

Timothy R. Payne
Laurie J. Weinstein
United States Department of Justice
Civil Rights Division
Special Litigation Section
Post Office Box 66400
Washington, D.C. 20035-6400
(202) 514-6441

ATTORNEYS FOR PLAINTIFF

FILED

'94 DEC 1 PM 4 08

LCW ALERSON, JR. CLERK

BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

The STATE OF MONTANA; MARC RACICOT,
in his official capacity as Governor of
the State of Montana; MONTANA
DEPARTMENT OF CORRECTIONS AND HUMAN
SERVICES; RICK DAY, in his official
capacity as Director, Montana Department
of Corrections and Human Services; the
ADMINISTRATOR of the Corrections
Division of the Montana Department of
Corrections and Human Services, in his
official capacity; MIKE MAHONEY, in
his official capacity as Deputy Warden,
Montana State Prison; and the
Department of Corrections and Human
Services,

Defendants.

CV 94-90-H-CCL

COMPLAINT

THE UNITED STATES OF AMERICA, Plaintiff, alleges that:

1. This complaint is filed by the Attorney General on behalf of the United States of America pursuant to the Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C. §1997

U.S. v. Montana



PC-MT-003-002

et seq., to enjoin the named Defendants from depriving persons incarcerated at Montana State Prison, located in Deer Lodge, Montana, of rights, privileges or immunities secured or protected by the United States Constitution.

JURISDICTION, STANDING AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §1345.

3. The United States has standing to initiate this action pursuant to 42 U.S.C. §1997a.

4. Venue in the District of Montana, Helena Division, is proper pursuant to 28 U.S.C. §1391. The claims set forth in this Complaint all arose in said District.

5. The Attorney General has certified that all pre-filing requirements specified in 42 U.S.C. Section 1997b have been met. The Certificate of the Attorney General is appended to this Complaint and is incorporated herein.

DEPENDANTS

6. Defendant Marc Racicot is sued in his official capacity as Governor of the State of Montana. In his official capacity, Governor Racicot is responsible for the operation of Montana State Prison.

7. Defendant Rick Day is sued in his official capacity as the Director of the Department of Corrections and Human Services. The Director of the Department of Corrections and Human Services has the authority to maintain and operate the Montana State

Prison and is responsible for the conditions of confinement and treatment of persons incarcerated there.

8. Defendant Administrator is sued in his official capacity as Administrator of the Corrections Division of the Department of Corrections and Human Services. The Administrator of the Corrections Division of the Department of Corrections and Human Services is responsible for the operation of Montana State Prison.

9. Defendant Mike Mahoney is sued in his official capacity as Deputy Warden of the Montana State Prison. The Deputy Warden directly supervises and controls daily operation of the Montana State Prison.

10. Defendant Montana Department of Corrections and Human Services is the agency charged with the authority to maintain and operate the Montana State Prison and is responsible for the conditions of confinement and treatment of persons detained or incarcerated there.

11. Defendants are legally responsible, in whole or in part, for the operation of Montana State Prison, for the conditions there and the health and safety of persons detained or incarcerated therein.

12. At all relevant times, the Defendants or their predecessors in office have acted or failed to act, as alleged herein, under color of state law.

FACTUAL ALLEGATIONS

13. Montana State Prison is an "institution" within the meaning of 42 U.S.C. §1997(1).

14. Persons confined to the Montana State Prison include convicted inmates.

15. The Defendants are failing to provide a reasonably safe environment and adequate inmate protection from harm by, *inter alia*, failing to provide adequate security and supervision, failing to provide adequate officer training, failing to provide adequate detection and control of weapons, and maintaining a population well in excess of facility capacity. A further contributing factor to the lack of adequate protection from harm is Defendants' failure to provide adequate housing and protective measures and procedures for inmates in need of protective custody. Such deficiencies endanger the lives and safety of inmates incarcerated in the Prison.

16. The Defendants are failing to provide persons confined at the Montana State Prison adequate medical care by, *inter alia*, failing to provide sufficient medical staffing, failing to provide timely access to adequate routine and emergency care, failing to provide adequate care for chronic care or special needs patients.

17. The Defendants are failing to provide persons confined at the Montana State Prison with adequate dental care.

18. The Defendants are failing to provide persons confined at the Montana State Prison with adequate mental health care.

19. The Defendants are failing to provide a safe environment with respect to environmental health and safety conditions.

20. The Defendants are failing to protect inmates at Montana State Prison from undue risk of harm from fires by, inter alia: failing to provide necessary fire safety equipment; failing to provide necessary staff training and drilling in fire safety, use of fire safety equipment, and emergency evacuation plans and procedures; and failing to remove fire hazards.

VIOLATIONS ALLEGED

21. The acts, practices and omissions of Defendants alleged in each of paragraphs 15 through 20 violate rights of persons confined at the Montana State Prison that are secured or protected by the Constitution of the United States.

PRAYER FOR RELIEF

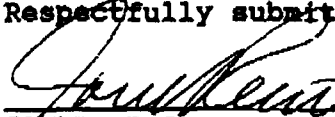
22. The Attorney General is authorized under 42 U.S.C. §1997 et seq., to seek equitable relief.

23. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 15 through 20 above that deprive persons confined at Montana State Prison of rights secured or protected by the Constitution or laws of the United States and continue to cause harm to the inmates of Montana State Prison.


WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their officers, agents employees, subordinates, successors in office, and all those

acting in concert or participation with them from continuing the acts, omissions and practices set forth in paragraphs 15 through 20 above and to require Defendants to take such actions as will ensure lawful conditions of confinement to inmates at the Montana State Prison. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

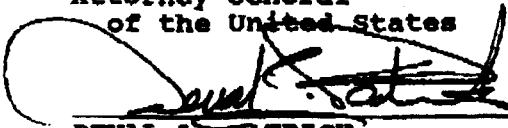
Respectfully submitted,



JANET RENO
Attorney General
of the United States



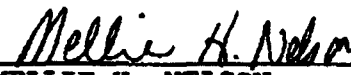
SHERRY S. MATTEUCCI
United States Attorney
District of Montana




DEVAL L. PATRICK
Assistant Attorney General
Civil Rights Division



ARTHUR E. PEABODY, JR.
Chief
Special Litigation Section



MELLIE H. NELSON
Deputy Chief
Special Litigation Section



TIMOTHY R. PAYNE
LAURIE J. WEINSTEIN
Senior Trial Attorneys
U.S. Department of Justice
Civil Rights Division
Special Litigation Section
Post Office Box 66400
Washington, D.C. 20035-6400