engaged, and
21 continue to engage in a pattern or practice of failing to
22 comply with the Individuals with Disabilities Education Act,
23 ("IDEA") 20 U.S.C. § 1401 et seq., and the regulations
24 promulgated pursuant thereto, thereby depriving qualified
25 youth of their rights under that Act and violating 42 U.S.C.
26 § 14141(a).

27 23. Through the acts and omissions alleged in
28 paragraphs 18, 19 and 20, Defendants have engaged, and

1 continue to engage, in a pattern or practice of failing to
2 comply with Section 504 of the Rehabilitation Act of 1973,
3 29 U.S.C. § 794 et seq., and the regulations promulgated
4 pursuant thereto, thereby depriving qualified youth of their
5 rights under that Act and regulations and violating 42
6 U.S.C. § 14141(a).

7 24. Unless restrained by this Court, Defendants will
8 continue to engage in the conduct and practices set forth in
9 paragraphs 13 through 20 that deprive youth confined at
10 Adobe, Black Canyon, and Catalina, of rights, privileges, or
11 immunities secured or protected by the laws and Constitution
12 of the United States.
13

14 **PRAYER FOR RELIEF**

15 25. The Attorney General is authorized under 42 U.S.C.
16 § 14141 to seek equitable and declaratory relief.
17

18 WHEREFORE, the United States prays that this Court
19 enter an order permanently enjoining Defendants, their
20 agents, employees, subordinates, successors in office,
21 contractors and all those acting in concert or participation
22 with them from continuing the acts, practices and omissions
23 set forth in paragraphs 14 through 20, above, and to require
24 Defendants to take such action as will provide legal and
25 constitutional conditions of care to youth confined at
26 Adobe, Black Canyon, and Catalina and any other secure
27
28

1 facility to which Defendants transfer youth confined at
2 Adobe, Black Canyon, and Catalina during the pendency of
3 this action. The United States further prays that this
4 Court grant such other and further equitable relief as it
5 may deem just and proper.
6

7 DATED this 15th day of ~~August~~ ^{September}, 2004.

8
9 Respectfully submitted,

10
11 /s/ Paul Charlton

12 PAUL CHARLTON
13 United States Attorney
14 District of Arizona
15 Two Renaissance Square
16 40 Central Avenue, Suite 1200
17 Phoenix, AZ 85004

/s/ R. Alexander Acosta

R. ALEXANDER ACOSTA
Assistant Attorney
General
Civil Rights Division

/s/ Bradley J. Schlozman

16 ~~BRADLEY J. SCHLOZMAN~~
17 Deputy Assistant Attorney
18 General
19 Civil Rights Division

/s/ Shanetta Y. Cutlar

20 SHANETTA Y. CUTLAR
21 Chief
22 Special Litigation Section

/s/ Judy C. Preston

23 JUDY C. PRESTON
24 Deputy Chief
25 Special Litigation Section