

COMPLAINT

# DRIFT BANK

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA

Bobby M. v. Chiles



Jl-FL-002-001

BOBBY M., CHARLES W., SUSAN S., and  
SALVADORE S., minors, by and through  
their next friend, DAVID MACK, on  
behalf of themselves and all others  
similarly situated,

Plaintiffs,

NO. TCA 83-7003

v.

COMPLAINT

ROBERT GRAHAM, individually and in his  
official capacity as Governor of the  
State of Florida;  
DAVID H. PINGREE, individually and in his  
official capacity as Secretary of the  
Department of Health and Rehabilitative  
Services for the State of Florida;  
RALPH TURLINGTON, individually and in his  
official capacity as Commissioner of the  
Department of Education for the State of  
Florida;  
LENOX WILLIAMS, individually and in his  
official capacity as Superintendent of  
the Arthur G. Dozier School for Boys;  
WILLIAM SCHOSSLER, individually and in  
his official capacity as Superintendent  
of the Alyce D. McPherson School; and  
WESLEY BRAZELL, individually and in his  
official capacity as Superintendent of  
the Florida School for Boys.

Defendants.

*Filed*  
*1-5-83*

INTRODUCTORY STATEMENT

1. This is a civil rights class action brought on behalf of  
all children who have been, are now, or will be confined in the  
three training schools in the State of Florida: Arthur G. Dozier  
School for Boys in Marianna ("Dozier"); Alyce D. McPherson School  
in Ocala ("McPherson"), a co-educational institution; and Florida

1 School for Boys at Okeechobee ("Okeechobee") (plaintiffs).  
2 Defendants confine approximately 1,000 children in these  
3 institutions.

4 2. Plaintiffs seek declaratory and injunctive relief from  
5 cruel and abusive conditions of confinement imposed by defendants  
6 that violate rights guaranteed to them by the First, Fourth, Sixth,  
7 Eighth, and Fourteenth Amendments to the United States  
8 Constitution, by federal statutes, and by the Florida Constitution  
9 and statutes. These conditions seriously endanger plaintiffs'  
10 physical and psychological health and safety, deprive them of any  
11 access to or opportunity for treatment or education, and restrict  
12 their access to and communication with their families, the  
13 community, and the courts. In particular, defendants subject  
14 plaintiffs to overcrowding, unsanitary and dangerous physical  
15 conditions, lack of security, lack of adequate staff, lack of  
16 medical care, abusive punishment including isolation, hogtying,  
17 shackling, and physical abuse, lack of education and programming,  
18 lack of due process in disciplinary matters, mail censorship, and  
19 deprivation of access to courts.

20  
21 JURISDICTION

22 3. This Court has jurisdiction of this action under 28  
23 U.S.C. §1343(3) since this is an action to redress the deprivation,  
24 under color of state law, of rights secured by the Constitution of  
25 the United States; the Civil Rights Acts, 42 U.S.C. §1983; and  
26 §504 of the Rehabilitation Act, 29 U.S.C. §794 et seq.

1 4. This Court also has jurisdiction of this action under 28  
2 U.S.C. §1343(4) since this is an action to secure declaratory,  
3 injunctive and other equitable relief under acts of Congress  
4 providing for the protection of civil rights, specifically the  
5 Civil Rights Acts, 42 U.S.C. §1983; and §504 of the Rehabilitation  
6 Act, 29 U.S.C. §794.

7 5. This Court also has jurisdiction of this action under 28  
8 U.S.C. §§2201 and 2202, and Federal Rules of Civil Procedures 57  
9 and 65 since this is an action seeking a judgment declaring the  
10 rights of plaintiffs and for injunctive and other equitable relief  
11 based upon that declaratory judgment under §1983.

12 6. This Court also has jurisdiction of this action under 28  
13 U.S.C. §1331(a) since this is an action in which the matter in  
14 controversy arises under the Constitution and laws of the United  
15 States.

16 7. This Court has pendent jurisdiction over all claims  
17 under Florida law because they arise out of the same nucleus of  
18 operative fact as the federal claims.

