

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF RHODE ISLAND

CA77-0727
CIVIL ACTION

***** NO. _____

JOHN W. IASIMONE, JR., by his father and next
friend, JOHN W. IASIMONE
MARY THERESA DiPIPPPO, by her father and next
friend, ALBERT DiPIPPPO
WILFRED GIRARD, by his father and next friend,
CHARLES GIRARD
JOSEPH LeCOUNT, by his sister and next friend,
ANITA LACOURSE
WALTER POOLE, by his mother and next friend,
ADALINA POOLE
NORMAN WAITE, by his mother and next friend,
GERTRUDE WAITE
KATHLEEN QUINN, by her mother and next
friend, GLORIA QUINN NOLAN
MARION LeVASSEUR, by her mother and next
friend, EILEEN LeVASSEUR
GERTRUDE VERRY, by her sister and next
friend, DOROTHY CATLOW
BARBARA PELLETIER, by her father and next
friend, JOSEPH PELLETIER

in behalf of themselves and all
all others similarly situated

RHODE ISLAND ASSOCIATION FOR RETARDED CITIZENS

LADD SCHOOL PARENTS ASSOCIATION

PLAINTIFFS,

VS.

J. JOSEPH GARRAHY,
Governor, State of Rhode Island

ROBERT LIQUORI,
Director, Department of Administrations

JOSEPH J. BEVILACQUA, Ph.D.,
Director, Department of Mental Health,
Retardation and Hospitals

DONNA M. CONE, Ph.D.,	*
Assistant Director, Division of	
Retardation	*
EDMOND R. COLLETTA,	*
Assistant Director, Planning and	
Budgets, Department of Mental	*
Health, Retardation and Hospitals	*
JOHN G. SMITH,	
Superintendent, Joseph H. Ladd	*
School	*
GEORGE W. GUNTHER,	
Associate Superintendent, Joseph H.	*
Ladd School	*
WILLIAM H. WOODCOCK, JR.,	
Acting Superintendent, Joseph H.	*
Ladd School	*
NEDO NORA, M. D.,	
Chief Medical Services, Joseph H.	*
Ladd School	*
DEFENDANTS.	*
* * * * *	

COMPLAINT

Plaintiffs bring this action against Defendants and allege as follows:

JURISDICTION

1. This is a class action suit brought up on behalf of all residents of the Joseph H. Ladd School (hereinafter "Ladd School") to secure a right to care, treatment and habilitation which meets minimal constitutional requirements.
2. This action arises under the Fourteenth Amendment of the Constitution of the United States and under the provision of 42 U.S.C. § 1983. Jurisdiction is granted to this Court by 28 U.S.C. § 1343, § 1651, § 2201 and § 2202.

PARTIES

3. Plaintiff, John W. Iasimone, Jr., age 18, resides at Ladd School in Greene II. He has been assigned a social quotient age of two (2) years. He was admitted to Ladd School on April 9, 1968, and his abilities and activities have regressed since that date. He resides on the second floor in a group unit consisting of children as young as six (6) years of age. He is presently incapable of independant self-preservation in case of emergency.

4. Plaintiff, Mary Theresa DiPippo, age 26, resides at Ladd School in Newport II. She has been assigned a social quotient age of three (3) years and one month. She was admitted to Ladd School on October 8, 1958. She has not received a medical gynecological examination while at Ladd School. She is in need of special modified shoes to compensate for a left foot abnormality.
5. Plaintiff, Wilfred Girard, age 36, resides at Ladd School in Riverfield. He has been assigned a social quotient age of one and 59/100 years. He was admitted to the Ladd School on December 5, 1964. He suffers from hearing loss, but services for this condition have not been provided. He requires special shoes because of a tendon condition, but such shoes have not been provided.
6. Plaintiff, Joseph LeCount, age 61, resides at Ladd School in Riverfield. He has been assigned a social quotient age of two (2) years and is presently blind. He was admitted to Ladd School on December 13, 1924. He has been injured while at Ladd School. He is in need of speech therapy, but no program is being provided to him presently.
7. Plaintiff, Walter Poole, age 24, resides at Ladd School in Wickford Cottage. He has been assigned a social quotient age of six and one half years. He was admitted to Ladd School on

July 8, 1957. His feet have been constantly infected due to lack of proper cleaning. He is a member of the Roman Catholic Church, but is unable to attend services due to discontinuation of services at Ladd School.

