

1993 WL 122499

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United States District Court, D. Massachusetts.

UNITED STATES of America, Plaintiff,
v.
STATE OF MASSACHUSETTS, et al., Defendant.

Civ.A. No. 85-0632-MA.

|
April 13, 1993.

Attorneys and Law Firms

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MEMORANDUM AND ORDER

MAZZONE, District Judge.

*1 This matter is before me on an Agreed Order of Dismissal executed by both parties. A brief recapitulation and comment is in order.

On February 11, 1985, the United States filed a complaint against the Commonwealth of Massachusetts under the Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C. § 1997 *et seq.* The complaint alleged that the conditions at Worcester State Hospital deprived the hospital residents of rights secured by the Fourteenth Amendment to the Constitution of the United States.

Discovery was commenced and the parties exchanged requests for admissions, requests for production of documents, and interrogatories. Experts toured the facility and produced reports. Throughout this initial phase, however, the parties also attempted to reach a negotiated settlement, filing periodic status reports concerning the

progress both of discovery and of settlement negotiations.

Trial began on July 13, 1987. After five days of testimony, the parties requested a brief recess to attempt to reach a settlement. On August 6, 1987, the parties filed a Settlement Agreement pursuant to which the Commonwealth agreed to submit and implement a plan aimed at achieving the goals and objectives of the Settlement and to take remedial measures in specific areas including staffing, medication policies and practice, psychiatric services, recordkeeping, treatment planning, staff training, and fire and life safety. The Implementation Plan submitted by the Commonwealth identified the steps to be followed in correcting the deficiencies at Worcester State Hospital and required periodic reporting of progress made. This Court retained jurisdiction of the action. The parties' efforts continued, through document exchanges, tours of experts, and occasional site visits with the Court. The hospital staff was always present at these visits, participating in meetings conscientiously and always, despite the drain on their resources, aware of their overriding duty to their patients.

On April 5, 1993, the parties filed the Agreed Order of Dismissal. The Order formalizes the parties' agreement that the terms and requirements of the Settlement and the Implementation Plan have been fully satisfied. Thus, this litigation is finally and successfully resolved.

I have followed the seven-year course of this litigation closely, sometimes participating actively and at other times, reviewing the quarterly reports and related filings. As indicated above, the parties engaged in vigorous negotiations throughout the various phases of the case. At the initial phase, these negotiations obviated the need for an expensive and protracted trial. Negotiations then continued throughout the implementation phase. I am convinced that, taken as a whole, the parties' efforts resulted in a more favorable outcome than would have been achieved by conventional litigation alone.

The negotiations, while substantively difficult, were never acrimonious. They were characterized by a degree of civility that, while formerly the rule in our system, is in danger of becoming the exception. In this case, the credit for the successful resolution of the litigation rests equally with David Deutsch, Senior Trial Attorney in the Civil Rights Division of the Department of Justice, and William L. Pardee, Assistant Attorney General of the Commonwealth of Massachusetts. Both attorneys exhibited exemplary patience, professionalism, and flexibility, demonstrating that vigorous representation does not necessitate hostility or intransigence on the part of the advocate. Both attorneys recognized, even in the

heat of litigation, that the ultimate objective of the suit was to insure that institutionalized patients enjoy safe, decent, and humane living conditions as well as appropriate medical treatment. I believe they have accomplished that objective and I commend them for their efforts.

***2** I have endorsed the Agreed Order of Dismissal and it is hereby entered as the Order and Judgment of this Court. Pursuant to the agreement of the parties, this case is

terminated and dismissed with prejudice.

SO ORDERED.

All Citations

Not Reported in F.Supp., 1993 WL 122499