



MH-NY-001-001

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 STATE OF NEW YORK; MARIO M. CUOMO,)
 Governor of the State of New York;)
 NEW YORK STATE OFFICE OF MENTAL)
 HEALTH; RICHARD C. SURLS,)
 Commissioner; ALAN WEINSTOCK,)
 Executive Director,)
 Creedmoor Psychiatric Center;)
)
 Defendants.)

CIVIL ACTION NO.

800 2337

COSTANTINO, J.
RUSS, M.

COMPLAINT FOR INJUNCTIVE RELIEF

JURISDICTION

1. This court has jurisdiction over this action pursuant to 28 U.S.C. §1345.
2. This action seeks to facilitate and enable the Attorney General to conduct a lawful investigation authorized by the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. §1997.
3. The United States of America, by and through the Attorney General, has authority pursuant to 42 U.S.C. §1997, to enforce and protect the civil rights of institutionalized persons.
4. Venue in this judicial district is proper pursuant to 28 U.S.C. §1391.

5. The United States of America, by and through the Attorney General, institutes this action to enjoin defendants from obstructing a United States Department of Justice investigation of the Creedmoor Psychiatric Center being conducted pursuant to CRIPA, and to direct defendants to provide access to agents of the United States to the Creedmoor Psychiatric Center, and to its patients, staff, and records for the purpose of conducting a CRIPA investigation.

PARTIES

6. Defendant STATE OF NEW YORK owns and operates the Creedmoor Psychiatric Center which is a state residential psychiatric facility.

7. Defendant MARIO M. CUOMO is the Governor of New York, and, in this capacity, heads the executive branch of the state government. He appoints the Commissioner of the New York Office of Mental Health.

8. Defendant OFFICE OF MENTAL HEALTH (OMH) is the state agency responsible for the administration and operation of the Creedmoor Psychiatric Center.

9. Defendant RICHARD C. SURLES is the Commissioner of OMH, and, in this capacity, has responsibility for the operation of the Creedmoor Psychiatric Center.

10. Defendant ALAN WEINSTOCK is the Executive Director of the Creedmoor Psychiatric Center, and, in this capacity, is the

chief administrator of the facility and has responsibility for supervising the operations of the psychiatric center.

11. The individual Defendants identified in paragraphs 7, 9, and 10, above are officers of the executive branch of the State of New York and are sued in their official capacities.

FACTUAL ALLEGATIONS

12. The Creedmoor Psychiatric Center is an "institution" within the meaning of 42 U.S.C. §1997(1)(B)(i).

13. On February 4, 1988, pursuant to 42 U.S.C. §1997b(a)(2), the Attorney General, through the Assistant Attorney General for Civil Rights, notified the Governor of the State of New York of the Department of Justice's intention to initiate an investigation into conditions of confinement at the Creedmoor Psychiatric Center.

14. The United States instituted this CRIPA investigation to determine if the Creedmoor Psychiatric Center was subjecting its residents to egregious or flagrant conditions, pursuant to a pattern or practice, which deprives them of federal constitutional or statutory rights, resulting in grievous harm to residents. Any delay in the conduct and completion of this CRIPA investigation may cause further grievous harm to patients confined at the Creedmor.

15. The United States is entitled to reasonable access to facilities, records, and persons necessary for it to conduct and complete investigations under CRIPA.

16. Defendants have refused to grant the United States access to the Creedmoor Psychiatric Center unless the United States accepts a settlement proposal suggested by the Court in United States of America v. State of New York et al., (W.D. N.Y. No. 88-138-C), a CRIPA lawsuit brought by the United States regarding conditions at the Buffalo Psychiatric Center in Buffalo, New York.

17. The United States has rejected, as is its prerogative, the Buffalo proposal.

18. Defendants' refusal to grant reasonable access to agents of the United States to the Creedmoor Psychiatric Center, and its patients, staff, and records, obstructs a lawful federal investigation authorized by the Attorney General pursuant to an act of Congress and prevents the Attorney General from determining whether the Creedmoor patients are being deprived of their federal constitutional rights and are suffering grievous harm as a result.

19. The United States has no authority to seek a remedy at law under CRIPA, and will suffer irreparable harm in the protection of the rights of Creedmoor patients by this delay.

PRAYER FOR RELIEF


WHEREFORE, The United States prays this Court to:

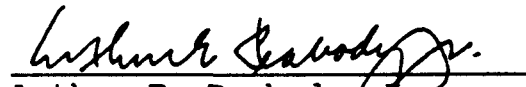
1. Enjoin defendants from denying or obstructing the access of attorneys, employees, or agents of the United States Department of Justice to the Creedmoor Psychiatric Center, its patients, records, and facility staff;

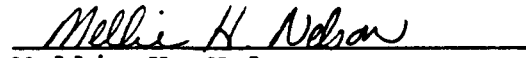
2. Order defendants to provide to the United States reasonable access to the Creedmoor Psychiatric Center, the patients, records, and to facility staff;


3. Order such further and other equitable relief as this Court deems just and proper.

ANDREW MALONEY
United States Attorney
Eastern District of
New York


WM. BRADFORD REYNOLDS
Assistant Attorney General
Civil Rights Division


Arthur E. Peabody, Jr.
Chief
Special Litigation Section


Mellie H. Nelson
Deputy Chief
Special Litigation Section


Gayle Fidler
Verlin Hughes
Robert J. Saria
Attorneys
Special Litigation Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 37076
Washington, D.C. 20066
(202) 272-6058
(202) 272-6065
(202) 272-6066

SIR:

PLEASE TAKE NOTICE that the within will be presented for settlement and signature to the Clerk of the United States District Court in his office at the U.S. Courthouse, 225 Cadman Plaza East, Brooklyn, New York, on the ___ day of _____, 19___, at 10:30 o'clock in the forenoon.

Dated: Brooklyn New York, _____, 19___

United States Attorney,
Attorney for _____

To: _____

Attorney for _____
=====

SIR:

PLEASE TAKE NOTICE that the within is a true copy of _____ duly entered herein on the ___ day of _____, in the office of the Clerk of the Eastern District of New York,

Dated: Brooklyn, New York _____, 19___

United States Attorney,
Attorney for _____

To: _____

Attorney for _____

Civil _____ Action _____ No. _____

UNITED STATES DISTRICT COURT
Eastern District of New York

UNITED STATES OF AMERICA,

Plaintiff,

-Against-

STATE OF NEW YORK; MARIO M. CUOMO,
et al.,

Defendants.

COMPLAINT FOR INJUNCTIVE
RELIEF JURISDICTION

ANDREW J. MALONEY

United States Attorney,
Attorney for E. D. N. Y.
Office and Post Office Address,
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Due service of a copy of the within _____
_____ is hereby admitted.

Dated: _____, 19___

Attorney for _____

SUZANNE SKINNER, AUSA
(718) 330-7959/7100