

JURISDICTION, STANDING AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345.

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

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 Middle District of Louisiana is proper pursuant to 28 U.S.C. § 1391.

DEFENDANTS

6. Defendant STATE OF LOUISIANA ("State") owns and operates Pinecrest and Hammond ("the institutions"), facilities housing individuals with mental retardation or other developmental disabilities.

7. Defendant MURPHY J. FOSTER, JR., is the Governor of the State of Louisiana, and, in this capacity, heads the Executive Branch of the State's government and, among other duties, reviews and approves budget requests submitted by Executive Branch agencies regarding the institutions. He selects and appoints the Secretary of the Department of Health and Hospitals.

8. Defendant DAVID HOOD is the Secretary of the Department of Health and Hospitals and, in this capacity, exercises administrative control of, and responsibility for, the institutions.

9. Defendant RAYMOND A. JETSON is the Assistant Secretary of the Department of Health and Hospital's Office of Citizens with Developmental Disabilities, and in this capacity exercises administrative control of, and responsibility for, the institutions.

10. Defendant EDWIN M. WRIGHT is the Superintendent of Pinecrest, and is responsible for the administration and day-to-day operations of Pinecrest.

11. Defendant PETER J. CALAMARI, III, is the Superintendent of Hammond, and is responsible for the administration and day-to-day operations of Hammond.

12. The individual Defendants named in paragraphs 7, 8, 9, 10, and 11 above are officers of the Executive Branch of the State of Louisiana and are sued in their official capacities.

13. Defendants are legally responsible, in whole or in part, for the operation of and conditions at the institutions, as well as for the care and treatment of persons residing at those institutions.

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

FACTUAL ALLEGATIONS

15. Pinecrest and Hammond are institutions as that term is defined in 42 U.S.C. §§ 1997(1)(A), (1)(B)(i), and (1)(B)(v).

16. Persons residing at the institutions are individuals with mental retardation or other developmental disabilities, and some of the individuals are also elderly and/or have mental illness.

17. Persons residing at the institutions are "qualified individual[s] with a disability" under the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, 12131.

18. The State of Louisiana and the Louisiana Department of Health and Hospitals are "public entities" under Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131.

19. Defendants have failed and are continuing to fail to provide reasonably safe conditions and to ensure the reasonable safety and personal security of the institutions' residents.

20. Defendants have failed and are continuing to fail to provide the residents of the institutions with adequate basic care and to safeguard the residents' personal possessions, including residents' clothing, from damage, loss, or theft.

21. Defendants have failed and are continuing to fail to provide the institutions' residents with that level of training, including behavioral and related training programs, necessary to protect the residents' liberty interests, including their right to training sufficient to ensure their safety and freedom from undue or unreasonable restraint.

22. Defendants have failed and are continuing to fail to ensure that residents of the institutions are free from undue or unreasonable restraint.

23. Defendants have failed and are continuing to fail to ensure that restraints are administered to residents by appropriately qualified professionals in keeping with accepted professional standards, and are not used as punishment, in lieu of treatment, or for the convenience of staff. Defendants have failed and are continuing to fail to supervise adequately residents in restraints to protect them from harm.

24. Defendants have failed and are continuing to fail to provide adequate health care, including general medical and neurological care and other related health care services, to the institutions' residents.

25. Defendants have failed and are continuing to fail to provide adequate nursing care and services, including nutritional management and related health care services, to the institutions' residents.

26. Defendants have failed and are continuing to fail to provide adequate therapy services, including physical therapy, occupational therapy, speech therapy, and other forms of therapy, physical management, and related health care services, to the institutions' residents.

27. Defendants have failed and are continuing to fail to provide adequate psychiatric care and related services to the institutions' residents with mental illness.

28. Defendants have failed and are continuing to fail to ensure that medications are prescribed and administered to residents at the institutions by appropriately qualified professionals in keeping with accepted professional standards, and are not used as punishment, in lieu of treatment, or for the convenience of staff.

29. Defendants have failed and are continuing to fail to provide a sufficient number of adequately trained staff to render the essential basic care, health care, related services, treatment, and training outlined above in paragraphs 18 through 28 as required by the laws and Constitution of the United States.

30. Defendants have failed and are continuing to fail to ensure that citizens living at the institutions are adequately evaluated for placement in the most integrated setting; that those individual residents whom professionals determine should be placed in community programs are placed in such programs; and that the institutions' residents are served in the most integrated setting appropriate to each resident's individual needs.

VIOLATIONS ALLEGED

31. The acts and omissions alleged in paragraphs 15 through 30 constitute a pattern or practice and infringe upon the residents' legal rights and substantive liberty interests and constitute resistance to their full enjoyment of their rights, privileges or immunities secured or protected by the laws and the Fourteenth Amendment to the Constitution of the United States,

and deprive the institutions' residents of such rights, privileges or immunities.

32. Due to the acts and omissions alleged in paragraphs 17, 18, and 30, Defendants have failed and are continuing to fail to meet the requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations promulgated pursuant thereto, by excluding the citizens living at the institutions, by reason of their disability, from participation in or by denying them the benefits of services, programs, or activities, or by subjecting them to discrimination, and by failing to administer services, programs, and activities in the most integrated setting appropriate to their needs.

33. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 15 through 30 that deprive residents of the institutions of rights, privileges, or immunities secured or protected by the laws and Constitution of the United States.

PRAYER FOR RELIEF

34. The Attorney General is authorized under 42 U.S.C. § 1997a to seek 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 paragraphs 15 through 30, and that this Court require Defendants to take such action as

will bring Defendants into compliance with federal law and provide constitutional conditions of care to persons who presently reside at the institutions. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

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Respectfully submitted,

/s/ John Ashcroft

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