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

By: [Signature]  
Deputy Clerk

RICHARD RALPH,  
on behalf of himself and all  
persons similarly situated,

Plaintiff

v.

ALAN ADAMS, Acting Commissioner  
of the Georgia Department of  
Corrections, and MICHELLE MARTIN,  
Warden of Phillips State Prison,  
in their official capacities,

Defendants

**AMENDED COMPLAINT**

Civil Case No:

~~1:02-CV-479-JEC~~

Class Action

1:04-CV-257-JEC

**I. INTRODUCTION**

1. Plaintiff RICHARD RALPH, a prisoner at Phillips State Prison, seeks protection for himself and for all other persons who are now or will in the future be housed in the mental health unit at Phillips State Prison,<sup>1</sup> from an ongoing substantial risk of death and serious injury resulting from abuse by correctional

<sup>1</sup> This complaint is being filed as an individual action in accordance with the Court's order of March 21, 2003, and subsequent instructions from the Court. For the reasons set forth in *Plaintiffs' Motion to Reconsider Denial of Class Certification and for Leave to Amend Complaint* filed April 7, plaintiffs believe that this case is properly maintained as a class action. Plaintiffs anticipate after discovery asking the Court to reconsider the motion to certify this civil lawsuit as a class action. Because the original lead plaintiff in this action, Lacya Fluellen, is no longer a proper party to this suit, Richard Ralph, another of the original named plaintiffs, is filing this amended complaint instead.

staff and other prisoners and from self-injury at the prison.

2. Plaintiff RALPH suffers from paranoid schizophrenia, a serious mental illness that interferes with his ability to comprehend and relate rationally to what is happening around him. He resides in the mental health unit at Phillips State Prison, where there are approximately 225-250 other individuals with serious mental illness. The "mental health unit" consists of several dormitories where defendants confine all of the seriously mentally ill prisoners at Phillips. As of the date of this filing, those dormitories are D-1 and D-2, E-1 and E-2, F-1 and F-2, G-1 and G-2, the crisis stabilization unit and the special management unit.

3. In the dormitories that constitute the mental health unit at Phillips State Prison, there has been chronic understaffing of correctional staff, deployment of untrained or undertrained correctional staff, and inadequate procedures for dealing with the special population of seriously mentally ill prisoners. In this one unit alone, six individuals have died in the past two years. This death rate is alarmingly higher than the death rate of the prison system as a whole. In addition to the deaths, there has been a large number of reported and unreported assaults on prisoners - both by correctional staff and by other prisoners - leading to further serious physical and

mental injuries.

4. The defendants are public officials who bear final responsibility for the care and custody of the plaintiff and other seriously mentally ill prisoners who are confined in the mental health unit at Phillips State Prison. Through their practices, policies and customs, these officials have acted with deliberate indifference to the unacceptably high risk of harm faced daily by the plaintiff and other mentally ill prisoners at Phillips. In particular, they have failed to protect the plaintiff and other members of the proposed class from the substantial risk of serious abuse at the hands of officers and other prisoners, and from the substantial risk of self-harm and suicide. Defendants have disregarded known risks of harm and have allowed dangerous conditions to persist.

5. Plaintiff brings this action on behalf of himself and all other similarly situated prisoners at Phillips State Prison in Buford, Georgia, pursuant to 42 U.S.C. § 1983, and the Eighth and Fourteenth Amendments to the United States Constitution, seeking declaratory and injunctive relief.

## **II. JURISDICTION**

6. This action is brought pursuant to 42 U.S.C. § 1983. This Court has jurisdiction over plaintiffs' claims pursuant to 28 U.S.C. §§ 1331 and 1343, and the United States Constitution.

7. This Court is authorized to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202.

### **III. VENUE**

8. The Northern District of Georgia is an appropriate venue for this action under 28 U.S.C. § 1391(b)(2) because a "substantial part of the events or omissions giving rise to the claim[s] occurred" in this district, at Phillips State Prison in Buford, Georgia.

