



MH-TN-001-005

FILED BY _____ D.C.

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF TENNESSEE; Don Sundquist,
Governor of the State of Tennessee;
Tennessee Department of Mental Health
and Mental Retardation; Marjorie Nelle
Cardwell, Commissioner; and Elizabeth
A. Banks, Superintendent, Memphis
Mental Health Institute,

Defendants.

Civil Action No.

06-2312 -GV

Complaint

Civil Rights

THE UNITED STATES OF AMERICA alleges:

1. This civil action is brought by the Attorney General on behalf of the United States of America pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 et seq., to enjoin the named Defendants from depriving patients of the Memphis Mental Health Institute ("MMHI") of rights, privileges or immunities secured or protected by the Constitution of the United States.

JURISDICTION

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.

4. 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.

5. Venue in the Western District of Tennessee is proper pursuant to 28 U.S.C. § 1391. All claims set forth in the Complaint arose in said District.

DEFENDANTS

6. Defendant STATE OF TENNESSEE owns and operates MMHI, a state facility for mentally ill persons located in Memphis, Tennessee.

7. Defendant DON SUNDQUIST is the Governor of Tennessee and, in this capacity, heads the Executive Branch of the State government where, among other duties, he reviews and approves budget requests submitted by Executive Branch agencies. He selects and appoints the Director of the Tennessee Department of Mental Health and Mental Retardation.

8. Defendant MARJORIE NELLE CARDWELL is the Director of the Tennessee Department of Mental Health and Mental Retardation and, in this capacity, exercises administrative control of, and responsibility for, MMHI.

9. Defendant ELIZABETH A. BANKS is the Superintendent of MMHI and is responsible for its day-to-day operations.

10. The individual Defendants named in paragraphs 7, 8, and 9 are officers of the Executive Branch of the State of Tennessee and are sued in their official capacities.

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

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

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

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

FACTUAL ALLEGATIONS

15. Defendants have failed and are continuing to fail to provide adequate medical care, including nursing care, to MMHI patients.

16. Defendants have failed and are continuing to fail to provide patients of MMHI with individualized psychiatric care and treatment, including adequate and appropriate assessments and the development, implementation and monitoring of individualized treatment plans, in accordance with professional standards.

17. Defendants have failed and are continuing to fail to ensure that there is an adequate number of sufficiently trained direct care and professional staff, including psychiatrists, psychologists and nurses, to render and implement professional standards of care and treatment of MMHI patients.

18. The acts and omissions alleged in ¶¶ 15 - 17 constitute patterns or practices of resistance to the full enjoyment of rights, privileges or immunities secured or protected by the

Fourteenth Amendment to the Constitution of the United States and deprive MMHI patients of such rights, privileges or immunities.

19. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in ¶¶ 15 - 17 which deprive patients of MMHI of rights, privileges or immunities secured or protected by the Constitution of the United States and cause irreparable harm to MMHI patients.

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

PRAYER FOR 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 MMHI set forth in ¶¶ 15 - 17 above, and to require Defendants to take such action as will provide constitutional conditions of care to persons who reside at MMHI.

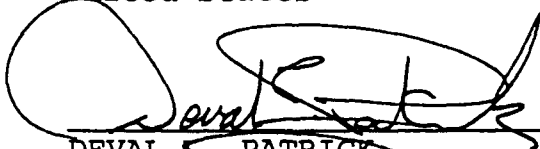
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The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,

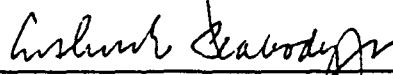


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Attorney General of the
United States



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Assistant Attorney General
Civil Rights Division

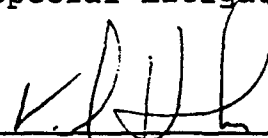
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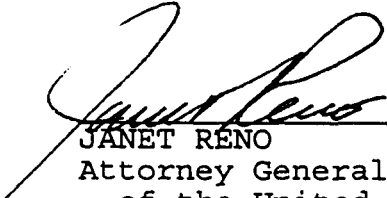
CERTIFICATE OF THE ATTORNEY GENERAL

I, Janet Reno, Attorney General of the United States, certify that with regard to the foregoing Complaint, United States v. State of Tennessee, et al., 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 et seq. 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 13 day of March, 1996, at
Washington, D.C.



JANET RENO
Attorney General
of the United States