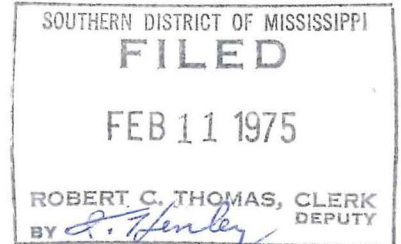


IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

JACKSON DIVISION



JOHN DOE and RICHARD ROE, through their  
next friends, individually and on behalf  
of all others similarly situated,

Plaintiffs,

vs.

Civil Action  
No. 875-36 (M)

SETH HUDSPETH, A.B. ALBRITTON,  
DUANE BURGIS, BERNICE HALE, L.G.  
HOPKINS, GWENDOLYN LOPER,  
GILBERT MACVAUGH, JR., EUGENE  
MCLEMORE, and J.C. WILLIAMSON, in  
their capacities as the Chairman  
and Members of the Mississippi State  
Board of Mental Health; REGINALD P.  
WHITE, in his capacity as Executive  
Director of the Mississippi Department  
of Mental Health; PAUL COTTEN, in his  
capacity as Director of the Division of  
Mental Retardation of the Mississippi  
Department of Mental Health; C.B. NOBLIN,  
in his capacity as Superintendent of the  
Central Mississippi Retardation Center;  
and W.L. JAQUITH, in his capacity as  
Superintendent of the Mississippi State  
Hospital,

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

## I. PRELIMINARY STATEMENT

1. This case challenges the denial, under color of state law, of constitutionally adequate treatment and habilitative services to inmates at the Central Mississippi Retardation Center. The case also challenges the existence of abusive and dangerous conditions at the Center which, aside from the lack of treatment and habilitation, are harmful to the physical and emotional well-being of the inmates.

2. The case arises under the Eighth and Fourteenth Amendments to the United States Constitution and the Civil Rights Act of 1871, 42 U.S.C. §1983. A declaratory judgment is sought pursuant to 28 U.S.C. §§2201-2202.

## II. JURISDICTION

3. This court has jurisdiction pursuant to 28 U.S.C. §§1331 and 1343(3). The amount in controversy for each of the named plaintiffs and for each member of their class exceeds \$10,000, exclusive of interest and costs.

## III. PARTIES

### A. Plaintiffs

4. Plaintiff John Doe is a twenty year old resident of Hinds County, Mississippi who is presently incarcerated in the Central Mississippi Retardation Center. Plaintiff Doe brings this action by and through his next friends, Ruby Jones, Samuel Williams, Michael Raff, and Richard Abraham.

5. Plaintiff Richard Roe is a twenty-two year old resident of Hinds County, Mississippi who is presently incarcerated in the Central Mississippi Retardation Center. Plaintiff Roe brings this action by and through his next friends, Robert Thomas, Jeanne Barnard, Patricia Derian.

6. Plaintiffs John Doe and Richard Roe sue under fictitious names to protect their true identities. It is plaintiffs' belief that the use of their names will subject them to humiliation, intimidation and embarrassment. Sealed affidavits containing plaintiffs' true identities will be filed with the court upon request.

B. Class Action

7. Plaintiffs Doe and Roe bring this action on behalf of themselves and, pursuant to Rules 23(b)(1) and (b)(2) of the Federal Rules of Civil Procedure, on behalf of all persons who are presently or may in the future be incarcerated in the Central Mississippi Retardation Center. The class presently consists of more than 850 persons and is therefore so numerous that joinder of all members is impracticable.

8. The claims asserted by plaintiffs Doe and Roe to receive adequate treatment and habilitation and to be free from abusive and harmful conditions present questions of law and fact which are common to all members of their class. The claims asserted by plaintiffs Doe and Roe are typical of the claims of the class. Plaintiffs Doe and Roe have no conflict of interest with the members of their class and plaintiffs are represented by competent counsel who are experienced in the conduct of litigation on behalf of the rights of the mentally handicapped. Therefore, plaintiffs Doe and Roe will fairly and



adequately protect the interests of the class.