### **IV. PARTIES**

9. The plaintiff RICHARD RALPH is currently in Georgia Department of Corrections ("GDC") custody at Phillips State Prison, where he is held in the mental health unit. Plaintiff RALPH is diagnosed with paranoid schizophrenia, a serious mental illness that often substantially interferes with his thought processes, making him highly agitated, paranoid and delusional. He is also borderline mentally retarded.

10. Defendant ALAN ADAMS is Acting Commissioner of the Georgia Department of Corrections. As Acting Commissioner, ADAMS is responsible for the daily supervision of operations at the Georgia Department of Corrections. He is the highest ranking official in the Georgia Department of Corrections. Defendant ADAMS is sued in his official capacity as Commissioner of the Georgia Department of Corrections.

11. Defendant MICHELLE MARTIN is Warden of Phillips State Prison. Defendant Martin is responsible for the day-to-day operations of Phillips, including the establishment and implementation of conditions, practices and policies of the prison relating to security. Defendant MARTIN is sued in her official capacity as Warden of Phillips State Prison.

#### **V. CLASS ACTION ALLEGATIONS**

12. The plaintiff brings this action on behalf of himself and all others who are similarly situated pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure. The class consists of individuals who are now or will be in the future incarcerated at the mental health unit at Phillips State Prison.

13. The class is so numerous that joinder of all members is impracticable. The mental health unit houses approximately 225 mentally ill and/or mentally retarded prisoners. This population changes often as prisoners are transferred in and out of the prison or released.

14. There are questions of law and fact common to the class.

15. The conditions, policies, and practices challenged in this action apply with equal force to the named plaintiffs and all members of the class so that the claims of the named

plaintiffs are typical of those of the class.

16. The named plaintiff will fairly and adequately represent the interests of the class. He possesses the requisite personal interest in the subject matter of the lawsuit. He is represented by a law office that is experienced in class-action litigation involving failure to protect prisoners from risk of harm.

17. Defendants have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final declaratory and injunctive relief with respect to the class as a whole.

#### **VI. STATEMENT OF FACTS**

18. Phillips State Prison is located in Buford, Georgia, and has approximately 1,200 total beds. Approximately 225-250 beds make up the mental health unit, where individuals suffering from serious mental illness are confined. Phillips State Prison is one of only a few prisons in the Georgia Department of Corrections designated and purportedly equipped to confine and treat the most severely mentally ill male prisoners in the State of Georgia. Such prisoners are classified by the Department of Corrections as mental health "Level III" and "Level IV".

19. As a Level IV mentally ill prisoner, plaintiff RALPH has been and will continue to be housed in the mental health unit

as long as he remains at Phillips State Prison.

20. In the past two years, at least six individuals housed in the mental health unit at Phillips State Prison have died:

20A. On July 27, 2001, Alfred Motes died during a "cutting party." Before the death of Mr. Motes, a mental health aide informed the deputy warden of security that there was a knife blade in a certain cell. Despite the warning, Mr. Motes was placed in that cell. Mr. Motes was cut, either by another prisoner or by himself, so severely that he bled to death. An eyewitness to the incident wrote a statement that Mr. Motes was cut by another person. Nevertheless, the death was called a suicide without further investigation by the Department of Corrections.

20B. On October 21, 2001, David Strickland was killed while double-bunked in an administrative segregation cell. Before he died, David Strickland had repeatedly told guards that he was fearful for his life and asked them to move him from the cell. He was not removed despite his pleas. Both Mr. Strickland and his cellmate, who was accused of causing the death of Mr. Strickland, suffered from serious psychiatric disorders, and had been placed in segregation for disciplinary reasons.

20C. On September 7, 2002, prisoner Frederick Roberson died after falling while in the dayroom of his living unit.

20D. On January 12, 2003, Arthur Umberhand, a Level IV mental health prisoner, was killed while double-bunked in a segregation cell. Mr. Umberhand had requested protective custody and had been moved to a segregation cell for his own protection. Another prisoner, who was being segregated pending a disciplinary investigation for threatening another prisoner, was already occupying the cell where Mr. Umberhand was placed. Due to the inadequate policies, procedures, and practices of defendants, the prisoner already occupying the cell was not moved, and both he and Mr. Umberhand were locked into the same segregation cell. A day later, Mr. Umberhand was killed by his cellmate.