8. Plaintiff, Norman Waite, age 56, resides at Ladd School in Mann. He has been assigned a social quotient age of five and one half years. He was admitted to Ladd School on December 11, 1940. He is in acute need of dental care. He requires a corrective speech program, but none is being provided at present.
9. Plaintiff, Kathleen Quinn, age 25, resides at Ladd School in Fogarty III. She has been assigned a social quotient age of one and 47/100 years. She was admitted to Ladd School on May 13, 1959. She has required special care since admission due to hyperactivity and self-abuse. Until her placement in Fogarty III in May of 1977 her needs were not fulfilled.
10. Plaintiff, Marion LeVasseur, age 38, resides at Ladd School in Greene I. She has been assigned a social quotient age of four and one half years. She was admitted to Ladd School on November 4, 1954. She presently uses a wheel chair, but could be self-ambulatory if provided with a walker and physical therapy and training. Since 1973, the social age quotient assigned to her has dropped by two years.

11. Plaintiff, Gertrude Verry, age 60, resides at Ladd School in Mann. She has been assigned a social quotient age of 15 years and 3 months. She was admitted to Ladd School on November 18, 1943. She has been judged capable of semi-independant living. Her record indicates that she is inappropriately placed at Ladd School, but has not been placed in a less restrictive environment because of the Defendants' failure to provide the same.
12. Plaintiff, Barbara Pelletier, age 33, resides at Ladd School in Kingston Cottage. She has been assigned a social quotient age of eight (8) years. She was admitted to Ladd School on February 26, 1963. Her records indicate that she has not received a gynecological examination while at Ladd School. Her cognitive abilities have regressed despite a record indication that she was classified as "high educable" in 1963. Prior to her recent transfer to Kingston Cottage as of September 12, 1977, she was not participating in programs due to "injuries and difficulty in stairs."
13. Plaintiff, Rhode Island Association for Retarded Citizens, Inc., (hereinafter referred to as "RIARC") is a corporation duly incorporated under the laws of Rhode Island. RIARC is affiliated with local organizations within the State of Rhode Island and has members who are parents, relatives or guardians of residents of the Ladd School.

14. Plaintiff, Ladd School Parents Association, is a corporation duly incorporated under the laws of Rhode Island. The Association has members who are parents, relatives or guardians of residents of the Ladd School.
15. Defendant, J. Joseph Garrahy, is the Governor of the State of Rhode Island, and, as such, exercises overall responsibility for the operation of all public institutions.
16. Defendant, Robert Liquori, is the Director of the Department of Administrations and, as such, acts as the executive officer of the Governor in all matters pertaining to the financial administrative, planning and policy coordinating functions and affairs of departments and agencies within the executive department of the government of the State.
17. Defendant, Joseph J. Bevilacqua, Ph.D. is the Director of the Department of Mental Health, Retardation and Hospitals and, as such, is responsible for the supervision and control of all public facilities for mentally ill or mentally retarded persons and of all persons received into any of the said facilities.
18. Defendant, Donna M. Cone, Ph.D., is the Assistant Director, Division of Retardation in the Department of Mental Health, Retardation and Hospitals and, as such, is responsible for the operation of mental retardation programs as assigned by the Director.

19. Defendant, Edmond R. Coletta, is the Assistant Director of Planning and Budgets in the Department of Mental Health, Retardation and Hospitals and, as such, is responsible for budgetary and other administrative duties as assigned by the Director.
20. Defendant, John G. Smith, is the Superintendant of the Joseph H. Ladd School and, as such, is charged with the responsibility of the overall operation of the institution and the appointment and removal of subordinate personnel, contingent upon the approval of the Director.
21. Defendant, George W. Gunther, is the Associate Superintendant and, as such, is charged with the overall operation of the institution and the appointment and removal of subordinate personnel, contingent upon the approval of the Superintendant when acting and acts with the approval of the Director.
22. Defendant, William H. Woodcock, Jr., is the presently acting Superintendant of the Joseph H. Ladd School, and, as such, is charged with the overall operation of the institution and the appointment and removal of subordinate personnel and acts with the approval of the Director.
23. Defendant, Nedo Nora, M. D., is the Chief of Medical Services at the Joseph H. Ladd School and, as such, is charged with the responsibility of providing medical services to all residents in accord with good medical practice under the direction and supervision of the Superintendant.

