

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)
Department of Justice,)
950 Pennsylvania Ave, NW)
Washington, DC 20530)

Plaintiff,)

v.)

Civ. No. 07-

THE DISTRICT OF COLUMBIA;)
THE HONORABLE ADRIAN M. FENTY,)
Mayor of the District of Columbia,)
in his official capacity only,)
1350 Pennsylvania Ave, NW)
Washington, DC 20004;)
STEPHEN T. BARON, Director,)
Department of Mental Health,)
in his official capacity only,)
77 P Street, 4th Floor, NE)
Washington DC 20002;)
and PATRICK J. CANAVAN, Chief)
Executive Officer, St. Elizabeths)
Hospital, in his official)
capacity only,)
2700 Martin Luther King Jr Ave, SE)
Washington, DC 20032)

Defendants.)

COMPLAINT

PLAINTIFF, THE UNITED STATES OF AMERICA ("Plaintiff"), by its undersigned attorneys, hereby alleges upon information and belief:

1. The Attorney General files this Complaint on behalf of the United States of America pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, to enjoin the

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named Defendants from egregiously and flagrantly depriving individuals housed in St. Elizabeths Hospital of rights, privileges, or immunities secured and protected by the Constitution and laws of the United States.

Jurisdiction and Venue

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

3. The United States is authorized to initiate 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 District of Columbia is proper pursuant to 28 U.S.C. § 1391.

Defendants

6. Defendant District of Columbia owns and operates St. Elizabeths Hospital ("St. Es"), and as such has responsibility for the services and supports provided to patients at St. Es.

7. St. Es is a District mental health hospital.

8. Defendant Adrian M. Fenty is the Mayor of the District of Columbia and, in that capacity, he has responsibility for the operation of St. Es.

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9. Defendant Stephen T. Baron is the Director of the Department of Mental Health, which has responsibility for overseeing the operation of St. Es.

10. Defendant Patrick Canavan is the Chief Executive Officer of St. Es.

11. The individual Defendants named in Paragraphs 8 through 10 are officers of the District of Columbia and are sued in their official capacity only.

Factual Allegations

12. Defendants are legally responsible, in whole or in part, for the operation of St. Es and for the health and safety of the persons residing in St. Es.

13. St. Es is an institution within the meaning of 42 U.S.C. § 1997(1). St. Es provides care to psychiatric patients committed civilly or in connection with criminal proceedings.

14. Defendants are obligated to operate St. Es in a manner that does not infringe upon the federal rights, as protected by the Fifth Amendment to the Constitution of the United States and by other federal law, of individuals confined to St. Es.

15. Defendants are obligated to provide treatment, supports, and services to individuals confined to St. Es consistent with the Americans with Disabilities Act and implementing regulations. 42 U.S.C. § 12101 et seq., 28 C.F.R.

Part 35.

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

17. Individuals are confined to, or reside at, St. Es because they have been determined by Defendants to have significant mental illness requiring extensive intervention and treatment.

18. St. Es' supports and services substantially depart from generally accepted professional standards of care, thereby exposing the individuals confined or residing there to significant risk, and in some cases, to actual harm.

19. St. Es' supports and services substantially depart from generally accepted professional standards of care in the following specific respects, among others:

- a. the provision of adequate treatment planning;
- b. the provision of adequate assessments and diagnoses;
- c. the provision of adequate psychiatric services;
- d. the provision of adequate psychological services;
- e. the provision of adequate rehabilitation therapy services;
- f. the provision of adequate pharmacy services;
- g. the provision of adequate nursing and medical services;

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- h. the provision of adequate protections from undue or unreasonable seclusion and restraint; and
- i. the provision of adequate protections from harm.

20. St. Es' supports and services substantially depart from generally accepted professional standards of care in the provision of a sufficient number of adequately trained staff to render adequate supports and services as outlined in Paragraphs 18 through 19.

