

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAR 18 1993

LUTHER D. THOMAS, Clerk
By: *ALS* Deputy Clerk

THE UNITED STATES OF AMERICA,

U.S. v. Georgia

Plaintiff,



Jl-GA-002-003

v.

THE STATE OF GEORGIA, THE GEORGIA BOARD
OF JUVENILE JUSTICE, and THE GEORGIA
DEPARTMENT OF JUVENILE JUSTICE,

) Civil Action
) No.

1 98-CV-836

Defendants.

COMPLAINT

The United States brings this action, pursuant to 42 U.S.C. § 14141, to remedy a pattern or practice of conduct by officials or employees of the State of Georgia with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives juveniles confined in Georgia's secure juvenile justice facilities of rights, privileges or immunities secured or protected by the Constitution and laws of the United States.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345.

2. Venue in the United States District Court for the Northern District of Georgia is proper pursuant to 28 U.S.C. § 1391.

PARTIES

3. Plaintiff THE UNITED STATES OF AMERICA is authorized to maintain this action pursuant to 42 U.S.C. § 14141.

4. Defendant STATE OF GEORGIA ("Georgia" or "State") is responsible for the administration of juvenile justice in the State. Georgia operates, or contracts for the operation of, all secure juvenile justice facilities in the State. This action concerns the administration of all such facilities, including:

A. All of the State's Regional Youth Detention Centers and the Fulton County Detention Center (operated by Fulton County on behalf of the State pursuant to a contract). These facilities house youths awaiting adjudication in juvenile court or post-adjudication placement in other State facilities or programs.

B. All of the State's Youth Development Campuses, including those operated by private contractors. These facilities house juveniles in State custody who are confined for periods of time established by the juvenile courts. This includes both youths sentenced to a term of years and youths sentenced to short-term programs such as boot camps.

5. Defendant GEORGIA BOARD OF JUVENILE JUSTICE establishes the general policy to be followed by the Georgia Department of Juvenile Justice; provides leadership in developing programs to rehabilitate juveniles committed to state custody; and is

responsible for the promulgation of all rules and regulations necessary and appropriate to the administration of the Georgia Department of Juvenile Justice, including the operation of the secure juvenile justice facilities.

6. Defendant GEORGIA DEPARTMENT OF JUVENILE JUSTICE is responsible for providing for the supervision, detention, education, medical care, mental health care and rehabilitation of juveniles committed to the State's custody in secure juvenile justice facilities.

FACTUAL ALLEGATIONS

7. Defendants are governmental authorities with responsibility for the administration of juvenile justice or the incarceration of juveniles within the meaning of 42 U.S.C. § 14141.

8. Defendants have engaged and continue to engage in a pattern or practice of failing to provide adequate general and vocational educational services and other rehabilitative treatment to the juveniles confined in the State's secure juvenile justice facilities.

9. The juveniles residing in the State's secure juvenile justice facilities include youths with mental illness, mental retardation, and other learning disabilities who fall within the meaning of "handicapped children" as defined in the Individuals with Disabilities Education Act, 20 U.S.C. § 1401(a)(1), and "individual[s] with a disability" as defined in Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 706(8)(B).

10. Defendants receive federal financial assistance and, as such, are subject to Section 504 of the Rehabilitation Act of 1973 and the regulations promulgated thereunder.

11. Defendants have engaged and continue to engage in a pattern or practice of failing to provide adequate special education and related services to the juveniles confined in the State's secure juvenile justice facilities by, among other things, failing to identify properly juveniles requiring special education and related services and failing to develop and implement adequate individualized education plans and programs.

12. Defendants have engaged and continue to engage in a pattern or practice of failing to provide to qualified juveniles with disabilities in the State's secure juvenile justice facilities the necessary education plans that specify accommodations to meet their educational needs.

13. Defendants have engaged and continue to engage in a pattern or practice of failing to provide juveniles confined in the secure juvenile justice facilities with adequate medical and mental health care.

14. Defendants have engaged and continue to engage in a pattern or practice of failing to ensure that juveniles in the State's secure juvenile justice facilities are adequately classified, housed and supervised to protect them from harm and to provide appropriate care and treatment.

15. Defendants have engaged and continue to engage in a pattern or practice of failing to protect juveniles confined in

the State's secure juvenile justice facilities from staff abuse including, among other things, excessive use of force and arbitrary disciplinary practices.

16. Defendants have engaged and continue to engage in a pattern or practice of failing to meet the basic care needs of juveniles in the State's secure juvenile justice facilities by, among other things, failing to provide sufficient living and sleeping space, or sufficient numbers of trained staff to supervise adequately the juveniles, render essential care and treatment, or provide sufficient exercise and other out-of-cell activities.

