

MR-MD-003-002

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,
Plaintiff,
v.
STATE OF MARYLAND: HARRY R. HUGHES,
Governor of the State of Maryland;
MARYLAND DEPARTMENT OF HEALTH AND
MENTAL HYGIENE; ADELE WILZACK,
Secretary, Maryland Department of
Health and Mental Hygiene; MARYLAND
MENTAL RETARDATION AND DEVELOPMENTAL
DISABILITIES ADMINISTRATION; LOIS M.
MESZAROS, Director, Maryland Mental
Retardation and Developmental
Disabilities Administration; LINDA K.
GUSTAFSON, Regional Director, Maryland
Mental Retardation and Developmental
Disabilities Administration for Central
Maryland; HARRY G. BECK, JR.,
Superintendent, the Rosewood Center,
Defendants.

Civil Action No.
COMPLAINT M-85-227

1. The UNITED STATES OF AMERICA, by and through its Acting Attorney General, Carol E. Dinkins, brings this action pursuant to the Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C. §1997, to enjoin the named defendants from depriving persons confined at the Rosewood Center, Owings Mills, Maryland, of rights secured by the Fourteenth Amendment to the United States Constitution and Section 504 of the Vocational Rehabilitation Act, 29 U.S.C. §794.

FILED RECORDED

JAN 17 1985

AT BALTIMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND

BY

DEPUTY

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. Attached hereto, and incorporated herein by reference as Exhibit A, is the Certificate of the Attorney General required by this statute.

4. Venue in the District of Maryland is proper pursuant to 28 U.S.C. §1391. Each of the named defendants resides in and the claim arose in said District.

PARTIES

5. The State of Maryland owns and operates the Rosewood Center, a state residential mental retardation facility.

6. Defendant HARRY R. HUGHES, Governor of Maryland, heads the executive branch of state government. He appoints the Secretary of the Maryland Department of Health and Mental Hygiene who, in turn, appoints the Director of the Maryland Mental Retardation and Developmental Disabilities Administration. Both the Secretary and Director have responsibilities with regard to the operation of the Rosewood Center.

7. Defendant MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE is responsible for the administration and operation of the Maryland Mental Retardation and Developmental Disabilities Administration which oversees operation of the Rosewood Center.

8. Defendant ADELE WILZACK is the Secretary of the Maryland Department of Health and Mental Hygiene. In this capacity, she supervises the Maryland Mental Retardation and Developmental Disabilities Administration and appoints its Director.

9. Defendant MARYLAND MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES ADMINISTRATION is responsible for the operation, control, and administration of the Rosewood Center.

10. Defendant LOIS M. MESZAROS is the Director of the Maryland Mental Retardation and Developmental Disabilities Administration. In this capacity, she exercises administrative control over the operation of the Rosewood Center.

11. Defendant LINDA K. GUSTAFSON is the Regional Director of the Maryland Mental Retardation and Developmental Disabilities Administration for Central Maryland. In this capacity, she exercises overall responsibility for State residential centers, including the Rosewood Center, and community programs in the central region of Maryland.

12. Defendant HARRY G. BECK, JR. is the Superintendent of the Rosewood Center. In this capacity, he serves as the chief administrative head of the Rosewood Center with responsibility for supervising the operations of the Rosewood Center and appointing its staff with the approval of the Director of the Maryland Mental Retardation and Developmental Disabilities Administration.

13. All individual defendants listed in paragraphs 6 through 12 above are named in their official capacities.

VIOLATIONS ALLEGED

14. The acts and omissions of defendants described in paragraphs 20 to 26 subject Rosewood Center residents to a pattern or practice of egregious and flagrant conditions that deprive the residents of liberty without due process of law in violation of the Fourteenth Amendment to the United States Constitution.

15. The practice of defendants described in paragraph 27 constitutes a violation of the rights of Rosewood Center residents secured under Section 504 of the Rehabilitation Act, 29 U.S.C. §794.

FACTUAL ALLEGATIONS

16. The Rosewood Center is an institution within the meaning of 42 U.S.C. §1997 (1)(A) and (1)(B)(i).

17. Persons residing at the Rosewood Center include mentally retarded and developmentally disabled citizens.

18. All named defendants are legally responsible, in whole or in part, for the operation of the Rosewood Center and for the conditions of confinement of persons therein.

19. 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.

20. Defendants fail to ensure that a sufficient number of qualified professional and direct care staff are on duty at the Rosewood Center to render appropriate care and medical

treatment and to implement training programs, consistent with qualified professional judgment, to ensure reasonably safe condition of confinement and freedom from unreasonable bodily restraint.

21. Defendants fail to provide regular, periodic professional evaluations of each Rosewood Center resident to identify those in need of training programs and fail to ensure that professionally designed training programs are provided to such identified Rosewood Center residents to ensure freedom from unreasonable bodily restraint and freedom from undue risks to personal safety during confinement.

22. Defendants fail to develop and implement systems for recordkeeping, maintenance, and review to ensure sufficient information relating to each Rosewood Center resident is maintained and will be available in making and evaluating decisions with respect to care, medical treatment, and training.

23. Defendants fail to ensure that drugs, particularly behavior management drugs, are prescribed and administered pursuant to the exercise of professional judgment by appropriately qualified professionals and not used in lieu of training programs or for convenience of staff.

24. Defendants fail to ensure that restraints and time out are administered only pursuant to the exercise of professional judgment by appropriately qualified professionals and not used in lieu of training programs or for convenience of staff.

25. Defendants fail to take appropriate measures to protect Rosewood Center residents from abuse and neglect.

26. Defendants fail to ensure that the physical environment of the Rosewood Center protects residents from unreasonable risks of harm to their personal safety.

27. Defendants fail to ensure that the most severely handicapped Rosewood Center residents are not discriminated against on the basis of their handicap.

PRAYER FOR RELIEF

28. No adequate remedy at law exists to address these violations.

29. Unless restrained by order of this Court, defendants will continue to engage in the above-described practices to the immediate and irreparable injury of the United States.

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 unconstitutional and unlawful acts, practices, and omissions described herein and from continuing to confine persons under conditions which fail to meet constitutional and legal standards;

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

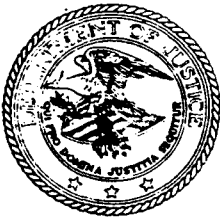
DATED: January 11, 1985, at Washington, D.C.

J. Frederick Motz
J. FREDERICK MOTZ
United States Attorney
District of Maryland

Carol E. Dinkins
CAROL E. DINKINS
Acting Attorney General of
the United States

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Washington, D. C. 20530

CERTIFICATE OF THE ATTORNEY GENERAL

I, Carol E. Dinkins, Acting Attorney General of the United States, certify that with regard to the foregoing Complaint, I have complied with 42 U.S.C. §1997b(a)(1). I certify as well that I have complied with §1997b(a)(2). I further certify that this action by the United States is of general public importance; will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution of the United States; and in every respect complies with the requirements of §1997b(a)(3).

Accordingly, having determined that the action here initiated is fully consistent with §1997a, pursuant to §1997a(c), I have personally signed the foregoing Complaint. Pursuant to 42 U.S.C. §1997b(b), I have personally signed this Certificate.

I finally certify that all things that must be done as prerequisites to my initiating suit under 42 U.S.C. §1997 have been done.

Signed this 11th day of January, 1985, at Washington, D.C.

Carol E. Dinkins
CAROL E. DINKINS
Acting Attorney General
of the United States

EXHIBIT A