



MH-NY-002-002

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

- against -

STATE OF NEW YORK; MARIO M. CUOMO,  
Governor, NEW YORK STATE OFFICE  
OF MENTAL HEALTH; Dr. RICHARD C.  
SURLES, Commissioner; PEGGY O'NEIL,  
Executive Director, Pilgrim  
Psychiatric Center,

Defendants.

CV: 93 4807

Civil Action  
No.

SPATT, J.

-----X

COMPLAINT

Plaintiff, United States of America, by the Attorney General, brings this Complaint pursuant to the Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C. § 1997 et seq., to enjoin the named Defendants from depriving persons residing at the Pilgrim Psychiatric Center ("Pilgrim") of rights, privileges or immunities secured or protected by the Constitution of the United States. The United States alleges upon information and belief as follows:

1. This Court has jurisdiction over this action under 28 U.S.C. § 1345.
2. The United States has standing to maintain this action pursuant to 42 U.S.C. § 1997a.
3. The Attorney General has certified that all the 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.

4. Venue in the Eastern District of New York is proper pursuant to 28 U.S.C. § 1391(b). All claims set forth in the Complaint arose in said District.

5. Defendant STATE OF NEW YORK owns and operates Pilgrim, a state facility for the mentally ill located in West Brentwood in New York.

6. Defendant MARIO M. CUOMO is the Governor of New York, and in this capacity heads the Executive Branch of the State government and, among other duties, reviews and approves budget requests submitted by Executive Branch agencies. He selects and appoints the Director of the New York Office of Mental Health.

7. Defendant NEW YORK STATE OFFICE OF MENTAL HEALTH is the New York State Agency with the responsibility for the operation of Pilgrim.

8. Defendant RICHARD C. SURLES is the Commissioner of the New York Office of Mental Health and, in this capacity, exercises administrative control of, and responsibility for, Pilgrim.

9. Defendant PEGGY O'NEIL is the Executive Director of Pilgrim and is responsible for its day-to-day operation.

10. The individual Defendants named in paragraphs 6, 8, and 9 are officers of the Executive Branch of the State of New York and are sued in their official capacities.

11. Pilgrim is an institution within the meaning of 42 U.S.C. § 1997(1).

12. Persons residing at Pilgrim include individuals who are mentally ill.

13. Defendants are legally responsible, in whole or in part, for the operation of, and conditions at Pilgrim, as well as for the care and treatment of persons residing at that institution.

14. At all relevant times, Defendants have acted or failed to act, as alleged herein, under color of state law.

15. Defendants have failed and are continuing to fail to provide adequate medical care to Pilgrim residents.

16. Defendants have failed and are continuing to fail to ensure that medications are prescribed and administered to persons confined at Pilgrim pursuant to the exercise of professional judgment.

17. Defendants have failed and are continuing to fail to provide residents of Pilgrim with that level of individualized psychiatric care and treatment and behavioral programming necessary to ensure that residents are free from undue bodily restraint, including chemical restraint, and unreasonable risks to their personal safety.

18. Defendants have failed and are continuing to fail to ensure that there is an adequate number of sufficiently trained direct care and professional staff to render and implement professional judgments regarding care and treatment of Pilgrim residents and to protect Pilgrim residents from unreasonable risks to their personal safety.

19. Defendants have failed and are continuing to fail to maintain professionally based recordkeeping and record review systems to ensure that resident records contain accurate, up-to-date and relevant information necessary to enable staff to exercise professional judgment regarding treatment and training of Pilgrim residents.

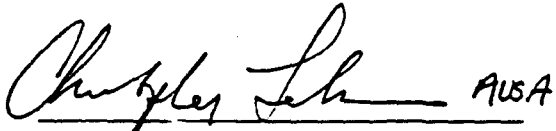
20. The acts and omissions alleged in paragraphs 15 through 19 constitute patterns or practices of resistance to the full enjoyment of rights, privileges or immunities secured or protected by the Constitution of the United States, and deprive Pilgrim residents of such rights, privileges or immunities.

21. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 15 through 19 which deprive residents of Pilgrim of rights, privileges, or immunities secured or protected by the Constitution of the United States and which are causing irreparable harm to Pilgrim residents.

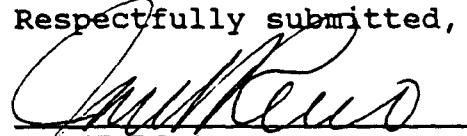
22. The Attorney General is authorized under 42 U.S.C. § 1997 to seek only equitable relief.

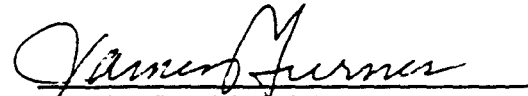
WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their agents, employees, subordinates, successors in office, and all those acting in concert or participation with them from continuing the acts, practices and omissions at Pilgrim set forth in paragraphs 15 through 19 above, and to require Defendants to take such action


as will provide constitutional conditions of care to persons who reside at Pilgrim. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

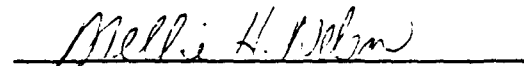
  
ZACHARY W. CARTER  
United States Attorney  
Eastern District of  
New York


Respectfully submitted,

  
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Attorney General of the  
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CERTIFICATE OF THE ATTORNEY GENERAL

I, Janet Reno, Attorney General of the United States, certify that with regard to the foregoing Complaint, I have complied with all subsections of 42 U.S.C. §1997b(a)(1). I certify as well that I have complied with all subsections of 42 U.S.C. §1997b(a)(2). I further certify, pursuant to 42 U.S.C. §1997b(a)(3), my belief that this 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 of the United States.

I further certify that I have the "reasonable cause to believe" set forth in 42 U.S.C. §1997a to initiate this action. Finally, I certify that all prerequisites to the initiation of suit under 42 U.S.C. §1997 have been met.

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

Signed this 16 day of September, 1993, at  
Washington, D.C.

  
\_\_\_\_\_  
JANET RENO  
Attorney General  
of the United States

# AFFIDAVIT OF MAILING

STATE OF NEW YORK  
COUNTY OF KINGS  
EASTERN DISTRICT OF NEW YORK, ss:

\_\_\_\_\_, being duly sworn, says that on the \_\_\_\_\_ day of \_\_\_\_\_, I deposited in Mail Chute Drop for mailing in the U.S. Courthouse, Cadman Plaza East, Borough of Brooklyn, County of Kings, City and State of New York, a \_\_\_\_\_ of which the annexed is a true copy, contained in a securely enclosed postpaid wrapper directed to the person hereafter named, at the place and address stated below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sworn to before me this  
day of \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

# AFFIDAVIT OF PERSONAL SERVICES

STATE OF NEW YORK  
COUNTY OF KINGS  
EASTERN DISTRICT OF NEW YORK, ss:

\_\_\_\_\_, being duly sworn, says that he is employed in the office of the United States Attorney for the Eastern District of New York. That on the \_\_\_\_\_ day of \_\_\_\_\_, he served a true copy of the annexed \_\_\_\_\_ on the office of attorney for \_\_\_\_\_ herein, located at \_\_\_\_\_, Borough of \_\_\_\_\_, City of New York, by leaving a true copy of same with his clerk or other person in charge of said office.

Sworn to before me this  
day of \_\_\_\_\_