19  
20 PLAINTIFFS

21 8. Plaintiff BOBBY M. is a minor child and a citizen of the  
22 United States. He is currently confined at Dozier. Prior to his  
23 incarceration, he attended special education classes. He sues  
24 through his next friend, DAVID MACK.

25 9. Plaintiff CHARLES W. is a minor child and a citizen of  
26 the United States. He is currently confined at McPherson. Prior

1 to his confinement, he attended special education classes. He sues  
2 through his next friend, DAVID MACK.

3 10. Plaintiff SUSAN S. is a minor child and a citizen of the  
4 United States. She is confined at McPherson School where she has  
5 been confined since approximately March 29, 1981. She sues through  
6 her next friend, DAVID MACK.

7 11. Plaintiff SALVADORE S. is a minor child and a resident  
8 of the State of Florida. He is confined at Okeechobee. He is  
9 Spanish-speaking. He sues through his next friend, DAVID MACK.

10 12. All named plaintiffs have been subjected to the  
11 policies, practices, acts and omissions described in this  
12 complaint.

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14  
15

DEPENDANTS

16 13. Defendant ROBERT GRAHAM is Governor of the State of  
17 Florida. He is the chief executive officer of the State, and,  
18 pursuant to Article IV, §1 of the Florida Constitution of 1968, is  
19 responsible for the development and implementation of the policies,  
20 practices and procedures described in this complaint, which are the  
21 official policies, practices and procedures of the State of  
22 Florida.

23 14. Defendant DAVID H. PINGREE is the Secretary of the  
24 Department of Health and Rehabilitative Services ("HRS") for the  
25 State of Florida. In this capacity, he is responsible, inter alia,  
26 under Florida Statutes 20.05, 20.19, 402.22, 959.011, 959.021,

1 959.10, 959.12, and 959.25 for developing and implementing programs  
2 for the care, education and treatment of persons committed to the  
3 custody of the Department of Health and Rehabilitative Services,  
4 including the operation of training schools.

5 15. Defendant RALPH TURLINGTON is the Commissioner of the  
6 Department of Education of the State of Florida. Pursuant to  
7 Florida Statutes 22.05, 22.15, 230.23(4)(m) and (n), 402.22 and  
8 959.25, he is responsible for providing education and related  
9 services to children confined in training schools in Florida.

10 16. Defendant LENOX WILLIAMS is the Superintendent of Dozier  
11 School and is responsible for the policies, practices, acts and  
12 omissions described in this complaint to the extent that they are  
13 implemented or occur at Dozier.

14 17. Defendant WILLIAM SCHOSSLER is the Superintendent of  
15 McPherson School and is responsible for the policies, practices,  
16 acts and omissions described in this complaint to the extent that  
17 they are implemented or occur at McPherson.

18 18. Defendant WESLEY BRAZELL is the Superintendent of  
19 Okeechobee School and is responsible for the policies, practices,  
20 acts and omissions described in this complaint to the extent that  
21 they are implemented or occur at Okeechobee.

22 19. Defendants' policy manuals purport to prohibit certain  
23 practices described in this complaint. Nevertheless, defendants or  
24 and their agents and employees, with defendants' knowledge and  
25 consent, routinely engage in such practices, so that such practices  
26 constitute the actual policies and practices, customs and usages of

1 defendants.

2 20. All defendants are sued individually and in their  
3 official capacities. At all relevant times, defendants have acted  
4 under color of state law to deprive plaintiffs of their rights,  
5 privileges and immunities under the Constitution and laws of the  
6 United States.

7 CLASS ACTION

8 21. Named plaintiffs bring this action on behalf of  
9 themselves and all others similarly situated pursuant to Rule 23(a)  
10 and (b)(2) of the Federal Rules of Civil Procedure. The class  
11 consists of all juveniles who are currently, who have been, or who  
12 will be confined in the three Florida training schools, Dozier,  
13 McPherson, and Okeechobee.