VIOLATIONS ALLEGED

17. Through the acts and omissions alleged in ¶¶ 8 and 13 - 16, defendants have engaged in a pattern or practice of conduct by officials or employees of a governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives juveniles confined in Georgia's secure juvenile justice facilities of rights, privileges, or immunities secured or protected by the Constitution of the United States, including the Fourteenth Amendment.

18. Through the acts and omissions alleged in ¶¶ 9 - 12, defendants have engaged in a pattern or practice of conduct by officials or employees of a governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives juveniles confined in

Georgia's secure juvenile justice facilities of rights, privileges, or immunities secured or protected by the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1401 et seq., and the regulations promulgated pursuant thereto, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq., and the regulations promulgated pursuant thereto.

19. Unless restrained by this Court, defendants will continue to engage in the conduct and practices set forth in ¶¶ 8 - 16 that deprive juveniles confined in Georgia's secure juvenile justice facilities of rights, privileges, or immunities secured or protected by the Constitution of the United States and federal law, and cause irreparable harm to these juveniles.

PRAYER FOR RELIEF

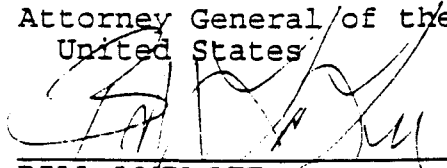
20. The Attorney General is authorized, pursuant to 42 U.S.C. § 14141, to seek appropriate equitable and declaratory relief.

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 set forth in ¶¶ 8 - 16, above, and to require defendants to take such action as will provide legal and constitutional conditions of care to juveniles confined in Georgia's secure juvenile justice facilities and any other secure facility in which defendants confine juveniles or any other facility to which defendants transfer juveniles adjudicated to

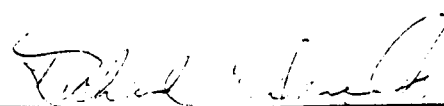
their custody for secure confinement during the pendency of this action. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,

JANET RENO
Attorney General of the
United States

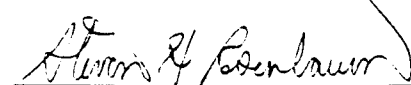


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Civil Rights Division



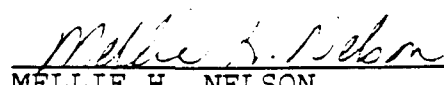
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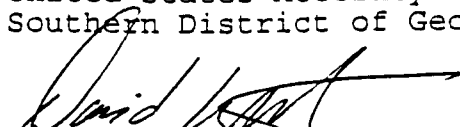


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JOINT MOTION FOR CONDITIONAL DISMISSAL

Plaintiff, the United States of America, and Defendants, the State of Georgia, et al., having entered into the Memorandum of Agreement attached as Exhibit A, move pursuant to Fed. R. Civ. P. 41(a)(2) for an order conditionally dismissing this action. The dismissal would be conditioned upon Defendants' achieving substantial compliance with the terms of the Memorandum of Agreement. The parties request that the Court place this case on its inactive docket until further order of the Court, while retaining jurisdiction over the case until a final dismissal with prejudice.

Under the terms of the Memorandum of Agreement, "[i]f the State fails to substantially comply with the terms of this Agreement, and if efforts to resolve and mediate the enforcement dispute pursuant to ¶ 138 are unsuccessful, the United States may take appropriate legal enforcement action, including filing a

motion to restore the case to the Court's active docket."

Exhibit A at ¶ 137. The Memorandum of Agreement also includes procedures and standards for termination of the Memorandum of Agreement. Exhibit A at ¶¶ 140 - 142.

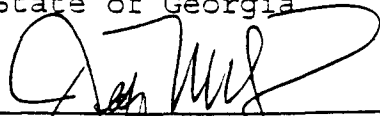
For the foregoing reasons, this Court should enter an order conditionally dismissing this action. A proposed order is attached.

Respectfully submitted,

FOR THE STATE OF GEORGIA:

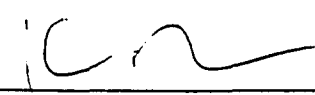
FOR THE UNITED STATES:

THURBERT E. BAKER
Attorney General
State of Georgia

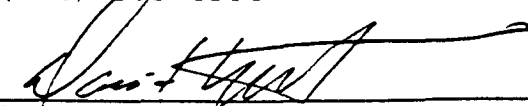


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ORDER

Having considered the Joint Motion For Conditional Dismissal and Memorandum of Agreement attached to that motion, the Court hereby conditionally dismisses this action pursuant to Fed. R. Civ. P. 41(a)(2). The dismissal is conditioned upon Defendants' substantial compliance with the terms of the Memorandum of Agreement.

IT IS ORDERED THAT the Clerk of the Court shall place this case on inactive status until further order of this Court, which shall retain jurisdiction until final dismissal. The Clerk is directed to notify the parties of entry of this Order.

Dated the _____ day of _____, 1998.

United States District Judge