

IN THE U. S. DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

TAMPA DIVISION

MILLER FRANK JOHNSON,
on behalf of himself and all
those similarly situated,

Plaintiffs,

vs.

RICHARD INSLEY, Administrator,
G. PIERCE WOOD MEMORIAL
HOSPITAL, FLORIDA DEPARTMENT
OF HEALTH AND REHABILITATIVE SERVICES,

Defendants.

Civil Action No.

CLASS ACTION

87-369 CIV-TM-10A

FILED
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CLERK U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

COMPLAINT

I. INTRODUCTION

1. This is a suit brought pursuant to 42 U.S.C. §1983 to redress violations of the 1st, 5th, 6th and 14th Amendments to the United States Constitution.

2. Plaintiffs seek declaratory and injunctive relief under the 1st and 14th Amendments to prevent the Defendants from restricting their association with others or their liberty for reasons not related to treatment. Plaintiffs allege that they are unnecessarily restricted while on the grounds of G. Pierce Wood Memorial Hospital and that they are denied access to telephones for reasons unrelated to their treatment needs. Plaintiffs also allege that they are being held at G. Pierce Wood Memorial Hospital without receiving treatment because the Defendants have failed to provide alternative, less restrictive facilities in their home communities.

3. Plaintiffs seek declaratory and injunctive relief under the 5th, 6th and 14th Amendments to prevent the Defendants from denying them access to the courts. Plaintiffs allege that Defendants' failure to provide them with a law library or attorney representation effectively denies them this access.

II. JURISDICTION

4. This court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §§1331, 1343(3), 2201(a), 2202 and 42 U.S.C. §1983.

5. The unlawful practices and policies alleged below were and are now being committed by the Defendant within the Middle District of Florida.

III. PARTIES

6. Plaintiff, MILLER FRANK JOHNSON, is a psychiatric patient at G. Pierce Wood Memorial Hospital in DeSoto County, Florida.

7. Defendant, RICHARD INSLEY, is the Administrator of G. Pierce Wood Memorial Hospital, DeSoto County, Florida.

8. Defendant, FLORIDA DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES (HRS), is the department of state government responsible for providing a comprehensive statewide program of mental health care. As a result, HRS exercises executive and administrative supervision over all mental health facilities in the state of Florida, including G. Pierce Wood Memorial Hospital.

IV. CLASS ACTION ALLEGATIONS

9. This action is brought pursuant to Fed. R. Civ. P. 23(a) and (b) since Defendants have acted in a manner generally applicable to the class as a whole.

10. The Plaintiff class consists of all present and future patients at G. Pierce Wood Memorial Hospital.

11. This action is properly brought as a class action because:

a. The class is so numerous that joinder of all members is impracticable.

b. Questions of law and fact common to the class include, but are not limited to, whether the defendants have deprived them of:

1) their right to movement and freedom from unreasonable restraint;

2) their right to the least restrictive appropriate available treatment;

3) their right to communicate freely and privately with persons outside the facility and to use telephones in the least restrictive manner;

4) their right to liberty;

5) their right to associate with other patients of their choice;

6) their right of access to the courts.

c. The Plaintiff's claims are typical of those of the class. Plaintiff is a patient at G. Pierce Wood Memorial Hospital who has been denied:

1) his right to movement and freedom from unreasonable restraint;

2) his right to the least restrictive appropriate available treatment;

3) his right to communicate freely and privately with persons outside the facility and to use telephones in the least restrictive manner;

4) his right to liberty;

5) his right to associate with other patients of his choice;

6) his right of access to the courts.

12. The Plaintiff will fairly and adequately protect and represent the interests of the class since all his claims are identical to the claims of the class as a whole and he has retained competent counsel to represent him and others similarly situated.

13. Defendants have acted or refused to act on grounds generally applicable to the class as a whole.

V. FACTS

14. Plaintiff, Miller Frank Johnson, is a patient at G. Pierce Wood Memorial Hospital (the hospital), a state-operated psychiatric treatment facility housing over 800 people like the plaintiff.

15. Plaintiffs' ability to move freely about the hospital grounds is governed by whether they possess grounds privileges.

16. Grounds privileges are initially granted by a treatment team of mental health professionals, but they are routinely revoked and reinstated by ward staff who possess no more than a high school diploma.

17. As a result, Plaintiffs' rights to freedom of movement and liberty are being restricted, not for any reasons related to their treatment, but to punish them for disobedience, coerce them into following hospital rules or other rules arbitrarily created by the hospital staff and to serve the convenience of the hospital staff.

18. The Plaintiffs have been deprived of access to public telephones because of there are no telephones on the wards and because of arbitrary restrictions, not related to their treatment placed on the use of telephones.

19. The Plaintiffs have been deprived of access to the courts because there is no law library available to them and they do not have access to attorneys.

20. As to the representative Plaintiff, Miller Frank Johnson, at least six months ago his doctors determined that he was ready to be discharged from G.P.W.

21. Mr. Johnson has not been discharged, in part, because of a lack of alternative treatment services in the communities served by the hospital.

VII. CLAIMS FOR RELIEF

COUNT I

22. The Defendants' confinement of Plaintiffs for reasons other than treatment has deprived them of their right to associate with other patients of their own choosing in violation of the First Amendment to the United States Constitution, and thereby 42 U.S.C. §1983.

COUNT II

23. The Defendants' confinement of Plaintiffs for reasons other than treatment has deprived them of their liberty without due process of law in violation of the Fourteenth Amendment to the United States Constitution, and thereby 42 U.S.C. §1983.

COUNT III

24. Defendants' restrictions on access to public telephones restricts the Plaintiffs' ability to associate with others and deprives them of their liberty in violation of the First and Fourteenth Amendments to the U.S. Constitution and thereby 42 U.S.C. §1983.

COUNT IV

25. Defendants' failure to provide legal assistance denies Plaintiffs access to the courts in violation of the Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution and thereby 42 U.S.C. §1983.

VIII. IRREPARABLE HARM

26. Plaintiffs have no plain, speedy, or adequate remedy at law to secure redress. Unless restrained and enjoined by this Court, Defendants will continue to deny Plaintiffs their rights under the Constitution of the United States. By virtue of the foregoing, Plaintiffs have suffered and will continue to suffer immediate and irreparable injury.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

- a) Certify this action as a class action;
- b) Grant a jury trial on all issues on which Plaintiffs are entitled as a matter of right;
- c) Declare that Defendants' confinement and restriction of patients for reasons other than treatment violates their rights as guaranteed by the First and Fourteenth Amendments to the United States Constitution.

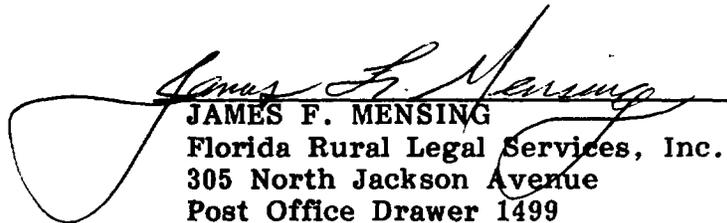
d) Grant preliminary and permanent injunctive relief restraining and enjoining the Defendants, their officers, agents, employees, attorneys, and successors in office, and all other persons in active concert and participation with them, from any further confinement or restriction of patients for purposes other than treatment;

e) Award Plaintiffs costs and reasonable attorneys' fees pursuant to 42 U.S.C. §1988; and

f) Grant any other relief the Court deems equitable.

Respectfully submitted,

DATED: March 11, 1987


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