

et seq., and the provisions of 42 U.S.C. § 14141 concerning the administration of juvenile justice, to enjoin the Commonwealth of Kentucky from depriving juveniles confined in its juvenile treatment facilities of rights, privileges or immunities secured or protected by the Constitution and laws of the United States.

JURISDICTION, STANDING AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345.

3. The United States has standing to maintain this action pursuant to 42 U.S.C. § 1997a and 42 U.S.C. § 14141.

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 United States District Court for the Western District of Kentucky is proper pursuant to 28 U.S.C. § 1391. A substantial portion of the claims set forth in the Complaint arose in this District.

DEFENDANTS

6. Defendant COMMONWEALTH OF KENTUCKY ("Kentucky") owns and operates the juvenile treatment facilities that are at issue in this action.

7. Defendant BRERETON C. JONES is the Governor of Kentucky, and in this capacity heads the executive branch of Kentucky's government. The Governor of Kentucky, as chief of the executive branch, has the duty to ensure that the departments that compose

the Executive Branch of Kentucky guarantee the federal constitutional and statutory rights of all of the citizens of Kentucky, including the juveniles confined in Kentucky juvenile treatment facilities.

8. Defendant MASTEN CHILDERS II, is the Secretary of the Cabinet for Human Resources for Kentucky. In his official capacity, Secretary Childers is responsible for, among other things, the administration of Kentucky's juvenile treatment facilities.

9. Defendant PEGGY WALLACE is the Commissioner of the Department for Social Services. In her official capacity, Commissioner Wallace is responsible for, among other things, the administration of the operations of Kentucky's juvenile treatment facilities.

10. Defendant ELIZABETH WACHTEL is the Commissioner of the Department for Mental Health and Mental Retardation Services. In her official capacity, Commissioner Wachtel is responsible, among other things, for providing mental health services to juveniles confined in Kentucky's institutions.

11. Defendant BETTY SHIPP is the Director of the Division of Youth Services, Department for Social Services. Director Shipp is responsible for supervising the day-to-day operations of Kentucky's juvenile treatment facilities.

12. The individual Defendants named in ¶¶ 7-11 above are officers of the Executive Branch of the Commonwealth of Kentucky

and are sued in their official capacities, extending to their agents and successors in office.

13. The juvenile treatment facilities that are at issue in this case are institutions as that term is defined in 42 U.S.C. § 1997(1)(A), (1)(B)(i) and (1)(B)(v).

14. The defendants named in ¶¶ 7-11 above are officials or employees of a governmental agency responsible for the administration of juvenile justice and the incarceration of juveniles as stated in 42 U.S.C. § 14141(a).

15. Defendants are legally responsible, in whole or in part, for the operation of and conditions at the Kentucky juvenile treatment facilities, as well as for the care and treatment of the juveniles residing at those institutions.

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

17. Juveniles residing at the Kentucky juvenile treatment facilities include youths with special needs including those with mental illness, mental retardation, and other learning disabilities.

FACTUAL ALLEGATIONS

18. Defendants have failed and are continuing to fail to provide juveniles confined in Kentucky juvenile treatment facilities with adequate medical care by, inter alia, failing to provide adequate staffing, medical screening procedures, and delivery of prescription medications.

19. Defendants have failed and are continuing to fail to provide juveniles confined in Kentucky juvenile treatment facilities with adequate mental health care by failing to provide adequate staffing, mental health screening and diagnosis, and treatment.

20. Defendants have failed and are continuing to fail to provide adequate treatment and rehabilitation and aftercare treatment to the juveniles confined in Kentucky juvenile treatment facilities.

21. Defendants have failed and are continuing to fail to provide adequate education and special education to the juveniles confined in Kentucky juvenile treatment facilities as required by the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1401 et seq., by, inter alia, failing to properly identify juveniles requiring special education and services and failing to develop and implement adequate individualized education plans ("IEPs").

22. Defendants have failed and are continuing to fail to meet the juveniles' basic care needs by, among other things, subjecting the juveniles to unsafe conditions of confinement that pose serious health and safety risks, and failing to provide a sufficient number of staff to adequately supervise juveniles.

23. Defendants have failed and are continuing to fail to provide juveniles confined in Kentucky juvenile treatment facilities with adequate access to exercise.

24. Defendants have failed and are continuing to fail to protect the juveniles confined in Kentucky juvenile treatment facilities against incidents of staff abuse by failing, among other things: a) to provide proper mechanisms and procedures to identify possible abuse of juveniles; b) to fully investigate allegations of staff abuse; c) to make proper findings regarding allegations of staff abuse; and d) to take appropriate action when abuse is substantiated.

25. Defendants have failed and are continuing to fail to adequately classify juveniles confined in Kentucky juvenile treatment facilities by, among other things, housing violent and non-violent juveniles in the same facilities.

26. Defendants have failed and are continuing to fail to provide adequate institutional safeguards for the use of isolation by, among other things: a) placing juveniles in isolation without an adequate review; b) failing to apprise juveniles in isolation concerning the length of time the juveniles will remain in isolation; and c) confining juveniles in isolation for days or even weeks after the juvenile is no longer a threat to himself or others and for no reasonable treatment purpose.

27. Defendants have failed and are continuing to fail to provide a sufficient number of adequately trained staff to render essential care and treatment in the areas outlined above in ¶¶ 18 - 27 as required by the Constitution and laws of the United States.

28. Defendants have failed and are continuing to fail to adequately protect juveniles from undue risk of harm from fire.

VIOLATIONS ALLEGED

29. The acts and omissions alleged in ¶¶ 18 - 28 infringe upon the legal rights and substantive liberty interests of the juveniles confined in Kentucky juvenile treatment facilities and deprive these juveniles of rights, privileges or immunities secured or protected by the Fourteenth Amendment to the Constitution and laws of the United States.

30. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in ¶¶ 18 - 28 that deprive juveniles confined in Kentucky juvenile treatment facilities of their legal rights and the rights, privileges, or immunities secured or protected by the Constitution of the United States, and cause irreparable harm to these juveniles.

PRAYER FOR RELIEF

31. The Attorney General is authorized under 42 U.S.C. § 1997a and 42 U.S.C. § 14141 to seek only equitable relief.

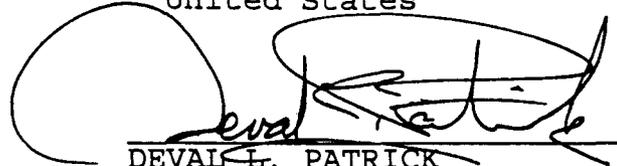
WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their agents, employees, subordinates, successors in office, and all those acting in concert or participation with them from continuing the acts, practices and omissions set forth in ¶¶ 18 - 28 above, and to require Defendants to take such action as will provide legal and constitutional conditions of care to juveniles confined in

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

Respectfully submitted,

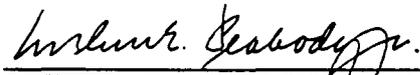


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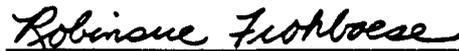


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