14 22. The members of the class are so numerous that joinder of  
15 all members is impracticable. At the present time, the Florida  
16 State training schools confine approximately 1,000 children.

17 23. Named plaintiffs and their counsel will fairly,  
18 vigorously and adequately protect the interests of the class. The  
19 claims of the named plaintiffs are typical of the claims of the  
20 plaintiff class. At least one of the named plaintiffs has been  
21 subjected to and suffered from each of the conditions, policies,  
22 practices, acts and omissions complained of in this action.  
23 Plaintiffs' counsel have substantial experience in this type of  
24 litigation and have represented children in similar cases in  
25 several states.

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1           24. All plaintiffs are subject to the conditions and  
2 policies and practices of defendants described in this complaint  
3 during their confinement at the training schools, so that there are  
4 questions of law and fact common to members of the plaintiff class.  
5 The questions of law and fact common to all members of the  
6 plaintiff class include whether the conditions, practices, acts and  
7 omissions complained of occur at defendants' institutions, and  
8 whether these conditions violate rights guaranteed to plaintiffs by  
9 the United States Constitution, federal law and Florida law.

10           25. By their policies and practices, defendants have acted,  
11 and continue to act on grounds and in a manner generally applicable  
12 to the class, thereby making appropriate final injunctive and  
13 corresponding declaratory relief with respect to the class as a  
14 whole.

15  
16   FACTUAL ALLEGATIONS

17           I.       Background and Placement

18           26. Defendants GRAHAM and PINGREE operate three training  
19 schools in the State of Florida: Dozier in Marianna, Florida;  
20 McPherson in Ocala, Florida; and Florida School for Boys at  
21 Okeechobee, Florida. At Dozier and Okeechobee, defendants confine  
22 only boys; at McPherson they confine both boys and girls. Dozier  
23 and Okeechobee house boys from designated geographical catchment  
24 areas; McPherson houses girls and younger, smaller boys from all  
25 over the state.

26       //

1           27. At these training schools, defendants confine boys and  
2 girls who have been adjudicated delinquent in Florida juvenile  
3 courts. Florida juvenile procedure does not afford children all of  
4 the due process protections to which adults are entitled in  
5 criminal court.

6           28. In opposition to stated HRS policy, defendants confine  
7 children as young as 10 years old, children who have committed only  
8 minor offenses, and children who have had no previous involvement  
9 with the juvenile court system in these institutions merely because  
10 appropriate placements are not available.

11       II. Living Conditions

12           29. Living units at the training schools are called  
13 "cottages." Cottages contain one or more sleeping areas; lockers;  
14 one or more bathroom areas containing toilets, sinks and showers;  
15 and large, open recreation areas. At McPherson, cottages also  
16 contain a kitchen and dining area. Most cottages use open  
17 dormitories as sleeping areas.

18           30. The cottages are extremely overcrowded. At McPherson,  
19 rooms built to house 4 children now house 8, cottages built for 16  
20 children house 30. At Okeechobee, dormitories originally designed  
21 for 17 children house 40. In Dozier, school dormitories originally  
22 built for 20 children house 40. At times children sleep on  
23 mattresses on the floor because defendants do not provide enough  
24 beds.

25       //

26       //



1           31. Because of the tension, lack of space and lack of  
2 supervision caused by overcrowding, physical and sexual assaults  
3 are common.

4           32. Because of overcrowding, defendants do not provide  
5 children with adequate space, equipment or supervision for  
6 recreation or leisure time activities.

7           33. Defendants deprive plaintiffs of all personal privacy in  
8 their living areas. Children are not allowed to personalize their  
9 living areas. The few personal belongings they are allowed to keep  
10 must be stored in small lockers or boxes. At Dozier and  
11 Okeechobee, defendants fail to provide doors or curtains on shower  
12 and toilet areas, leaving those areas completely exposed to open  
13 view.

