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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

THOMAS REGISTER
P.O. Box 788
Mansfield, Ohio 44901

and

SAMUEL BRYAN
P.O. Box 788
Mansfield, Ohio 44901

and

RONALD BAYLOR
P.O. Box 788
Mansfield, Ohio 44901

PLAINTIFFS

-vs-

GEORGE F. DENTON, Individually
and in his official capacity as
Director, Department of
Rehabilitation and Correction
1944 Morse Road
Columbus, Ohio 43229

and

MARTHA E. WHEELER, Individually
and in her official capacity as
chief, Division of Institutional
Services, Department of
Rehabilitation and Correction
1944 Morse Road
Columbus, Ohio 43229

and

S. M. PATTERSON, Individually
and in his official capacity as
Superintendent, Correctional
Medical Center
254 W. Spring St.
Columbus, Ohio 43215

and

FRANK H. GRAY, Individually
and in his official capacity as
Superintendent of the
Ohio State Reformatory
P.O. Box 788
Mansfield, Ohio 44901

DEFENDANTS

CASE NO. _____

C75-289 A

L. AMBROSIO

COMPLAINT

I. PRELIMINARY STATEMENT.

This is a class action for injunctive and declaratory relief pursuant to 42 U.S.C. §1983 brought by residents of the Ohio State Reformatory in Mansfield, Ohio (Mansfield). The action seeks to establish that the non-availability of adequate medical services at Mansfield and at the Correctional Medical Center (C.M.C.) in Columbus, Ohio, as well as the lengthy delays in obtaining what few medical services are available at Mansfield and C.M.C., constitute a deprivation of Plaintiffs' rights under the Eighth Amendment of the U.S. Constitution to be free from cruel and unusual punishment and a deprivation of their right to adequate medical care under the Due Process Clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution. Plaintiffs further also seek to have this Court enjoin future deprivation of such constitutional rights by requiring that Defendants make available sufficient quality medical services to meet the medical needs of plaintiffs in an adequate and timely fashion.

II. JURISDICTION.

1. Jurisdiction is conferred on this Court by 28 U.S.C. §1343(3) and (4), which provide for original jurisdiction of this Court in all suits authorized by 42 U.S.C. §1983 to redress the deprivation under color of state law of any right, privilege, or immunity secured by the Constitution of the United States or by an Act of Congress providing for equal or civil rights of all persons within the jurisdiction of the United States.

2. This court has authority, pursuant to 28 U.S.C. §§2201 and 2202, which provide original jurisdiction of this Court in all cases wherein an actual controversy exists, to enter a declaratory judgment declaring the rights and other legal relations of parties to the action.

3. This court has jurisdiction to rule on State claims by reason of the doctrine of pendent jurisdiction.

III. PLAINTIFFS.

4. THOMAS REGISTER is an adult citizen of the United States and has been a resident of Mansfield since May, 1974. At present he is a patient at C.M.C.

5. SAMUEL BRYAN is an adult citizen of the United States and has been incarcerated in Mansfield since November, 1974.

6. RONALD BALLYER is an adult citizen of the United States and has been a resident of Mansfield since February, 1975.

IV. DEFENDANTS.

7. GEORGE F. DENTON, is an adult citizen of the United States and is the Director of the Department of Rehabilitation and Correction of the State of Ohio (hereinafter "Department"). Defendant Denton, pursuant to §5120.01 O.R.C. is responsible for regulating the operations of all divisions and institutions in the Department.

8. MARTHA E. WHEELER, is an adult citizen of the United States and chief of the Division of Institutional Services. Defendant Wheeler has the responsibility pursuant to §5120.07 O.R.C. for administration of all penal institutions under the control of the Department and has the responsibility for the management and delivery of medical and psychological services to residents of the institutions.

9. S. M. PATTERSON is an adult citizen of the United States and is the Superintendent of the Correctional Medical Center (hereinafter CMC) in Columbus, Ohio. Defendant Patterson, pursuant to §5120.38 O.R.C. is responsible for the management and control of CMC.

