

FILED
District Court of Guam
Agaña, Guam

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	
TERRITORY OF GUAM; JOSEPH F. ADA,)	
Governor; RICHARD SALAS, Director,)	
Department of Corrections;)	
ADOLF P. SGAMBELLURI, Chief of Police;)	<u>COMPLAINT</u>
and MARILYN WINGFIELD, Director,)	
Department of Mental Health and)	
Substance Abuse,)	Civil Rights
)	
Defendants.)	

THE UNITED STATES OF AMERICA alleges:

1. This action is brought by the Attorney General, on behalf of the United States, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 et seq., to enjoin the named defendants from depriving persons residing at the Adult Correctional Facility, the Rosario Detention Facility

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and the Inpatient Unit of the Department of Mental Health and Substance Abuse, of rights, privileges or immunities secured or protected by the Constitution of the United States as made applicable to the Territory of Guam pursuant to 48 U.S.C. §1421b(u).

JURISDICTION

2. This Court has jurisdiction over this action under 28 U.S.C. §1345, and 48 U.S.C. §1424(b).

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

4. The Attorney General has certified that all the 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 District of Guam is proper pursuant to 28 U.S.C. §1391. All claims set forth in the Complaint arose in said District.

DEFENDANTS

6. Defendant TERRITORY OF GUAM owns and operates the Adult Correctional Facility, the Rosario Detention Facility and the Inpatient Unit of the Department of Mental Health and Substance Abuse. The Territory of Guam is a "State" for purposes of the Civil Rights of Institutionalized Persons Act. 42 U.S.C. §1997(4).

7. Defendant JOSEPH F. ADA is the Governor of Guam, and, in this capacity, heads the Executive Branch of the government of

Guam and, among other duties, reviews and approves budget requests submitted by Executive Branch agencies. He selects and appoints the Director of the Guam Department of Corrections, the Director of the Department of Mental Health and Substance Abuse and the Chief of Police.

8. Defendant RICHARD SALAS is the Director of the Guam Department of Corrections, and, in this capacity, exercises administrative control of, and responsibility for, the operation of the Adult Correctional Facility.

9. Defendant ADOLF P. SGAMBELLURI is the Guam Chief of Police and, in this capacity, exercises administrative control of, and responsibility for, the operation of the Rosario Detention Facility.

10. Defendant MARILYN WINGFIELD is the Director of the Guam Department of Mental Health and Substance Abuse, and, in this capacity, exercises administrative control of, and responsibility for, the operation of the Inpatient Unit of the Guam Department of Mental Health and Substance Abuse.

11. The individual Defendants named in paragraphs 7, 8, 9, and 10 above are officers of the executive branch of the Territory of Guam and are sued in their official capacities.

12. The Adult Correctional Facility, the Rosario Detention Facility and the Inpatient Unit at the Department of Mental Health and Substance Abuse are institutions as that term is defined in 42 U.S.C. §1997(1)(A) and (1)(B)(i)(ii) and (iii).

13. Defendants are legally responsible, in whole or in part, for the operation of, and conditions at, the respective facilities over which they exercise responsibility, as well as for the care, safety and treatment of persons residing at those institutions.

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

COUNT I.

ADULT CORRECTIONAL FACILITY

15. Defendants have failed and are continuing to fail to protect inmates confined at the Adult Correctional Facility from undue risks of harm due to fires.

16. Defendants have failed and are continuing to fail to provide inmates confined at the Adult Correctional Facility with adequate medical care.

17. Defendants have subjected and are continuing to subject inmates confined at the Adult Correctional Facility to undue risks of harm from unsanitary conditions of confinement.

COUNT II.

ROSARIO DETENTION FACILITY

18. Defendants have failed and are continuing to fail to protect pre-trial detainees and other inmates confined at the Rosario Detention Facility from undue risks of harm from fires.

19. Defendants have failed and are continuing to fail to provide pre-trial detainees and other inmates confined at the Rosario Detention Facility with adequate medical care.

20. Defendants have subjected and are continuing to subject pre-trial detainees and other inmates confined at the Rosario Detention Facility to undue risks of harm from unsanitary conditions of confinement.

COUNT III.

INPATIENT UNIT
DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE

21. Defendants have failed and are continuing to fail to protect patients confined at the Inpatient Unit of the Department of Mental Health and Substance Abuse from undue risks of harm from fires.

VIOLATIONS ALLEGED

22. The acts and omissions alleged in paragraphs 15 through 21 constitute patterns or practices of resistance to the full enjoyment of rights, privileges or immunities secured or protected by the Constitution of the United States, made applicable to the Territory of Guam through 48 U.S.C. §1421b(u), and which deprive persons confined to the Adult Correctional Facility, the Rosario Detention Facility, and the Inpatient Unit of the Department of Mental Health and Substance Abuse of such rights, privileges or immunities.

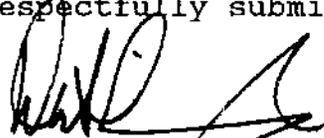
23. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 15 through 21 that deprive persons confined to the Adult Correctional Facility, the Rosario Detention Facility and the Inpatient Unit of the Department of Mental health and Substance Abuse of rights, privileges, or immunities secured or

protected by the Constitution of the United States, and cause irreparable harm to persons confined to those facilities.

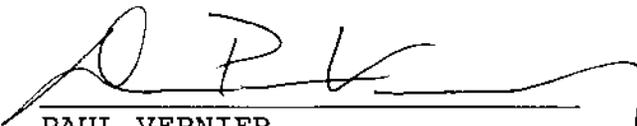
24. The Attorney General is authorized under 42 U.S.C. §1997a to seek only equitable relief.

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 15 through 21 above, and to require Defendants to take such action as will provide constitutional conditions of care to persons confined to the Adult Correctional Facility, the Rosario Detention Facility and the Inpatient Unit of the Department of Mental Health and Substance Abuse. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,



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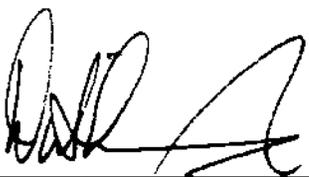
CERTIFICATE OF THE ATTORNEY GENERAL

I, Dick Thornburgh, Attorney General of the United States, certify that with regard to the foregoing Complaint, I have complied with the provisions of 42 U.S.C. § 1997b(a)(1). I certify as well that I have complied with all subsections of 42 U.S.C. § 1997b(a)(2). I further certify pursuant to 42 U.S.C. § 1997b(a)(3) my belief that this action by the United States is of general public importance and will materially further the vindication of rights, privileges or immunities secured or protected by the Constitution of the United States.

I further certify that I have the "reasonable cause to believe" set forth in 42 U.S.C. § 1997a(a) to initiate this action. I finally certify that all prerequisites to the initiation of suit under 42 U.S.C. §§ 1997a and 1997b have been met.

Pursuant to 42 U.S.C. § 1997a(c), I have personally signed the foregoing Complaint. Pursuant to 42 U.S.C. § 1997b(b), I am personally signing this Certificate.

Signed this 11 th day of February, 1991,
at Washington, D.C.



DICK THORNBURGH
Attorney General of
the United States