14           34. Defendants maintain unhealthy and unsanitary conditions  
15 at all three institutions. Defendants do not adequately clean or  
16 maintain the buildings. Defendants maintain buildings which are  
17 structurally unsound and which present serious danger in the event  
18 of fire. Defendants force children to live in buildings that are  
19 improperly heated, cooled, ventilated, or lighted. These buildings  
20 do not have screens and are often insect-infested.

21 III. Food and Clothing

22           35. Defendants do not adequately feed and clothe plaintiffs.

23           36. Defendants do not provide children with clean, untorn,  
24 appropriately-sized clothing.

25           37. Defendants do not adequately feed children.  
26 Defendants do not provide meals which are adequate in quantity or

1 quality to meet the nutritional needs of growing children or  
2 adolescents. Defendants prepare food under conditions that are  
3 unhealthful and unsanitary. At Okeechobee and Dozier, defendants  
4 do not provide children with anything to eat for the almost  
5 fourteen hours between supper (at approximately 5:00 p.m.) and  
6 breakfast (at approximately 7:00 a.m.).

7 IV. Security

8 38. Defendants further jeopardize plaintiffs' health and  
9 safety by failing to provide adequate security in the  
10 institutions.

11 39. Defendants completely fail to supervise and train staff.  
12 As a result, children are victims of staff assaults. Defendants  
13 have taken little or no action to curtail staff brutality. When  
14 notified of abuses, defendants have failed to take action against  
15 staff members involved.

16 40. Defendants have failed to design or implement a  
17 classification system for residents at the schools. Defendants do  
18 not separate children who have committed serious or violent  
19 offenses from children who have committed only property crimes, and  
20 do not separate children with emotional disturbances from the rest  
21 of the population.

22 41. Defendants also fail to adequately supervise children at  
23 the training schools.

24 42. Defendants' staff members encourage larger children to  
25 assault or restrain smaller children as a means of disciplining or  
26 controlling them. As a result, residents frequently assault other

1 residents.

2 43. Defendants fail to provide adequate staff coverage in  
3 any of the training schools. Defendants do not provide enough  
4 staff to adequately supervise or treat children confined in the  
5 training schools. As a result, defendants deny plaintiffs personal  
6 security and safety in the institutions.

7 44. Defendants employ staff members who are inadequately  
8 trained to perform childcare responsibilities. Defendants do not  
9 provide staff with the psychological, sociological or medical  
10 information necessary to care for and treat children in the  
11 training schools.

12 45. Defendants aggravate the atmosphere of fear and violence  
13 that prevails at these schools by using tracking dogs to hunt down  
14 children who attempt to escape from either Okeechobee or Dozier.  
15 Dog handlers terrorize and abuse children.

16 V. Medical Care

17 46. Defendants provide medical care at all three  
18 institutions which is grossly inadequate to maintain physical or  
19 mental health. Defendants' failure to provide adequate medical  
20 care amounts to deliberate indifference to the health and safety  
21 requirements of children at these institutions.

22 47. Defendants fail to provide medical staffs at the  
23 institutions that are adequate to meet children's needs,  
24 Defendants fail to employ adequate numbers of physicians,  
25 psychiatrists, psychiatric aides, nurses, nurses' aides or  
26 dentists.

1           48. Defendants fail to provide adequate supplies in the  
2 medical areas of all three schools. Defendants fail to provide  
3 supplies necessary to maintain a healthy and sanitary environment,  
4 or equipment necessary to provide adequate medical, dental or  
5 psychiatric treatment.

6           49. Defendants have failed to design and implement an  
7 adequate procedure for preventing, treating and containing  
8 contagious diseases, including venereal diseases. Defendants fail  
9 to remove children with contagious diseases from the general  
10 population.

11           50. Defendants maintain infirmaries at the training schools  
12 in an unsanitary, unhygienic, and medically unsafe manner.  
13 Defendants maintain infirmaries that are insect-infested, and are  
14 often uncomfortably hot or cold. Defendants have required children  
15 to sleep on mattresses without sheets. Defendants fail to provide  
16 plaintiffs with pajamas or appropriate hospital attire in medical  
17 areas. Defendants do not permit children to bathe every day while  
18 they are in the infirmary.