10. FRANK H. GRAY is an adult citizen of the United States and is the Superintendent of the Ohio State Reformatory (hereinafter Mansfield) located in Mansfield, Ohio. Defendant Gray, pursuant to §5120.38 O.R.C. is responsible for the management and control of Mansfield.

V. CLASS ACTION ALLEGATIONS.

11. This is a class action brought pursuant to Rule 23 (a), 23(b) (1) and (b) (2) of the Federal Rules of Civil Procedure.

12. The class of plaintiffs consists of all residents of Mansfield who are being or will be deprived of their constitutional right under the 5th, 8th and 14th Amendments to adequate medical, psychiatric and psychological care because of the grossly inadequate medical staff and facilities at Mansfield and at C.M.C.

13. The class consists of approximately 2,500 individuals and is so numerous that joinder is impracticable.

14. Plaintiffs are adequate representatives of the class since they have no known adverse interest to said class and there is no conflict of interest between the members of the class since they all seek relief upon similar factual allegations relating to similar claims.

15. Questions of law and fact concerning the inadequacy of medical care available to residents of Mansfield are set forth below.

16. Prosecution of separate actions by individual members of the class would create a risk of (a) inconsistent or varying adjudications with respect to the individual members of the class which would establish incompatible standards of conduct for the defendants, and (b) adjudications with respect to individual members of the class which would as a practical matter, be dispositive of the interests of the other members of the class not parties to the adjudication or substantially impede their ability to protect their interests.

17. This Court is a desirable forum in which to concentrate the litigation of the claims of the class, since it has power to hear all of the claims and to grant appropriate relief.

18. There will be little difficulty in the management of the class action since information as to each member of the class can be readily determined, through discovery, from the records kept by defendants.

VI. FACTS.

A. FACTS COMMON TO CLASS.

19. The Ohio State Reformatory (Mansfield) is a medium security institution for first offenders under the age of 30. The institution is designed to accommodate approximately 1800 residents; the present population of Mansfield is approximately 2,500 residents or nearly 140% of the designated

capacity.

20. There are a large number of residents of Mansfield who become injured or ill. Each day there is a single sick call attended by as many as 300 inmates. Permission to go to sick call must be obtained from custodial officers the day prior to going to sick call. Many inmates suffer from acute illnesses and many others suffer from severe injury. The potential for illness and injury is magnified enormously by the overcrowded conditions, and the tensions which inevitably result from such overcrowding.

21. The medical, psychiatric and psychological services available to treat the large number of residents at Mansfield are grossly inadequate.

22. There is no full time medical director at Mansfield who is a licensed physician. Medical service at Mansfield is provided on a contract basis through two part-time physicians who are present at Mansfield on alternate working days for two hours each day. Additional trained medical staff includes one registered nurse and three licensed practical nurses. The registered nurse is solely responsible for screening complaints at the daily sick call and is further responsible, together with the three licensed practical nurses, for the management of the prison hospital ward which is designed to accommodate up to one hundred patients. There is no licensed, registered pharmacist at Mansfield, nor are there any laboratory services in the institution.

23. There are no special dietary services available for diabetics or other residents who have special dietary needs.

24. Residents assigned to the Medical Department in Mansfield are used to perform minor medical operations, including suturing and removal of sutures. Such inmates are also used to give injections and take x-rays.

25. There is no full-time licensed psychiatrist nor is there an employee with a Ph. D. in Psychology in the institution. Psychiatric services are provided on a contract basis with a local psychiatrist who comes in once every week for several hours. There are no nurses specially trained in dealing with mentally disturbed patients.

26. Residents whose medical problems cannot be resolved in Mansfield are forced to wait considerable periods for authorization and transportation arrangements to C.M.C. Once proper arrangements are made, the trip to C.M.C. requires approximately two hours. Local hospital facilities, while theoretically available for emergency care, are not utilized in practice except in the rarest of cases.

