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U.S. DIST. COURT
MIDDLE DIST. OF LA.
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SIGN
RICHARD T. MARTIN
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

THE UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 THE STATE OF LOUISIANA;)
)
 The Honorable MIKE FOSTER,)
 in his official capacity as the Governor)
 of the STATE OF LOUISIANA;)
)
 THE DEPARTMENT OF PUBLIC SAFETY AND)
 CORRECTIONS;)
)
 RICHARD STALDER, in his official capacity)
 as the Secretary of the DEPARTMENT OF)
 PUBLIC SAFETY AND CORRECTIONS;)
)
 BILLY TRAVIS, in his official capacity as)
 Warden of the SWANSON CORRECTIONAL)
 CENTER FOR YOUTH;)
)
 ELIJAH LEWIS, in his official capacity as)
 Warden of the JETSON CORRECTIONAL CENTER)
 FOR YOUTH;)
)
 BENNY HARRIS, in his official capacity as)
 Warden of the LOUISIANA TRAINING INSTITUTE)
 AT BRIDGE CITY;)
)
 GARY GREMILLION, in his official capacity as)
 Warden of the TALLULAH CORRECTIONAL CENTER)
 FOR YOUTH; and)
)
 TRANS-AMERICAN DEVELOPMENT ASSOCIATES, INC.,)
)
 Defendants.)

Civil Action
No. 98-947-B-1



3:98-cv-00947 1 - 1

Summons

COMPLAINT

1. This action is brought by the Attorney General, on behalf of the United States, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 et seq., and the provisions of 42 U.S.C. § 14141, to enjoin the State of Louisiana from depriving juveniles confined in its secure post-adjudication juvenile correctional facilities of rights, privileges or immunities secured or protected by the Constitution and laws 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, 14141.

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 Middle District of Louisiana is proper pursuant to 28 U.S.C. § 1391. A substantial part of the events or omissions giving rise to the claims set forth in the Complaint arose in this District.

DEFENDANTS

6. Defendant STATE OF LOUISIANA ("Louisiana") confines juveniles who have been adjudicated delinquent by the juvenile courts and designated for secure confinement, in secure juvenile

correctional facilities either operated by the State, through the Department of Public Safety and Corrections (the "Department"), or through contracts and subcontracts with other public entities or private contractors. The State owns and operates three of the secure juvenile correctional facilities that are at issue in this action -- Jetson Correctional Center for Youth, Louisiana Training Institute at Bridge City, and Swanson Correctional Center for Youth. A fourth secure juvenile correctional facility, Tallulah Correctional Center for Youth, provides services on behalf of Louisiana.

7. Defendant MIKE FOSTER is sued in his official capacity as the Governor of Louisiana, and in this capacity heads the executive branch of Louisiana's government. The Governor of Louisiana, as chief of the Executive Branch, has the duty to ensure that the departments that compose the Executive Branch of Louisiana guarantee the federal constitutional and statutory rights of the juveniles confined in secure juvenile correctional facilities owned and operated by or providing services on behalf of Louisiana.

8. Defendant DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS (the "Department") administers Louisiana's juvenile correctional facilities.

9. Defendant RICHARD STALDER is sued in his official capacity as the Secretary of the Department. In this capacity, Secretary Stalder is responsible for, among other things, the administration of Louisiana's juvenile correctional facilities;

for ensuring that all juveniles in Louisiana's juvenile correctional facilities receive appropriate treatment, training, and education commensurate with their needs and abilities; and for ensuring that programs in these facilities are consistent with the Department's mission to protect public safety and to provide opportunities for the rehabilitation of the juveniles.

10. Defendant BILLY TRAVIS is sued in his official capacity as the Warden of the Swanson Correctional Center for Youth. In his official capacity, Warden Travis is responsible for the day-to-day operation of this facility.

11. Defendant ELIJAH LEWIS is sued in his official capacity as the Warden of the Jetson Correctional Center for Youth. In his official capacity, Warden Lewis is responsible for the day-to-day operation of this facility.

12. Defendant BENNY HARRIS is sued in his official capacity as the Warden of the Louisiana Training Institute at Bridge City. In his official capacity, Warden Harris is responsible for the day-to-day operation of this facility.

13. Defendant GARY GREMILLION is sued in his official capacity as the Warden of the Tallulah Correctional Center for Youth. In his official capacity, Warden Gremillion is responsible for the day-to-day operation of this facility.

14. Defendant TRANS-AMERICAN DEVELOPMENT ASSOCIATES, INC., is a business incorporated in Louisiana that operates the Tallulah Correctional Center for Youth, providing services on behalf of the State of Louisiana.

15. The secure juvenile correctional facilities at issue in this case are institutions as that term is defined in 42 U.S.C. § 1997(1)(A) and (1)(B)(iv).

16. All relevant acts or omissions described below have been undertaken by government authorities or agents or persons acting on behalf of a governmental authority, as described in 42 U.S.C. § 14141. All relevant acts or omissions described below have been undertaken by the State, a political subdivision of the State, or an official, employee, agent or person acting on behalf thereof, as described in 42 U.S.C. § 1997a(a). All relevant acts or omissions described below have been undertaken by public entities, as that term is defined in 42 U.S.C. § 12131(1).

17. Defendants receive federal financial assistance and, as such, are subject to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the regulations promulgated thereunder.

18. The juveniles residing in the secure juvenile correctional facilities include youths with special needs including those 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); "individual[s] with a disability" as defined in Section 504 of

the Rehabilitation Act of 1973, 29 U.S.C. § 706(8)(B); and "qualified individual[s] with a disability" as defined in 42 U.S.C. § 12131(2).

FACTUAL ALLEGATIONS

19. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide juveniles with adequate medical, dental and mental health care.

20. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide juveniles with reasonably safe conditions by, among other things, subjecting confined juveniles to a substantial risk of serious harm resulting from juvenile-on-juvenile assaults, the use of excessive force and abuse by staff, and from inadequate suicide prevention measures.

21. Defendants have engaged, and continue to engage, in a pattern or practice of subjecting juveniles to unreasonable isolation and restraints (including mechanical, medical and chemical restraints).

22. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide juveniles with adequate rehabilitative services.

23. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide juveniles with adequate general and vocational educational services.

24. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide qualified juveniles

with adequate educational accommodations, special education and related services and programs by, among other things, failing to identify properly juveniles requiring special education and related services and failing to develop and implement adequate individualized education programs.

25. Defendants have engaged, and continue to engage, in a pattern or practice of denying qualified juveniles with a disability the benefits of the services, programs and activities of the secure juvenile correctional facilities.

VIOLATIONS ALLEGED

26. Through the acts and omissions alleged in ¶¶ 19-25, above, Defendants have engaged, and continue to engage, in a pattern or practice of depriving juveniles confined in Louisiana's secure juvenile justice facilities of rights, privileges or immunities secured or protected by the Constitution of the United States, including the Fourteenth Amendment, and in violation of 42 U.S.C. § 14141(a).

27. Through the acts and omissions alleged in ¶¶ 24-25, above, Defendants have engaged, and continue to engage, in a pattern or practice of failing to comply with the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1401 et seq., as amended by the Individuals with Disabilities Education Act Amendments of 1997, Pub. L. No. 105-17, 111 Stat. 37 (1997), and the regulations promulgated pursuant thereto, thereby depriving qualified juveniles of their rights under that Act and regulations and violating 42 U.S.C. § 14141(a).

28. Through the acts and omissions alleged in ¶¶ 24-25, above, Defendants have engaged, and continues to engage, in a pattern or practice of failing to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq., and the regulations promulgated pursuant thereto, thereby depriving qualified juveniles of their rights under that Act and regulations and violating 42 U.S.C. § 14141(a).

29. Through the acts and omissions alleged in ¶ 24-25, above, Defendants have engaged, and continue to engage, in a pattern or practice of failing to comply with the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq., and the regulations promulgated pursuant thereto, thereby depriving qualified juveniles of their rights under that Act and regulations and violating 42 U.S.C. § 14141(a).


30. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in ¶¶ 19-25 that deprive juveniles confined in Louisiana's secure juvenile correctional facilities of rights, privileges, or immunities secured or protected by the Constitution of the United States and federal law, and will cause irreparable harm to these juveniles.

PRAYER FOR RELIEF

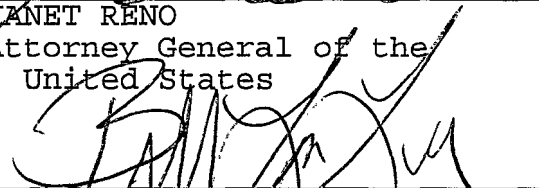
31. The Attorney General is authorized under 42 U.S.C. § 1997a, 14141(b) to seek equitable and declaratory relief.

WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their officers, agents, servants, employees, contractors, successors in office, and all those acting in active concert or participation with them from continuing the acts, practices and omissions set forth in ¶¶ 19-25, above, and to require Defendants to take such action as will provide legal and constitutional conditions of care to juveniles confined in Louisiana's secure juvenile correctional facilities and any other secure juvenile correctional facility in which Defendants in the future confines juveniles or any other facility to which Defendants transfers juveniles adjudicated to its 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.

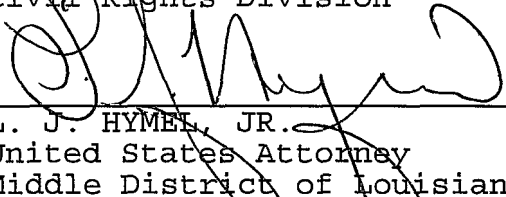
Respectfully submitted,



JANET RENO
Attorney General of the
United States



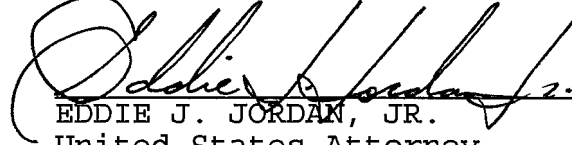
BILL LANN LEE
Acting Assistant Attorney General
Civil Rights Division



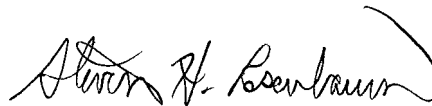
L. J. HYMEL, JR.
United States Attorney
Middle District of Louisiana



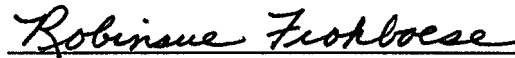
MICHAEL D. SKINNER
United States Attorney
Western District of Louisiana



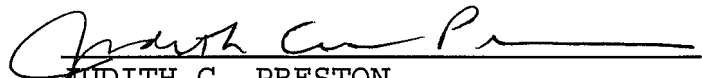
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CERTIFICATE OF THE ATTORNEY GENERAL


This Certificate is made pursuant to Section 5 of the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997b in support of the United States' attached complaint.

I, Janet Reno, Attorney General of the United States, certify that I have complied with all subsections of 42 U.S.C. § 1997b(a). I further certify, pursuant to 42 U.S.C. § 1997b(a)(3), my belief that such 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 Constitution and laws of the United States.

In addition, I certify that I have the "reasonable cause to believe" set forth in 42 U.S.C. § 1997a(a) to institute this action.

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

Signed this 30th day of October, 1998, Washington, D.C.



JANET RENO
Attorney General
of the United States