19 VI. Psychological Counseling

20           51. Defendants fail to provide plaintiffs with adequate  
21 psychological care and treatment.

22           52. Defendants fail to adequately assess children's  
23 psychological condition at or before the time of their admission to  
24 the training schools. As a result, defendants confine children  
25 with serious psychological illnesses, children who are mentally  
26 retarded, and children who are otherwise handicapped or

1 developmentally disabled in training schools where they cannot  
2 adequately be treated.

3 53. Defendants fail to design and implement an adequate  
4 treatment plan for each child at the training schools. As a  
5 result, defendants fail to provide children with appropriate  
6 rehabilitation or treatment.

7 54. Defendants do not employ or make available a sufficient  
8 number of qualified psychologists or social workers to counsel and  
9 treat children.

10 55. Defendants delegate the responsibility for providing  
11 plaintiffs with direct psychological treatment to persons who are  
12 inadequately trained and supervised. As a result, children do not  
13 receive psychological treatment.

14 VII. Isolation and Shackling

15 56. Defendants operate "adjustment units" at all three  
16 training schools. They use these adjustment units for purposes of  
17 discipline and control.

18 57. At McPherson and Okeechobee, these units consist of  
19 several individual isolation cells. At Dozier, the adjustment  
20 unit contains 10 isolation cells and 3 open dormitory areas.  
21 Defendants use isolation at Dozier to further punish children who  
22 are confined in the adjustment unit.

23 58. The isolation cells are similar in all three  
24 institutions. Each cell contains a concrete platform, a sink, and  
25 an open toilet. Defendants put mattresses, pillows, and blankets  
26 in the cells at night, but at Dozier and Okeechobee often remove

1 them as punishment.

2 59. Each isolation cell is separated from the corridor by a  
3 heavy locked metal door. This door has a small view window  
4 approximately 4-1/2 feet from the ground and a T-shaped slot  
5 approximately 2-1/2 feet from the ground. Children can communicate  
6 with the outside only through the T-shaped slot. This slot can  
7 only be closed or opened from the outside. Staff frequently close  
8 these slots, depriving children of any contact with the outside  
9 while they are in isolation.

10 60. The physical conditions in the isolation cells endanger  
11 children's health and safety. Cells are unventilated, poorly  
12 lighted and unsanitary. Children must eat their meals next to  
13 open, uncleaned toilet fixtures. Because they are locked,  
14 isolation cells pose a serious danger in case of fire, and  
15 defendants have completely failed to develop procedures for  
16 evacuating plaintiffs from these cells in case of fire.

17 61. Defendants confine depressed, agitated and emotionally  
18 disturbed children in isolation cells. Defendants make no effort  
19 to protect children against self-inflicted injuries. Isolation  
20 cells contain many sharp objects such as screens and vents and  
21 breakable porcelain toilet fixtures. All these objects can be and  
22 are used by children to injure themselves. Defendants fail to  
23 adequately monitor children in isolation to ensure that they do not  
24 injure themselves.

25 62. Defendants subject children to long periods of isolation  
26 in bare concrete walled cells. They do not provide children with

1 access to television, radio or reading materials. Communication  
2 with other children or staff is minimal. Children held under these  
3 conditions suffer severe sensory deprivation.

4 63. Defendants often confine children in isolation for 24  
5 hours a day. At Dozier and Okeechobee, defendants fail to provide  
6 any programming for children in isolation. At McPherson,  
7 defendants permit some children in isolation to leave their cells  
8 only to obtain their school assignments and for an hour a day of  
9 exercise. Defendants also fail to provide any programming for  
10 children in the open dormitory areas of the adjustment unit at  
11 Dozier School. Children in this unit can go outside or into a  
12 common area, but receive no recreational or educational materials  
13 for the duration of their stay in the adjustment unit.

14 64. Defendants' regulations permit children to be confined  
15 in security units for up to 21 days. In fact, children often  
16 remain in isolation units for longer periods of time.