9. The prosecution of separate actions against defendants could create a risk of inconsistent or varying adjudications with respect to individual class members which would establish incompatible standards of conduct for defendants. Separate adjudications with respect to plaintiffs would as a practical matter be dispositive of the interests of the members of the class. Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

C. Defendants

10. Defendants SETH HUDSPETH, A.B. ALBRITTON, DUANE BURGIS, BERNICE HALE, L.G. HOPKINS, GWENDOLYN LOPER, GILBERT MACVAUGH, JR., EUGENE MCLEMORE and J.C. WILLIAMSON are sued in their official capacities as the Chairman and Members of the Mississippi State Board of Mental Health. The Board has final responsibility for administering, through the State Department of Mental Health, all state facilities for the mentally ill and mentally retarded, including the Central Mississippi Retardation Center.

11. Defendant REGINALD P. WHITE is sued in his official capacity as the executive director of the State Department of Mental Health. He is the chief executive and administrative officer of the Department.

12. Defendant PAUL COTTEN is sued in his official capacity as the Director of the Division of Mental Retardation of the Department of Mental Health. The Division is responsible within the Department for all activities and programs concerning the mentally retarded.

13. Defendant C.B. NOBLIN is sued in his official capacity as the Director of the Central Mississippi Retardation Center. He is responsible for the overall supervision and administration of the Center on a daily basis.

14. Defendant W.L. JAQUITH is sued in his official capacity as the Superintendent of the Mississippi State Hospital in Whitfield, Mississippi. He is responsible for the provision of medical and dental care to all inmates of the Central Mississippi Retardation Center.

#### IV. STATEMENT OF THE CASE

15. The Central Mississippi Retardation Center (hereafter "Retardation Center") was opened as an annex to the Mississippi State Hospital in Whitfield, Mississippi in 1962. The present resident population of the Retardation Center is approximately 850, almost 300 of whom are children of school age or younger. In recent years, virtually all new admissions have been children. All of these inmates are being held at the Retardation Center without the care and treatment which they desperately need and under conditions which cause serious and irreparable harm to their physical and emotional well-being.

16. The Retardation Center is composed of twelve, one floor brick buildings, surrounded by a tall cyclone fence with barbed wire. There are no shade trees or bushes inside the fence, and the grounds are bare dirt.

17. Each of the ten residential buildings is divided into two wards with a central nurses' station. In each ward there are approximately forty iron cots arranged in three lines. The cots are less than two feet apart. There are no screens or curtains for privacy and there is insufficient space to store the inmates' clothing and personal belongings. The walls are bare. There is



only one door to each ward, which presents a fire hazard when locked. Except for several hard-backed chairs, there are no tables, lamps or other furniture in the wards.

18. The residential buildings have virtually no ventilation. During the summer, the wards become unbearably hot, causing patients to have convulsions. The residential buildings are not adequately heated and they become uncomfortably cold during the winter. The buildings are permeated by fecal and other human odors.

19. Inmates at the Retardation Center are placed in wards without regard to their illness, degree of impairment, dangerousness, physical handicap or need for attention. Children of all ages are kept in adult wards. As a result, younger and more docile inmates are subjected to harrassment, beatings and sexual assaults by the more aggressive inmates.

20. The Retardation Center is grossly understaffed and consequently is unable to provide even minimally adequate supervision for the inmates. Each ward building, containing eighty or more inmates, is maintained by five attendants during the day and three during the night. These attendants have no specialized training to enable them to provide care and treatment to the retarded inmates, and the Retardation Center provides no orientation or staff training for them. There are no trained personnel to supervise the attendants at any time. Instead, during each shift, there is a single nurse, with no special training or experience in the care of retarded persons, who is in charge of all 850 inmates.