BASIS FOR CLASS ACTION

24. This is a class action brought pursuant to Rule 23(b) (1) and (2), Federal Rules of Civil Procedure, on behalf of all mentally retarded or mentally ill persons now residents at Ladd School. The class consists of about seven hundred fifty (750) members and is so numerous that joinder of all members is impracticable.
25. The claims, age, sex, diagnosis, legal status, length and place of residence, degree of retardation, physical limitation, assigned social age quotients, attributed intelligence, and capacity to benefit from habilitation, including suitable care, treatment, education and training of the named individual plaintiffs, are typical and representative of the claims and characteristics of the other residents at Ladd School. In addition, among the members of RIARC, there are parents or relatives of the Ladd School residents who are representative of each sub-class. Accordingly, the plaintiffs will fairly and adequately protect the interests of the class.
26. Prosecution of separate actions by individual members of the class would create a risk of inconsistent adjudications with respect to incompatible standards of conduct for defendants and would as a practical matter be dispositive of the interests of the other members not party to the adjudication or substantially impair or impede their ability to protect their interests.

27. Defendants have acted, refused to act, or been unable to act, on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as a whole.
28. The Plaintiffs and the class on whose behalf this action is brought have no plain and adequate remedy for these constitutional deprivations except by court order directing the Defendants to take all necessary action to correct these abuses.

THE BACKGROUND

29. The Joseph H. Ladd School, located outside of Exeter, Rhode Island, is a public residential treatment facility, maintained by the State of Rhode Island, for mentally retarded and other handicapped persons. The facility consists of fourteen resident buildings and a number of program, staff and support buildings.
30. The present resident population at Ladd School is approximately seven hundred fifty (750), consisting of males and females between the ages of six (6) and ninety-six (96). Residents and programs are described by levels of functions: moderately retarded; hyperactive; severely retarded; physically handicapped, fairly capable; severely retarded, nonambulatory; and chronocally ill. The residents function at different

levels and have varying and multiple handicaps. Many residents are subject to seizures. Some residents are blind and some of these have other handicaps. Many residents are non-verbal or have speech defects. A number of residents are non-ambulatory. Some residents have ranging degrees of paralysis. Some residents are deaf or suffer severe hearing difficulties. Many residents are bed-ridden and require total support services. Many residents have eating difficulties including difficulties of chewing and swallowing.

VIOLATIONS OF CONSTITUTIONAL RIGHTS

31. At all relevant times, the Defendants have acted under color of the state law and specifically under Title 23 of the General Laws of Rhode Island in formulating and carrying out the policies which have led to a denial of fundamental constitutional rights to the residents of the Ladd School.
32. All of the residents of Ladd School have been admitted without meaningful alternatives or voluntary choice, under non-criminal procedures for the purpose of habilitation, i.e., care, treatment, education and training in order to permit each resident to lead a life as close to normal as may be possible. Under the due process of law of the Fourteenth Amendment, such deprivation of liberty can be justified, if at all, only if each resident in fact is provided with

suitable habilitation services in the least restrictive environment.