17 65. Defendants confine children to adjustment units for  
18 minor incidents, including disrespect for staff members,  
19 altercations with other children, and refusal to promptly obey  
20 orders. Defendants confine children to adjustment units for  
21 behaviors caused by mental or emotional illnesses and other  
22 handicaps, instead of providing plaintiffs with treatment for these  
23 illnesses and handicaps.

24 66. Defendants use shackles in the adjustment units as a  
25 means of discipline and of controlling children's behavior.

26 //

1           67. Defendants use several methods of shackling. At Dozier  
2 and Okeechobee, defendants use a particularly harmful method called  
3 "hogtying." Defendants hogtie children by forcing them to lie on  
4 their stomachs, handcuffing their wrists behind their backs,  
5 shackling their legs together and connecting the handcuffs to the  
6 leg shackles.

7           68. At all three schools, defendants handcuff children,  
8 chain their hands to their waists, and use leg shackles.  
9 Defendants frequently use metal handcuffs and metal leg restraints  
10 to restrict children's movement.

11           69. Defendants' employees have, on many occasions, beaten or  
12 kicked children while they were shackled or hogtied.

13           70. Defendants leave children locked in isolation cells  
14 lying on concrete beds, sometimes without sheets or mattresses,  
15 hogtied or shackled, for extended periods of time.

16           71. Plaintiffs have suffered and continue to suffer serious  
17 physical and emotional damage as a result of extended isolation,  
18 shackling, hogtying, and beatings.

19 VIII. Education and Programming

20           72. Defendants fail to provide plaintiffs with an adequate  
21 education comparable to that available to plaintiffs in the  
22 community.

23           73. Defendants fail to provide special education and related  
24 services to children who were receiving such services prior to  
25 their incarceration. Defendants fail to adequately assess children  
26 to determine whether they have special needs and how such special



1 needs can be met. Defendants fail to develop appropriate  
2 individualized education programs for children who need special  
3 education. Defendants fail to provide appropriate related  
4 services, including speech therapy, physical therapy and  
5 psychological services, to handicapped children who need such  
6 services to benefit from their education.

7 74. Defendants fail to provide bilingual education or  
8 services to children who are not fluent in English.

9 75. Defendants fail to provide adequate vocational  
10 education. The vocational education they do provide is inadequate  
11 to prepare children to obtain employment upon release.

12 76. Defendants fail to provide children with other forms of  
13 programming. They require children to spend prolonged  
14 periods of time without any programmed activity or recreational or  
15 therapeutic programming.

16 77. Defendants fail to provide rehabilitative treatment to  
17 plaintiffs.

18 IX. Due Process

19 78. Defendants deprive plaintiffs of constitutionally  
20 guaranteed due process in classification, disciplinary procedures,  
21 and transfer.

22 79. Defendants discipline plaintiffs arbitrarily and  
23 capriciously for minor misbehaviors and for behaviors that are  
24 symptoms of emotional or mental handicaps.

25 80. Defendants authorize staff members, regardless of  
26 training or qualifications, to order children into confinement in

1 the adjustment unit. Children must remain in the adjustment unit a  
2 minimum of 24 hours before they have the opportunity for a hearing.

3 81. Defendants transfer children from one institution to  
4 another without affording them the opportunity for a hearing.  
5 These inter-institutional transfers are disciplinary in nature.  
6 Inter-institutional transfers punish children by further removing  
7 them from their families and home communities and by subjecting  
8 them to harsher, more restrictive conditions.

9 82. To the extent that defendants have developed a grievance  
10 procedure, they fail to inform children about the existence of this  
11 procedure or to explain to them how the procedure can be used.

12 X. Communication

13 83. Defendants interfere with non-English speaking  
14 plaintiffs' ability to communicate by prohibiting them from  
15 speaking any language other than English.

16 84. Defendants, by their mail, telephone and visitation  
17 policies, deprive plaintiffs of their right to communicate and  
18 associate with their families and friends outside of the training  
19 schools by interfering with and restricting mail and telephone  
20 communications. This communication is necessary to children's  
21 treatment and rehabilitation and to assist their reintegration into  
22 the community.