20E. On March 26, 2003, prisoner John Walker died after falling onto the floor in the dayroom in his living unit.

20F. On June 13, 2003, Reginald Taylor died after hanging himself from his top bunk in a segregation unit. Earlier that day he was slammed against a wall or a fence by an officer.

21. Six deaths over a two-year period in a population that averages about 250 prisoners, or 2.4% of the population, is an extraordinarily high death rate. This is approximately six times higher than the death rate in the remainder of the Georgia Department of Corrections. The policies and procedures at Phillips State Prison are inadequate to prevent future deaths and serious injuries at the prison.

22. In addition to the risk of death, plaintiff RALPH and other prisoners in the mental health unit are subjected to the substantial risk of serious bodily harm from correctional staff and other prisoners as well as from self-injury.

23. Phillips State Prison does not have sufficient correctional staff who are adequately trained and experienced to monitor and supervise seriously mentally ill prisoners who may pose a risk of violence to other prisoners and to themselves. Nor does the prison have sufficient correctional staff who are adequately trained to protect those mentally ill prisoners who are particularly vulnerable to physical and sexual assault and intimidation.

24. Mentally ill prisoners such as plaintiff RALPH present correctional staff with significant management problems due to manifestations of their mental illness: they may be manic, responding to voices, experiencing delusions or other disturbed thought processes, or suffering from other severe mental impairments or limitations that make it difficult or impossible for them to respond to commands in the way that a person without mental illness would be expected to respond. This makes the job of the correctional staff who are required to manage and protect this population extremely difficult and necessarily requires more staff with appropriate mental health training and certification

to do the job safely. Nevertheless, defendants have persistently failed to ensure that there is an adequate number of sufficiently trained staff in the mental health unit. Often a single officer who or may not be mental health certified is required to monitor a housing area in the mental health unit by him or herself.

25. Due to the shortage of trained and experienced correctional staff at Phillips, officers in the mental health units are forced to work double shifts without overtime pay to cover essential positions. Such officers become exhausted and resentful, and frequently do not respond adequately to threats of abuse and self-harm within the mental health unit. Moreover, such officers are more likely to use excessive physical force and unnecessary brutality against mentally ill prisoners for symptoms of their mental illness, even when such prisoners are already restrained. The presence of exhausted and overworked officers, many of whom are required to work in two dormitories at a time because there are not enough officers on the shift, increases the risk of harm to plaintiff RALPH and other class members.

26. Another factor contributing to the high risk of harm is defendants' practice of placing two prisoners into cells, including administrative and disciplinary segregation cells, without adequate consideration of whether the prisoners are a danger to one another and without taking proper precautions to

prevent physical and sexual assault. The two deaths described in paragraphs 20B and 20D above, are a result of improperly placing two prisoners without appropriate screening into a single segregation cell. Other policies and procedures at the prison do not adequately take into account the safety needs of seriously mentally ill prisoners.

27. The practices, policies and procedures challenged in this lawsuit were developed and implemented with deliberate indifference to the substantial risk of serious harm faced by prisoners confined in the mental health unit at Phillips State Prison. Defendants have known about this risk, which is longstanding, pervasive, well-documented, and apparent to any knowledgeable observer. In addition to the obviousness of the risks of harm to plaintiff Ralph and the proposed plaintiff class, defendants were also put on notice of the risks of harm on February 20, 2002, when a class of 21 seriously mentally ill prisoners at Phillips State Prison filed a class action lawsuit describing substantially the same problems as are detailed in this Complaint. Four mentally ill prisoners have died since that lawsuit was filed and many more have been injured. On February 20, 2003, the plaintiffs in that lawsuit filed a motion for a preliminary injunction after a second mentally ill prisoner was killed by his cellmate. This death further demonstrated that

prisoners continued to be at substantial risk of death because of defendants' deliberate indifference to known risks of harm.