33. Acting under color of state law, the Defendants, have created, fostered, condoned and implemented policies that have denied each resident the minimal constitutional right to habilitation because of a failure;

A. To furnish each resident with an individualized habilitation program which is comprehensive and regularly updated, and where such program has been designed the Defendants have failed to provide facilities and staff necessary to fulfill such program;

B. To construct and maintain an adequate physical facility providing a safe and humane environment for the residents;

C. To maintain staffing at adequate levels;

D. To develop new facilities for the transfer of residents into the community or the least restrictive environment;

E. To provide necessary medical and dental treatment and care, thus endangering the health and safety of the residents.

THE LACK OF INDIVIDUALIZED HABILITATION PLANS

34. Defendants have instituted a program to provide individual habilitation plans in order to meet the requirements of the Amendments to Title XIX of the Social Security Act. Such plans are incomplete for many residents. Such plans must include a frequent and comprehensive review of each resident's mental and physical condition, including evaluation and adjustment of the resident's habilitation plan. Such periodic review does not take place at regular intervals upon a comprehensive basis at Ladd School.
35. Programs designed under individual habilitation plans are not provided to residents in many instances. Clothing is stored in over-crowded closets and little or no effort is made to instruct or permit residents to select, match or care for their own clothing. Residents are not instructed or permitted to wash their own clothing. Residents with severe handicaps are often excluded from programs necessary to their ongoing development whether therapeutic or educational. Many adult residents are provided with no programs other than watching day-long television soap operas or listening to high-volume stereo music. Physically handicapped residents are often segregated by age and sex with chronological ages of ten (10) to thirty-five (35) "lumped together". Age appropriate settings with residents ranging from one to three years apart are not available.

36. Behavior modification programs do not include functional daily, individualized plans to teach alternatives to destructive or self-destructive behavior. A "temporary" rehabilitation unit with eleven to twelve juveniles has little program and none on a full day basis.
37. Most residents have nothing to do which is functional, educational or recreational. "Plans of Care" are kept in black three-ring binders at the unit office and in each building, but review for completeness and quality is sporadic and lacks participation of a professional educator on behalf of the resident being reviewed. Staff often are faced with the conflict of reading records or providing direct service and the conflict is resolved by the failure to read records.

THE PHYSICAL FACILITIES ARE INADEQUATE AND DO
NOT PROVIDE A SAFE AND WARM ENVIRONMENT FOR
THE RESIDENTS

38. The environment at Ladd School is generally one of physical and psychological deprivation. This environment is incapable of furnishing residents the habilitation necessary to enable them to reach the maximum level of development of which they are capable. The physical conditions at Ladd School, including buildings used to house, feed and care for residents, are conducive only to deterioration and debilitation of residents, who are deprived of even elemental privacy and human dignity.

Threatening conditions are present and some residents have been injured directly as a consequence of such conditions. The inadequacy of the facilities creates an inhumane environment which deprives residents of opportunities for development.

39. The residence buildings are inappropriate and inadequate, to wit;

A. Bathrooms lack partitions affording privacy to residents. Paper or cloth towels are usually not provided and hot air hand dryers are inoperable. Showers are group or "gang" type affording no personal privacy. Toothbrushes are often "locked" from the residents and stored in common containers in which each brush is directly in contact with others. Female sanitary supplies are locked in closets. Toilet paper is not provided to residents in some buildings and many toilets lack seats. Tubs which replicate those found in standard American homes are nonexistent. Tubs to conveniently aid the physically handicapped are not available in buildings housing such residents and in some instances where such tubs are on hand they have not been taken out of the shipping cases and set up for use. Hand basins do not have water controls which can be used by persons with gross or small motor problems. Water controls on showers are inadequate to ensure safety of residents. Broken toilet adapters for use by the physically handicapped are stored in an area awaiting repairs. Only one undersized

mirror is located near hand basins. Many bathrooms are open to day rooms invading the user's dignity and privacy. Slab tubs for the physically handicapped are "used" for storage of towels and supplies.

B. Bedrooms are dormitory style and many are overcrowded with beds placed head to foot to other beds. There are no personal clothes closets in most residence buildings. There are no tables or chests for personal possessions such as combs, brushes, family pictures or personal radios. Personal possessions are kept locked from residents in corner offices with keys obtainable from attendants. Clothing is kept in clothing closets affording residents little opportunity to select, match or care for their own clothing. Washers and dryers for laundry are not generally available. Chairs are not available in sleeping areas to afford independent or private relaxation to residents. Bed decorations in some adult wards are children's dolls, inappropriate to this population. Linen is institutional white not affording residents the opportunity to experience use of color often found in home settings. Recreational equipment is sometimes stored in bedrooms prohibiting its access and use. Some dormitories appear "jail like" with raised observation platforms constructed in the center. Floors in these units are tile as is commonly used in bathrooms and kitchens.