23 85. Defendants open all mail other than attorney-client mail  
24 that comes to children in the institutions. Defendants open this  
25 mail outside of the presence of the child to whom the mail is  
26 addressed. Defendants also prohibit children from sending sealed

1 letters to persons outside the institution. These practices permit  
2 staff members to read children's mail.

3 86. Defendants improperly restrict children from  
4 communicating by telephone with their parents, relatives or  
5 friends. These restrictions work a particularly severe hardship on  
6 children whose parents live at great distances from the schools and  
7 are unable to visit them.

8 87. Defendants severely restrict children's opportunities  
9 for visitation with family and friends. Defendants unreasonably  
10 limit the number of visitors a child may have and the hours during  
11 which visits may occur.

12 88. Defendants transfer children from detention centers or  
13 community-based programs to training schools, and from one training  
14 school to another, without adequately informing children's parents  
15 or relatives. As a result, some parents do not know where their  
16 children are for several months after such a transfer.

17 XI. Access to Courts

18 89. Defendants deprive plaintiffs of adequate access to the  
19 courts. Defendants fail to inform children that they may make  
20 telephone calls to or receive telephone calls from counsel.

21 90. Defendants fail to provide children with either legal  
22 materials or access to counsel who can assist them with their legal  
23 problems. Defendants also fail to provide children with any  
24 instruction or assistance in protecting their rights through the  
25 legal system.

26 //





1 29 U.S.C. §794 and regulations promulgated thereunder.

2 Eighth Claim: Right to Education

3 99. Defendants, by failing to identify and evaluate  
4 plaintiffs who are handicapped and in need of special education and  
5 by failing to provide them with special education and related  
6 services, violate rights guaranteed to plaintiffs §504 of the  
7 Rehabilitation Act, 29 U.S.C. §794 and regulations promulgated  
8 thereunder.

9 Ninth Claim: Florida Constitutional Claims

10 100. Defendants, by subjecting plaintiffs to the conditions  
11 and practices described in paragraphs 26 through 90 above, deprive  
12 plaintiffs of rights guaranteed by sections 2, 4, 5, 9, 12, 15, 17  
13 and 21 of Article I of the Florida Constitution.

14 Tenth Claim: State Statutory Claims

15 101. Defendants, by subjecting plaintiffs to conditions and  
16 practices described in paragraphs 26 through 90 above, deprive  
17 plaintiffs of the right to treatment, education, rehabilitation and  
18 placement in the least restrictive alternative guaranteed by  
19 Chapters 39, 230, 394, 409 and 959 of the Florida statutes and  
20 regulations promulgated thereunder.

21  
22 NO ADEQUATE REMEDY AT LAW

23 102. As a proximate result of defendants' policies,  
24 practices, procedures, acts and omissions, plaintiffs have  
25 suffered, do suffer and will continue to suffer immediate and  
26 irreparable injury, including physical, psychological and emotional

1 injury. Their intellectual abilities, their emotional health and  
2 well-being and their ability to function adequately in the  
3 community have seriously deteriorated and will continue to  
4 deteriorate during the course of their confinement at institutions  
5 operated by defendants. Plaintiffs have no plain, adequate or  
6 complete remedy at law to redress the wrongs described in this  
7 complaint. Plaintiffs will continue to be irreparably injured by  
8 the policies, practices, procedures, acts and omissions of  
9 defendants unless this Court grants the injunctive relief that  
10 plaintiffs seek.

11  
12 PRAYER FOR RELIEF

13 WHEREFORE, plaintiffs pray that this Court:

14 1. Permit plaintiffs to pursue this action in forma  
15 pauperis.

16 2. Certify this action and permit it to proceed as a  
17 class action.