27. C.M.C. is a medical center designed to meet the medical needs of all residents of all correctional institutions in Ohio - As of June, 1974 there were approximately 11,000 such residents. In order to meet the needs of this population, C.M.C. has 70 bed acute care hospital and a number of specialized clinics. The facilities for medical care at C.M.C. are thus grossly inadequate to handle the number of residents who need its services. Because of the inadequate number of beds, patients who are transported to C.M.C. from Mansfield are often forced to return to Mansfield without having seen a physician. Several such fruitless trips are not unusual before treatment is obtained. C.M.C. is structurally inadequate for providing proper medical care. There are inadequate fire escapes and no plan for evacuation in case of fire. There are frequent blackouts resulting from power failure. Cases of hepatitis occur three to five times a month because of poor sterilization procedures.

28. As a result of the inadequate medical facilities in Mansfield and C.M.C., Plaintiffs and the class they represent are subject to severe and sustained suffering. Lengthy delays in obtaining necessary medical attention are common; insufficient treatment is equally common. Medical problems which are not critically acute are frequently ignored until a crisis occurs. Severe and permanent injuries have been sustained because of the delayed and inadequate treatment. The custodial staff frequently impedes and prevents residents from seeking necessary medical care at Mansfield.

29. Lack of adequate psychiatric and psychological services is even more shocking. Residents who are suffering from acute psychiatric episodes are forced to wait extended periods before getting adequate help. For those residents with psychiatric problems who cannot be handled in the ordinary hospital ward there is a special psychiatric wing of the hospital. There are no medical personnel trained especially to handle psychiatric patients; Patients who are acutely disturbed are frequently stripped of all clothing, and handcuffed to a bed on a bare rubber mattress for extended periods.

30. The situation at Mansfield and C.M.C. constitutes a wilfull and intentional failure to provide medical services, facilities and staffing adequate to meet the medical needs of the residents of Mansfield.

31. The medical facilities are so wholly inadequate that suffering by the prison population is inevitable.

32. Plaintiffs face an immediate and continuing threat of severe and substantial harm by reason of Defendant's failure to provide adequate medical care.

33. Plaintiffs have no other remedy available to obtain the relief they seek.

B. FACTS SPECIFIC TO NAMED PLAINTIFFS.

34. Plaintiff Thomas Register is a diabetic who has been incarcerated at Mansfield since May, 1974. Defendants have been on notice, either directly or through their agents, that Plaintiff Register is a diabetic.

35. At Mansfield he has received no special diet and in October of 1974 suffered a diabetic attack, causing him to be hospitalized at C.M.C. for three and one half weeks. after his return to Mansfield, he was required to continue to eat the regular prison diet which is inappropriate for a diabetic. He frequently must seek emergency medication at the clinic to forestall the onset of diabetic attacks.

36. On several such occasions has been impeded in his efforts to reach the hospital by custodial personnel. On two such occasions after a guard

refused to allow Plaintiff Register to go to the clinic, Plaintiff was charged with disciplinary infractions and sentenced to a total of fifteen days in a correctional cell for having an altercation with a guard and for going to the clinic despite the guard's refusal.

37. In October, 1975, Plaintiff Register suffered a severe diabetic coma because of the inadequate treatment of his condition and was forced to return to C.M.C. where he remains at the time of the filing of this complaint.

38. Plaintiff Bryan was incarcerated at Mansfield in November, 1974. Plaintiff has only one eye, having lost the other in childhood. Plaintiff has had an artificial eye since childhood.

39. In January, 1975 Plaintiff suffered a broken nose at Mansfield. In March, 1975, three months after the incident which led to the broken nose, Plaintiff Bryan was transferred to C.M.C. for an operation. The operation was not fully successful since Plaintiff's nose is misshapen and one nostril is blocked.