21. Inmates are routinely admitted to the Retardation Center without any evaluation of their needs, including the possibility of less restrictive treatments in their own communities. Moreover, contrary to accepted medical practice, the Retardation Center does not attempt to develop or follow an individualized

habilitation plan identifying the specific needs of each inmate and implementing a program to meet these needs. To serve all 850 inmates, there are only one psychologist and one medical doctor, who are shared with the Mississippi State Hospital, and one consulting psychiatrist, who has an additional full-time practice in Jackson. The Retardation Center does not maintain adequate records to enable it to monitor each inmate's progress and development.

22. Almost all inmates assigned to the Retardation Center are capable of returning to their own families and communities if given suitable training and educational services. The educational and vocational services available at the Retardation Center are so inadequate, however, that the abilities of many inmates substantially deteriorate during their incarceration, and a significant number are never able to leave the institution. There is no library at the Center and only two small classrooms. There are only five special education teachers who serve a total of approximately 150 inmates for one or two hours a day. The remaining 700 inmates receive no education or training at all. There are only five occupational therapists for the entire resident population. There is one physical therapist, who works with approximately fifty profoundly retarded inmates.

23. Because there is no organized program for them, inmates at the Retardation Center spend most of their days sitting alone and idle in the wards or wandering around the grounds and buildings. There are hardly any recreational equipment or toys for young children. All inmates are confined to their wards at 4 P.M. each day, where they must remain, regardless of the weather, until the next morning.

24. Regular contacts with an inmate's family are an essential part of any suitable habilitation program if the inmate is to be able to return to his or her community. Inmates at the



Retardation Center, however, are denied access to a telephone, and visiting hours are so restricted as to be virtually unavailable to working parents except on weekends. Virtually no communication between staff and parents takes place. Parents are not informed of their children's diagnosis, the treatment provided to them, including medication, and their progress, if any. To work with the families of all 850 inmates, there is only one social worker, who is shared with the Mississippi State Hospital.

25. Instead of individualized habilitation programs designed to educate and train them, inmates at the Retardation Center are subjected to numerous cruel practices which are directly contrary to their habilitation. Tranquilizing medication is administered to almost all inmates by untrained attendants or sometimes by other patients, although the use of such drugs on retarded persons is contrary to accepted medical practice. Electroshock and physical restraints are also used, although they violate every standard of accepted treatment for the retarded.

26. Inmates at the Retardation Center are routinely punished by summary confinement for indeterminate periods in solitary "punishment rooms" which have no toilet or sleeping facilities. Where attendants believe that more severe punishment is desirable, inmates are summarily transferred to the maximum security unit at the Mississippi State Hospital, where they are kept with inmates who have been transferred from the State Penitentiary and criminal defendants who have been found to be incompetent to stand trial. At no time before or after the institution of punishment are inmates at the Retardation Center provided with adequate notice and an opportunity to challenge the punishment.

27. Inmates at the Retardation Center do not receive regular medical checkups and there are no medical personnel located at the Center. Consequently, all but the most aggravated



medical needs go undetected and untreated. There is one dentist, shared with the State Hospital, who is responsible for more than 4000 inmates at the two institutions.

28. The Retardation Center has never been accredited by the Joint Commission on Accreditation of Hospitals or the Accreditation Council for Facilities for the Mentally Retarded, the two nationally recognized bodies that evaluate and accredit facilities for the mentally retarded. Because of the substandard conditions, the Retardation Center is not eligible to receive federal financial assistance for itself or for its inmates.

29. While most inmates remain idle, some inmates at the Retardation Center are required to perform labor involving maintenance and operation of the institution, for which they receive no compensation and which serves no habilitative purpose. These chores include the mopping and sweeping of wards, feeding and bathing other inmates, and washing their own and employee's personal clothes.

30. Plaintiff John Doe was admitted to the Retardation Center pursuant to an order of two physicians of Hinds County when he was seventeen years old.

31. Although he has been incarcerated at the Retardation Center continuously for more than three years, plaintiff Doe has never received any psychological evaluation or any other assessment of his needs. The Center has never formulated a habilitation plan for him, and only a few incomplete records have been kept to monitor his progress.