18 3. Issue a declaratory judgment declaring that defendants'  
19 practices in subjecting plaintiffs to the conditions of confinement  
20 described in this Complaint violate rights guaranteed to plaintiffs  
21 under the First, Sixth, Eighth and Fourteenth Amendment of the  
22 United States Constitution; the Education for All Handicapped  
23 Children Act, 20 U.S.C. §1401 et seq.; the Rehabilitation Act, 29  
24 U.S.C. §794 et seq.; sections 2, 4, 5, 9, 12, 15, 17 and 21 of  
25 Article I of the Florida Constitution; and chapters 39, 230, 394,  
26 409 and 959 of the Florida statutes.

1           4. Preliminarily and permanently enjoin defendants, their  
2 agents, employees, successors in office and assigns from engaging  
3 in the unconstitutional and unlawful practices, acts and omissions  
4 described herein, including, but not limited to:

5           (a) Confining plaintiffs in facilities that are  
6 overcrowded unhealthful, unsanitary and life-endangering;

7           (b) Failing to adequately protect the physical health of  
8 plaintiffs;

9           (c) Failing to insure plaintiffs against attacks by  
10 staff members or by other children confined in the institution;

11           (d) Failing to provide adequately trained staff in  
12 adequate numbers to insure plaintiffs' safety and provide them with  
13 treatment;

14           (e) Failing to provide plaintiffs with adequate medical,  
15 dental and psychiatric care;

16           (f) Confining plaintiffs in security units, and, in  
17 particular, in isolation units, or otherwise subjecting plaintiffs  
18 to sensory deprivation;

19           (g) Shackling plaintiffs;

20           (h) Hogtying plaintiffs;

21           (i) Failing to provide plaintiffs with adequate  
22 education, including special education and related services;

23           (j) Failing to provide plaintiffs with adequate  
24 programming;

25           (k) Failing to provide plaintiffs with adequate  
26 treatment;



1 (l) Failing to adequately screen plaintiffs to insure  
2 that plaintiffs with serious emotional or psychological  
3 disabilities are not confined in training schools;

4 (m) Failing to provide plaintiffs with due process  
5 protections prior to imposing discipline, including but not limited  
6 to, discipline that results in transfers from one institution to  
7 another;

8 (n) Prohibiting plaintiffs from speaking languages other  
9 than English;

10 (o) Opening plaintiffs' mail outside of the presence of  
11 the addressee;

12 (p) Failing to permit plaintiffs to send uncensored,  
13 unread and unopened mail to friends and relatives;

14 (q) Failing to provide plaintiffs with reasonable  
15 opportunities to telephone and visit parents, friends and  
16 relatives;

17 (r) Failing to provide plaintiffs with adequate access  
18 to courts; and

19 (s) Failing to confine plaintiffs in the least  
20 restrictive alternative consistent with their need for  
21 rehabilitation and treatment.

22 5. Direct defendants to develop and submit to this Court a  
23 plan, that will insure that plaintiffs are not subject to  
24 conditions of confinement that deprive them of rights guaranteed to  
25 them by the federal Constitution, federal statutes, and by the  
26 Florida Constitution or Florida statutes, and that will insure that

1 no juvenile is placed in a training school in Florida unless that  
2 training school is a least restrictive alternative consistent with  
3 his or her individual needs.

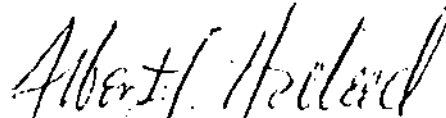
4 6. Retain jurisdiction over this matter until implementation  
5 of this Court's decree has been completed.

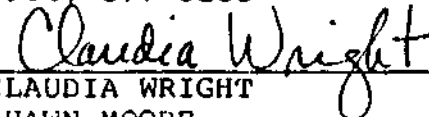
6 7. Award to plaintiffs reasonable attorneys' fees and costs  
7 of this action, pursuant to 42 U.S.C. §1988 and 29 U.S.C.  
8 §794a(2)(6).


9 8. Award such other and further relief as this Court may  
10 deem necessary.

11 DATED: \_\_\_\_\_

12 Respectfully submitted,

13   
14 \_\_\_\_\_  
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