C. Day rooms or recreational areas are overcrowded, often lacking furniture in good repair. Record players and televisions are generally played with loud volume. Walls are bleak and often decorated with inappropriate child like effects for an adult population. In some buildings bedrooms are used for activity areas. In buildings housing physically handicapped there are often no furnishings for activities at wheel chair height. Bubbler fountains are inaccessible to the physically handicapped. Elevators in some buildings have high incidence of breakdown time limiting activities of the physically handicapped. Public telephones are not available to residents for personal phone calls to or from families or friends.

D. Heat is poorly regulated in most buildings often leading to excessively hot or cold temperatures within the buildings.

E. Fire exit doors are often locked. Fire extinguishers are checked sporadically and many quarterly inspections are omitted. Three fire trucks for use by a volunteer fire company on the grounds of Ladd School are inoperable. A fire exit from the basement of one building is constructed of combustible wood (2 X 4's). There have been two fires in this building requiring evacuation of the residents. A wooden ramp has been constructed as an exit to a building housing many physically handicapped residents but the ramp will not permit the move-

STAFFING AT LADD SCHOOL IS INADEQUATE

40. The number of staff is inadequate to provide an effective program or a safe environment for the residents of Ladd School. The overall ratios fail to meet the standards provided for by the Department of Health, Education and Welfare, 45C.F.R. s 249.13(b)(5)(iii)(A), and by the Joint Commission on Accreditation of Hospitals. Residents are customarily grouped together with minimal number of staff providing only custodial services. There are only two registered physical therapists for the entire Ladd School population. Several physical therapist positions are unfilled. While some staff have long experience many positions are filled as many as three times each year. Orientation is provided upon employment but no inservice education is provided thereafter. A grant of \$7,500 from the Development Disabilities Council to provide staff training has been employed to support visits to other organizations and facilities rather than training of direct care staff to acquire new skills for work with residents. There are only two social workers assigned to serve three hundred twenty residents and their families. There is one speech pathologist assigned to four hundred fifty adults in rehabilitation programs. There is one other speech pathologist to serve two hundred other adult residents. These individuals are often assigned other duties such as the Qualified Mental Retardation Professional required

ment of beds or some wheel chairs thus endangering these residents. Smoke detection systems are not present in some wooden buildings. There is no automatic fire call system.

F. Food is served in large halls permitting little program related feeding. Food is often set out for long periods of time prior to the residents' dining time resulting in the service of cold food and potentially spoiled food. In some instances water is poured more than two hours prior to the meal creating an unsafe condition for residents. The service is custodial rather than family-like due to the large number of persons eating at the same location. The operation of dining facilities is unrelated to the programmatic needs of the residents. Heimlich charts are not posted in all dining areas although many residents in such areas have feeding problems which might result in choking incidents.

G. Clothing and linens in an area used as an infirmary are washed in common washers with clothing and linens from other floors of this building leading to a high risk of spreading infections among the residents.

H. There is a general lack of appropriate space for staff. Often staff utilizes clothing rooms as a coffee room. Some storage areas containing toxic substances are left open and unattended. Cleaning fluid is left exposed in many location.

under Title XIX standards. Night shifts in buildings housing physically handicapped persons requiring assistance in emergencies are customarily understaffed endangering these residents. In buildings where population changes frequently occur there is no additional staff assigned to cover such increased population. There is a serious shortage of all medical, dental, paramedical and record keeping staff. Six master's level psychologist positions are unfilled. As a direct consequence of the insufficiency of staff, Plaintiff residents and members of the Plaintiff class are denied programs of physical, occupational and speech therapy and such denial results in regression of the condition of the Plaintiff residents and other members of the Plaintiff class. As a result of the inadequate direct care staff restrictions are placed on residents and medications are administered which are anti-therapeutic and unnecessary except for custodial purposes. Residents are given medication to enable staff to control behavior.