32. Plaintiff Doe is regarded as "severely retarded" by the Retardation Center. He is almost never permitted to leave his ward and, consequently, he receives no educational services or physical recreation of any kind. In stead of improving, plaintiff Doe's condition has deteriorated drastically since he

entered the Retardation Center. At the time of his placement, he could speak many words, could communicate his needs, dress himself, and control his bodily functions. Now, he has lost these abilities completely.

33. Plaintiff Doe has been subjected to serious physical abuse during his incarceration at the Retardation Center, including electroshock, physical beatings and excessive and unwarranted drugs. In November 1973, his mother discovered that plaintiff Doe's back was covered with large red welts, as if he had been beaten by a belt. In January 1974, she took him to the University of Mississippi Medical Center for a special examination because he seemed unusually sleepy and lethargic. Doctors at the Medical Center informed her that he had received an overdose of tranquilizing drugs.

34. Plaintiff Richard Roe was admitted to the Retardation Center pursuant to an order transferring him from Ellisville School when he was fifteen years old.

35. At no time since his admission has the Retardation Center developed an individualized habilitation plan for plaintiff Roe. Although he has received a score of 61 on an I.Q. test, which is well within the range of the educable mentally retarded, plaintiff Roe has never received any education services despite repeated requests by himself and his parents that he be taught to read and write.

36. With the exception of a short outdoor exercise period during good weather, plaintiff Roe has no supervised or planned activities. He spends most of his days wandering from ward to ward. He is often required to mop and sweep his ward and to carry other patients to the bath or toilet. He occasionally receives one to four dimes for this labor.



37. In 1968 , plaintiff Roe was summarily incarcerated in the maximum security unit of the Mississippi State Hospital. The action was not part of any habilitation program, but was solely to punish plaintiff Roe for fighting. Plaintiff Roe was never given notice of the charges against him or an opportunity to challenge his transfer to the State Mental Hospital.

38. Plaintiff Roe has also been subjected to physical beatings by members of the Retardation Center staff.

#### V. CAUSES OF ACTION

39. By confining plaintiffs and the members of their class under the abusive and harmful conditions existing in the Central Mississippi Retardation Center, defendants inflict cruel and unusual punishment upon plaintiffs and their class in violation of the Eighth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §1983.

40. By failing to provide plaintiffs and the members of their class with adequate care and habilitation sufficient to enable them to lead more useful and meaningful lives and to return to society, defendants have deprived plaintiffs and their class of the right to treatment and habilitation afforded by the due process clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983.

41. By failing to provide plaintiffs and the members of their class with notice and an opportunity to challenge all forms of punishment including confinement in the solitary punishment rooms and transfer to the maximum security unit of the Mississippi State Hospital, defendants have deprived plaintiffs and the members of their class of their liberty without due process of law in violation of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983.



## VI. EQUITY

42. Unless restrained by this court, defendants will continue to inflict immediate, serious and irreparable harm to the physical and mental well-being of each of the plaintiffs and each member of their class. Plaintiffs have no adequate remedy at law.

## VII. RELIEF

Wherefore, plaintiffs pray that this court:

1. Certify this action as a class action pursuant to Rule 23(c)(1), F.R. Civ. P.;
2. Issue a declaratory judgment declaring that defendants are administering the Central Mississippi Retardation Center in a manner and under conditions which violate the Eighth and Fourteenth Amendments to the United States Constitution;
3. Issue a permanent injunction enjoining defendants, their successors in office, their agents, employees, and all others in active concert and participation with them from continuing to operate the Central Mississippi Retardation Center in a manner that does not conform to constitutional standards of delivering adequate care and habilitation to its inmates, and requiring defendants to prepare within a reasonable period of time, a comprehensive, specific and constitutionally acceptable plan to provide adequate care and habilitation to all inmates at the Central Mississippi Retardation Center;

4. Award plaintiffs reasonable attorneys' fees and costs;
5. Grant such other relief as may be fair and equitable.

Respectfully Submitted,

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Dated: February 11, 1975

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