

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA

FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
MAR 16 4 15 PM '84

UNITED STATES OF AMERICA,
Plaintiff,

v.

STATE OF INDIANA; ROBERT ORR,
Governor of the State of Indiana;
INDIANA DEPARTMENT OF MENTAL HEALTH;
DENNIS JONES, Commissioner, Indiana
Department of Mental Health; STATE
BUDGET AGENCY; JUDITH PALMER, Director,
State Budget Agency; INDIANA
DEPARTMENT OF ADMINISTRATION; ORVAL D.
LUNDY, Commissioner, Indiana
Department of Administration; INDIANA
DEPARTMENT OF PERSONNEL; THOMAS J.
BEASLEY, Commissioner, Indiana
Department of Personnel; JEFFREY H.
SMITH, Superintendent, Logansport State
Hospital; RUTH STANLEY, Superintendent,
Central State Hospital,
Defendants.

Civil Action No.

COMPLAINT

84 4110

INTRODUCTION

1. The UNITED STATES OF AMERICA, by and through its Attorney General, William French Smith, brings this action to enforce the Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C. 1997 in two Indiana state hospitals: Logansport State Hospital (LSH) and Central State Hospital (CSH) located, respectively, in Logansport and Indianapolis, Indiana.

JURISDICTION, STANDING AND VENUE

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

U.S. v. Indiana



MH-IN-001-001

3. The United States possesses 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 that statute.

4. Venue properly lies in the Southern District of Indiana pursuant to 28 U.S.C. 1392.

PARTIES

5. Defendant ROBERT ORR, Governor of Indiana, heads the executive branch of state government. Ultimate responsibility for the conditions at LSH and CSH rest with him. Governor ORR appoints the Commissioners of the Indiana Departments of Mental Health and Personnel and the Director of the State Budget Agency. The superintendents of LSH and CSH are subject to his approval.

6. Defendant INDIANA DEPARTMENT OF MENTAL HEALTH is responsible for the operation, control, and administration of LSH and CSH.

7. Defendant DENNIS JONES is the Commissioner of the Indiana Department of Mental Health. He exercises administrative control of and responsibility for LSH and CSH with authority to direct the medical and physical care and mental rehabilitation of residents in the institutions. He appoints the superintendents of LSH and CSH.

8. Defendant STATE BUDGET AGENCY prepares the state budget report and budget bills. It approves the salaries and establishes the personnel classifications of most persons employed by LSH and CSH. It is empowered to make allocations to and authorize expenditures by the Department of Mental Health from emergency or contingency appropriations as are necessary for the preservation of public health and the protection of persons.

9. Defendant JUDITH PALMER is the Director of the State Budget Agency. She exercises administrative control over and directs the operation of the State Budget Agency.

10. Defendant INDIANA DEPARTMENT OF ADMINISTRATION executes and administers all state appropriations.

11. Defendant ORVAL D. LUNDY is the Commissioner of the Indiana Department of Administration. He supervises and controls the making of all contracts for buildings, causes to be prepared plans and specifications for any construction or alteration of state buildings, advertises for bid and awards all contracts in connection with improvements to state buildings, and supervises and controls repairs to all state buildings and structures.

12. The INDIANA DEPARTMENT OF PERSONNEL develops personnel policies, methods, procedures, and standards for all state agencies. It formulates position classification plans and salary schedules. It allocates positions in the state service

to their proper classification. It arranges with state agency heads for employee training.

13. Defendant THOMAS J. BEASLEY is the Commissioner of the Indiana Department of Personnel. He exercises administrative control over and responsibility for the functions the Department of Personnel.

14. Defendant JEFFREY H. SMITH and RUTH STANLEY are the superintendants, respectively, of LSH and CSH. They serve as the chief administrative officers of LSH and CSH.

FACTUAL ALLEGATIONS

15. LSH and CSH are institutions within the meaning of 42 U.S.C. 1997(1)(A) and (1)(B)(i).

16. Persons residing at LSH and CSH include mentally ill, mentally retarded, and handicapped citizens.

17. Defendants fail to recruit and employ sufficient numbers of qualified professional staff to ensure that LSH and CSH residents receive adequate medical care, protection from unreasonable risks of harm to their personal safety, and protection from unreasonable use of bodily restraints.

18. Defendants fail to employ systems and procedures for record keeping, record maintenance, and record review with respect to each resident's medical history and course of treatment that are adequate to insure that sufficient information necessary for medical and treatment decisions is available and maintained.

19. Defendants fail to provide adequate resident care at LSH and CSH to protect residents from unreasonable risks of harm to their personal safety and unreasonable use of bodily restraints.

20. Defendants fail to utilize adequate consultation and communication of information among LSH and CSH staff regarding residents' medical status and treatment needs.

21. Defendants fail to maintain an adequate physical environment at LSH and CSH to protect residents from unreasonable risks of harm to their personal safety.

22. Defendants fail to prescribe and administer psychotropic medication safely and pursuant to the exercise of professional judgment by appropriately qualified professional staff.

23. Defendants fail to use restraints and seclusion appropriately and safely, pursuant to the exercise of professional judgement by appropriately qualified professional staff.

24. Defendants fail to employ effective measures to assure the quality of resident care necessary to protect residents from unreasonable risks of harm to their personal safety and from unreasonable use of bodily restraints.

25. Defendants employ telephone orders for treatment without adequate protection of residents from unreasonable risks of harm to their personal safety.

26. Defendants employ pro re nata prescriptions of psychotropic medications without adequate monitoring and review.

27. The acts and omissions of defendants described in paragraphs 17 to 26 subject residents of LSH and CSH to 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.

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.

REMEDY

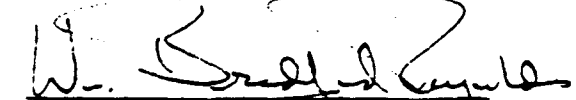
30. WHEREFORE, the United States prays that this Court enter an order permanently enjoining defendants, their officers, agents, employees, assigns, subordinates, successors in office, and all those acting in concert or participation with them from continuing the unconstitutional acts and practices described herein, from continuing to confine persons under such unconstitutional conditions, and from failing or refusing to confine persons under conditions which meet constitutional standards.


31. Such other and further relief as justice may require, together with the costs and disbursements of this action.

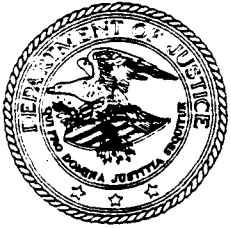
Dated: March 14, 1984, at Washington, D.C.


WILLIAM FRENCH SMITH
Attorney General of
the United States

Sarah Evans Barker
SARAH EVANS BARKER
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Southern District of Indiana


~~WM. BRADFORD REYNOLDS~~
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CERTIFICATE OF THE ATTORNEY GENERAL

I, William French Smith, 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 14 day of March, 1984, at Washington, D.C.


WILLIAM FRENCH SMITH
Attorney General of
the United States