40. Plaintiff Bryan's artificial eye was removed during the operation on his nose. Approximately two weeks after the nose operation an attendant at C.M.C. returned the artificial eye and gave Plaintiff lubrication drops to assist in its replacement. The lubrication drops destroyed the artificial eye and caused burns in Plaintiff's eye socket.

41. Plaintiff Bryan was subsequently examined by a physician who stated that the artificial eye would be replaced. Despite repeated requests, however, the artificial eye was not replaced until approximately two weeks before the filing of this complaint. The replacement process was not begun until the threat of a lawsuit was imminent and a former staff physician intervened on behalf of Plaintiff.

42. Failure to make a timely replacement of the artificial eye has caused plaintiff to suffer severe physical discomfort and emotional anguish. The delay further resulted in shrinkage of the eye socket which makes final replacement of the eye a difficult and lengthy process.

43. Plaintiff Ronald Balyor has been at Mansfield since February, 1975. Prior to his arrival at Mansfield, Plaintiff Balyor was incarcerated at Lima State Hospital from May, 1973 until December, 1974.

44. Prior to being discharged from Lima State Hospital, the medical staff stated that follow-up psychiatric and psychological care for Plaintiff were essential if he were to become fully rehabilitated. Since his arrival at Mansfield, Plaintiff Balyor has made repeated requests for therapy, either individually or in a group, and has been consistently denied any therapy. One week prior to the filing of this complaint, Plaintiff was permitted to join a newly formed group session for sex offenders. This group session was conducted by untrained inmates without supervision by a qualified mental health professional.

44. In order for Plaintiff to obtain his discharge on parole or to qualify for educational and vocational furlough it is necessary that he demonstrate some progress in coping with his psychiatric problems. The lack of any meaningful opportunity to deal with his problem in a therapeutic setting is thus preventing him from being favorably considered for parole and furloughs.

VII. FIRST COUNT.

45. Plaintiffs reallege paragraphs 19 through 44 as set forth above.

46. The failure of Defendants to provide Plaintiffs minimal adequate medical care violates Plaintiffs right to Due Process under the Fifth and Fourteenth Amendments of the United States Constitution.

VIII. SECOND COUNT.

47. Plaintiffs reallege paragraphs 19 through 44 as set forth above.

48. Defendants failure to provide Plaintiffs minimal adequate medical treatment violates Plaintiffs right under the Eighth Amendment to the U.S. Constitution to be free from cruel and unusual punishment.

IX. THIRD COUNT.

49. Plaintiffs reallege paragraphs 19 through 44 as set forth above.

50. Defendants failure to provide Plaintiffs minimal adequate medical treatment violates their statutory duty under Chapter 5120, O.R.C. and regulations promulgated thereunder to make adequate provision for medical treatment of inmates of Ohio prisons.

X. FOURTH COUNT.

51. Plaintiffs reallege paragraphs 19 through 44 as set forth above.

52. Defendants failure to provide a licensed registered pharmacist for dispensing and administering medication at Mansfield constitutes a violation of State and Federal law.

XI. RELIEF.

WHEREFORE, Plaintiffs pray that this Court:

53. Assume jurisdiction of this case.

54. Declare this action to be a class action and order that adequate notice be given to members of the class, as to the existence and nature of this action.

55. Issue a preliminary and permanent injunction ordering Defendants to provide adequate medical care in a timely fashion to Plaintiffs and to cease and desist from preventing Plaintiffs, by harrassment and otherwise, from obtaining adequate care.

56. Declare that the grossly inadequate medical services available and the delays in obtaining such care constitute a deprivation of Plaintiffs' right under the Eighth Amendment of the U.S. Constitution to be free from cruel and unusual punishment and a deprivation of their right to adequate medical care under the Due Process clauses of the Fifth and Fourteenth Amendments to the U.S. Constitution.

57. Allow Plaintiffs and the class they represent their costs herein, reasonable attorneys fees for their participation in this case in their capacity as private attorneys general and grant such additional or alternative relief as may be deemed by this court to be just, equitable and proper.

Respectfully submitted,

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