28. Defendants have not responded reasonably to the known risks of harm and to the actual deaths that have already resulted from defendants' actions and inactions. The defendants' practices, policies and procedures have caused and, unless changed, will continue to cause, needless human suffering and an increased risk of serious injury and death.

#### **VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

29. Plaintiff RALPH has exhausted administrative remedies to the extent that they were available to an individual suffering from severe mental illness and borderline mental retardation. Due to his mental impairments, RALPH is usually incapable of understanding the rules concerning grievances and incapable of complying with them or obtaining the help that he needs; i.e., he has loose associations, illogical thought processes, auditory hallucinations, paranoid delusions, and has great difficulty expressing himself rationally. He believes that he has filed numerous grievances and appeals detailing his fear of assault from other prisoners and from officers and describing actual physical and sexual assaults to which he has been victim during the past six - eight months at Phillips State Prison. According to plaintiff RALPH, the grievance counselor has told him to stop

filing grievances because she cannot understand his writing or what he is trying to say. The existing procedure is not available to plaintiff RALPH or to others similarly situated.

#### **VII. CAUSE OF ACTION**

30. Defendants' policies and practices in failing to protect plaintiff RALPH and other class members from serious abuse by officers and other prisoners and from self-injury constitute deliberate indifference to a substantial risk of serious harm to these persons and amount to cruel and unusual punishment in violation of plaintiffs' rights under the Eighth and Fourteenth Amendment to the United States Constitution. In support of this claim, plaintiff incorporates by reference paragraphs 1-29 of this *Complaint*.

#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiffs respectfully pray that this Court:

31. Assume jurisdiction over this action;

32. Order that discovery in this matter commence immediately for a period of 90 days;

33. Adjudge and declare that the acts and omissions of the defendants with regard to the class members violate the Eighth and Fourteenth Amendments of the United States Constitution;

34. Enjoin defendants, their agents, officials, employees,

and all persons acting in concert with them, under color of State law or otherwise, from continuing the unconstitutional and illegal acts, conditions, and practices described in this complaint;

35. Certify this civil action as a class action;

36. Award plaintiffs the costs of this lawsuit and reasonable attorney's fees; and

37. Order such additional relief as the Court may deem just and proper.

Respectfully submitted this 7th day of July, 2003,

  
\_\_\_\_\_  
Tamara H. Serwer, GA Bar No. 617053  
Lisa Kung, GA Bar No. 430302  
Stephen B. Bright, GA Bar No. 082075  
SOUTHERN CENTER FOR HUMAN RIGHTS  
83 Poplar Street, N.W.  
Atlanta, Georgia 30303-2122  
Telephone: (404) 688-1202  
Facsimile: (404) 688-9440

*Attorneys for Plaintiffs*

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Plaintiff

v.

ALAN ADAMS, et al.,

Defendants.  
\_\_\_\_\_

CERTIFICATE OF COMPLIANCE

I, Tamara Serwer, do hereby certify that the foregoing document has been prepared in 12-point Courier font and complies with LR 5.1B.

Respectfully submitted this 7th day of July, 2003.

  
\_\_\_\_\_  
Tamara H. Serwer, GA Bar No. 617053  
83 Poplar Street, N.W.  
Atlanta, Georgia 30303-2122  
Telephone: (404) 688-1202  
Facsimile: (404) 688-9440

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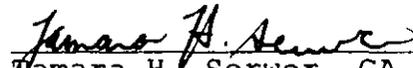
Defendants.  
\_\_\_\_\_

**CERTIFICATE OF SERVICE**

I, Tamara Serwer, do hereby certify that on this date I have caused to be served a copy of the *Amended Complaint* by hand delivery upon defendants' attorney at the following address:

John C. Jones  
Senior Assistant Attorney General  
40 Capitol Square, S.W.  
Atlanta, GA 30334-1300

Respectfully submitted this 7<sup>th</sup> day of July, 2003.



Tamara H. Serwer, GA Bar No. 617053  
83 Poplar Street, N.W.  
Atlanta, Georgia 30303-2122  
Telephone: (404) 688-1202  
Facsimile: (404) 688-9440