THERE IS A FAILURE TO DEVELOP NEW FACILITIES FOR
THE TRANSFER OF RESIDENTS INTO THE COMMUNITY OR
THE LEAST RESTRICTIVE ENVIRONMENT

41. To fulfill constitutional and statutory responsibilities the Defendants must explore all alternative treatment settings or facilities and promptly place the Plaintiff residents in the alternative treatment settings suiting their needs. Records

must be kept of all consideration given at periodic reviews to alternative placements and the reason why any alternative was rejected. Services must be established to provide preventive precare and after care treatment consistent with the treatment needs of the residents including the resident Plaintiffs and all members of the Plaintiff class. The Defendants are constitutionally required to provide as an alternative to the Ladd School as presently constructed, small, more suitable and less restrictive treatment settings or facilities such as community clinics, half-way houses, nursing homes, rest homes, group homes, day houses, night houses and other appropriate residential environments. To the extent that such least restrictive alternative treatment settings do not presently exist the Defendants have the duty to create new alternative facilities or to up-grade and restructure existing but inadequate facilities so that all the resident Plaintiffs may be placed in alternative facilities to their benefit. The named Plaintiffs and members of the Plaintiff class should no longer be confined in Ladd School, which provides little treatment, inadequate specialized services, inadequate rehabilitation programs and inadequate vocational training for the Plaintiffs and members of their class. The Plaintiffs should be placed in lesser restrictive settings where suitable treatment can be provided

and where there is significantly less abridgment of their rights of liberty, association, assembly, speech, travel and privacy.

42. The named resident Plaintiffs and the members of the Plaintiff class have not been and cannot reasonably expect to be placed in less restrictive alternative settings because the Defendants do not maintain accurate records at Ladd School, which impedes the determination of whether a resident should be placed in a less restrictive setting and such records include no documentation of the consideration given to placement in a community setting or facility. The Defendants regularly fail to explore and investigate less restrictive alternative settings. The Defendants have not established adequate placement procedures at Ladd School. The Defendants have no procedures for referring prospective residents to less restrictive settings prior to admission. The Defendants have failed to adequately deploy staff to affect proper placements. The quality of care provided or approved by the Defendants in the few existing alternative facilities is so low that the resident Plaintiffs and the Plaintiff class would be harmed and not benefited if placed in such alternative facilities. The Defendants have failed to establish or enforce minimum standards for alternative facilities that will assure the

persons placed in such facilities are benefited and not harmed. The Defendants have failed to allocate the necessary resources and to supervise the establishment of a continuum of less restrictive alternatives that will provide suitable treatment for a broad range of conditions. The Defendants have failed to coordinate and implement any comprehensive plan for the establishment and maintenance of an adequate number of suitable less restrictive alternative settings and have acted in the practice of disregarding their duty to develop and establish a continuum of less restrictive alternatives, all in violation of the United States Constitution.

THE DEFENDANTS HAVE FAILED TO PROVIDE NECESSARY
MEDICAL AND DENTAL TREATMENT AND CARE THUS ENDANGERING
THE HEALTH AND SAFETY OF THE RESIDENTS

43. The Defendants have failed to provide sufficient medical and dental staff to meet the minimal needs of the Plaintiff resident and members of the Plaintiff class. The Defendants have failed to provide regular gynecological services to adolescent and adult females. Many female residents have not received a gynecological physical examination for many years. Pap tests, so called, are not given to female residents. There are a number of residents with partial or severe vision loss but the Defendants do not provide special

services or adaptive equipment for the blind. Many residents are physically handicapped but the Defendants provide no physiatrist or orthopedic consultation. Many residents suffer impaired hearing but the Defendants provide only one audiologist on the staff thereby making adequate treatment of those with hearing problems impossible. Some residents for whom medicines, drugs and narcotic drugs have been prescribed have such medicines and drugs administered by untrained personnel. The procedure of administering drugs is unsupervised and irregular. Many residents require wheel chairs which ought to be individually prescribed. The Defendants fail to take such minimal steps as are necessary to insure that the Plaintiff residents and others of the Plaintiff class who require such wheel chairs are suitably fitted. The Defendants have failed to provide sufficient nursing staff for the clinic area. The Defendants have failed to provide minimal dental care to the Plaintiff residents and members of the Plaintiff class. Dental care is not available to individuals for whom such care may offer the opportunity for improvement of speech and/or communication skills. The failure of the Defendants to provide such minimal medical and dental care endangers the life and safety of the Plaintiff residents and others of the Plaintiff class. As a result of

the failure to provide adequate and necessary medical and dental care many residents have suffered irreparable harm and continue to suffer such harm. There have been deaths of residents at Ladd School allegedly due to the failure to provide necessary medical care.

