

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. ) Case No. )  
 )  
 THE STATE OF MISSISSIPPI; )  
 Haley Barbour, Governor of )  
 the State of Mississippi; )  
 Dr. Albert R. Hendrix, Executive )  
 Director of Mental Health, )  
 Department of Mental Health; )  
 Dr. Patricia Ainsworth, William )  
 Buford, Amanda Griffin, Dr. Scotty )  
 Hargrove, George Harrison, Robert )  
 Landrum, Dr. Robert Maddux, Mary )  
 Morton, Bradley Sanders, Members, )  
 State Board of Mental Health; )  
 Charles Carlisle, Director, )  
 East Mississippi State Hospital; )  
 Rene Read, Acting Director, )  
 Reginald P. White Nursing Facility, )  
 )  
 Defendants. )  
 )  
 )

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COMPLAINT

PLAINTIFF, THE UNITED STATES OF AMERICA, by its undersigned attorneys, hereby alleges upon information and belief:

1. The Attorney General files this complaint on behalf of the United States of America pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, to enjoin the named Defendants from depriving residents housed in the Reginald P. White Nursing Facility of rights, privileges, or immunities

secured and protected by the Constitution and laws of the United States.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.

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

4. The Attorney General has certified that all 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 Southern District of Mississippi is proper pursuant to 28 U.S.C. § 1391.

DEFENDANTS

6. Defendant STATE OF MISSISSIPPI ("State") owns and operates Reginald P. White Nursing Facility ("RWNF"), a nursing home located on the grounds of the East Mississippi State Hospital.

7. Defendant HALEY BARBOUR is the Governor of the State of Mississippi, and, in this capacity, heads the Executive Branch of the State's government and, among other duties, reviews and approves budget requests submitted by Executive Branch agencies regarding RWNF.

8. Defendant DR. ALBERT R. HENDRIX is the Executive Director of the Department of Mental Health and, in this capacity, exercises administrative control of, and responsibility for, RWNF.

9. Defendant CHARLES CARLISLE is the Director of East Mississippi State Hospital, and in this capacity exercises administrative control of, and responsibility for, RWNF.

10. Defendant RENE READ is Acting Director of RWNF and is responsible for the administration and day-to-day operations of RWNF.

11. Defendants DR. PATRICIA AINSWORTH, WILLIAM BUFORD, AMANDA GRIFFIN, DR. SCOTTY HARGROVE, GEORGE HARRISON, ROBERT LANDRUM, DR. ROBERT MADDUX, MARY MORTON, and BRADLEY SANDERS are members of the STATE BOARD OF MENTAL HEALTH, and in this capacity exercise administrative control of, and responsibility for, RWNF.

12. The individual Defendants named in paragraphs 7-11 above are officers of the State of Mississippi and are sued in their official capacities.

13. Defendants are legally responsible, in whole or in part, for the operation of and conditions at RWNF, as well as for the care and treatment of persons residing at RWNF.

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

### FACTUAL ALLEGATIONS

15. RWNF is an institution as that term is defined in 42 U.S.C. §§ 1997(1)(A), (1)(B)(i), and (1)(B)(v).

16. RWNF receives federal Medicaid funds.

17. Persons residing at RWNF are individuals with disabilities, and some of the individuals also have mental illness.

18. Persons residing at RWNF are "qualified individual[s] with a disability" under the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, 12131.

19. The State of Mississippi and the Mississippi Department of Mental Health are "public entities" under Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131.

20. Defendants have failed and are continuing to fail to provide RWNF residents with reasonable safety and to protect them from harm.

21. Defendants have failed and are continuing to fail to ensure that residents of RWNF are free from undue or unreasonable restraint.

22. Defendants have failed and are continuing to fail to ensure that restraints are administered to residents by appropriately qualified professionals in keeping with accepted professional standards, and are not used as punishment, in lieu of treatment, or for the convenience of staff.

23. Defendants have failed and are continuing to fail to provide adequate medical and mental health care to RWNF residents.

24. Defendants have failed and are continuing to fail to provide adequate nutritional management and related services to RWNF residents.

25. Defendants have failed and are continuing to fail to provide adequate restorative, rehabilitative, and therapy services, to RWNF residents.

26. Defendants have failed and are continuing to fail to ensure that residents living at RWNF are adequately evaluated for placement in the most integrated setting; that those individual residents whom professionals determine are appropriate for community placement and who do not oppose such placement are actually placed in the community; and that the institutions' residents are served in the most integrated setting appropriate to each resident's individual needs.

#### VIOLATIONS ALLEGED

27. The acts and omissions alleged in paragraphs 20-26 constitute a pattern or practice and deprive RWNF residents of their rights, privileges or immunities secured or protected by federal law and the Fourteenth Amendment to the Constitution of the United States.

28. The acts and omissions alleged in paragraphs 20-26 violate the nursing home reform provisions of the Omnibus Budget and Reconciliation Act of 1987 (OBRA) and its implementing regulations. 42 U.S.C. § 1396r, 42 U.S.C. § 1395i-3, 42 C.F.R. § 483 Subpart B.

29. The acts and omissions alleged in paragraphs 25-26 violate the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations promulgated pursuant thereto, by excluding the citizens living at RWNF, by reason of their disability, from participation in or by denying them the benefits of services, programs, or activities, or by subjecting them to discrimination, and by failing to administer services, programs, and activities in the most integrated setting appropriate to their needs.

30. The acts and omissions alleged in paragraphs 25-26 violate Section 504 of the Rehabilitation Act, 29 U.S.C. §794, and implementing regulations.

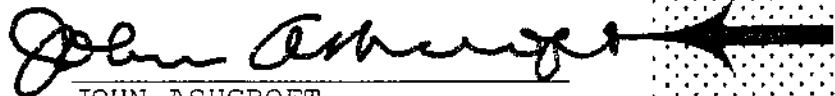
31. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 20-26 that deprive residents of RWNF of rights, privileges, or immunities secured or protected by the laws and Constitution of the United States.

PRAYER FOR RELIEF

32. The Attorney General is authorized under 42 U.S.C. § 1997a to seek equitable 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 set forth in paragraphs 20 through 26, and that this Court require Defendants to take such action as will bring Defendants into compliance with federal law and provide constitutional and lawful conditions of care to persons who presently reside at RWNF. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

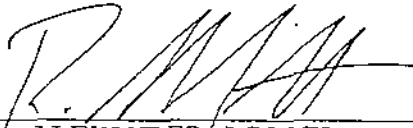
Respectfully submitted,



JOHN ASHCROFT  
Attorney General  
of the United States

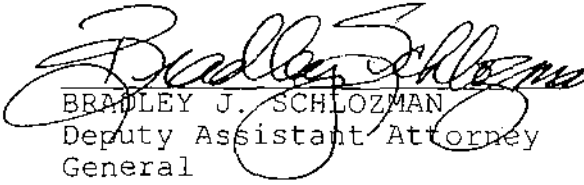
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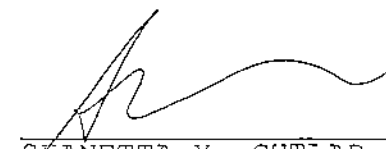
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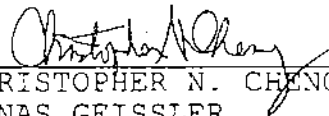
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SEANETTA Y. CUTLAR  
Chief



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JUDY C. PRESTON  
Deputy Chief



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