SUMMARY

44. Because of the foregoing, the vast majority of the residents At Ladd School have actually regressed and deteriorated since their admission. Many of them exhibit stylized and stereotyped behavior such as uncontrolled bobbing, head-nodding, unusual body postures, etc. which is not the result of mental retardation but instead is the result of prolonged deprivation in a barren inhumane environment.

45. Because of the foregoing, Plaintiff residents and others of the Plaintiff class, have been deprived of the habilitation necessary to enable them to speak, read, communicate, mix and assemble with others of their choice, and also to exercise other rights protected by the First Amendment.

46. Because of the foregoing, Plaintiff residents and others of the Plaintiff class, have been deprived of their rights to privacy and dignity protected by the Fourth and Fourteenth Amendments.

47. Because of the foregoing, Plaintiff residents and others of the Plaintiff class, have been denied due process and equal protection of the law in violation of the Fourteenth Amendment.

48. Because of the foregoing, Plaintiff residents and others of the Plaintiff class, have been deprived of their liberty, suitable treatment, and have been retained in other than the least restrictive environment suitable to their needs.

49. Because of the foregoing, Plaintiff residents and others of the Plaintiff class, have been denied the benefits under Title XIX of the Social Security Act, 42 U.S.C. s 1396, et. seq. which requires that the funds appropriated pursuant to the Act be expended to provide care and treatment in non-institutional facilities whenever appropriate for the needs of the Plaintiff residents and others of the Plaintiff class.

PRAYERS FOR RELIEF

WHEREFORE, the Plaintiffs respectively pray:

1. That this Court determine that this action may be properly maintained as a class action and make such orders for notice as the Court may deem just and proper.

2. That this Court determine and declare that all residents confined at Ladd School have been denied their constitutional right to receive care and treatment - including individualized habilitation plans, a safe and appropriate physical environment,

an adequate staff and adequate medical and dental care - such that each will have a realistic opportunity to lead a more useful and meaningful life.

3. That this Court determine and declare that Ladd School does not now meet constitutionally minimum standards of adequate habilitation, including care, treatment, education and training.

4. That this Court declare, adjudge and hold that the defendants have, by acts of commission and omission, violated the United States Constitution, by failing:

- A. To place the resident Plaintiffs and members of the Plaintiff class in the least restrictive alternative settings or facilities suitable to their needs;
- B. To create and maintain an adequate number of such alternative settings or facilities;
- C. To establish, maintain, and enforce minimum standards to ensure that the resident Plaintiffs and members of the Plaintiff class are benefitted by their placement in such alternative settings and facilities;
- D. To provide the resident Plaintiffs and members of the Plaintiff class with suitable treatment under the least restrictive conditions consistent with their treatment needs;
- E. To carry out their legal obligations in other particulars as described above.

5. That the Plaintiffs be granted a preliminary injunction, and upon final hearing, a permanent injunction sufficient to rectify the unconstitutional conditions, policies and practices alleged herein.

6. That said injunction direct Defendants, promptly, to meet such standards as this Court may specify.


7. That the Defendants be ordered to provide for the residents now in Ladd School such appropriate additional habilitation as may be necessary to compensate for the regression and deterioration they have suffered.

8. That a Receiver or Master be appointed and endowed with the necessary authority to oversee and implement said orders and injunctions.

9. That this Court retain jurisdiction over this matter until the foregoing have been completely implemented.

10. That this Court grant such other and further relief as shall be deemed necessary and appropriate, including but not limited to an award of attorneys' fees and costs to the Plaintiffs.

Respectfully submitted, .


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