21. Defendants have failed and continue to fail to assess individuals residing in St. Es to ascertain whether these individuals are, within the confines of any court-ordered confinement, receiving adequate treatment, supports, and services in the most integrated setting appropriate to their individual needs; that those individuals whom professionals determine should be placed in community programs are placed in such programs, when appropriate; and that these individuals are served in the most integrated setting appropriate to their needs.

Violations Alleged

COUNT ONE:

Violations of the Due Process Protections of the Fifth Amendment to the United States Constitution

22. The United States incorporates by reference the allegations set forth in Paragraphs 1 through 21 as if fully set forth herein.

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23. The egregious and flagrant acts and omissions alleged in Paragraphs 18 through 20 constitute a pattern or practice that violates the federal rights, as protected by the Fifth Amendment to the Constitution of the United States and by other federal law, of individuals confined to St. Es.

24. Unless restrained by this Court, Defendants will continue to engage in the egregious and flagrant acts and omissions set forth in Paragraphs 18 through 20 that deprive St. Es' residents of rights, privileges, or immunities secured or protected by the Constitution of the United States and federal law, and will cause irreparable harm to these residents.

COUNT TWO:

Violations of the Americans with Disabilities Act

25. The United States incorporates by reference the allegations set forth in Paragraphs 1 through 21 as if fully set forth herein.

26. The egregious and flagrant acts and omissions alleged in Paragraph 21 violate the Americans with Disabilities Act and implementing regulations. 42 U.S.C. § 12101 et seq., 28 C.F.R. Part 35.

27. Unless restrained by this Court, Defendants will continue to engage in the egregious and flagrant acts and omissions set forth in Paragraph 21 that deprive St. Es residents of rights, privileges, or immunities secured or protected by

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federal law, and will cause irreparable harm to these residents.

PRAYER FOR RELIEF

28. The Attorney General is authorized under 42 U.S.C. § 1997 to seek equitable and declaratory relief.

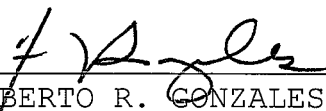
WHEREFORE, the United States prays that this Court enter an order:

- a. Declaring that the acts, omissions, and practices of Defendants set forth in Paragraphs 18 through 21 above constitute a pattern or practice of resistance to St. Es' residents' full enjoyment of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, and that those acts, omissions, and practices violate the Constitution and laws of the United States;
- b. Permanently enjoining Defendants, their officers, agents, employees, subordinates, successors in office, and all those acting in concert or participation with them from continuing the acts, omissions, and practices set forth in Paragraphs 18 through 21 above, and that this Court require Defendants to take such actions as will ensure that lawful conditions of institutionalization are afforded to residents of St. Es; and

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- c. Granting such other and further equitable relief as the Court may deem just and proper.

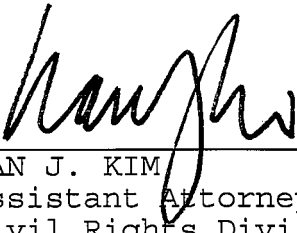
Respectfully submitted,



ALBERTO R. GONZALES
Attorney General of the United
States


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JEFFREY A. TAYLOR
United States Attorney
District of Columbia

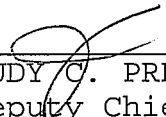


WAN J. KIM
Assistant Attorney General
Civil Rights Division

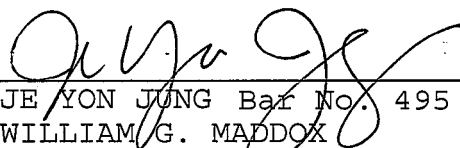
RUDY CONTRERAS
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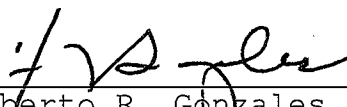
CERTIFICATE OF THE ATTORNEY GENERAL

I, Alberto R. Gonzales, Attorney General of the United States, certify that with regard to the foregoing Complaint, United States v. District of Columbia, et al., I have complied with all subsections of 42 U.S.C. § 1997b(a)(1). I certify as well that I have complied with all subsections of 42 U.S.C. § 1997b(a)(2). I further certify, pursuant to 42 U.S.C. § 1997b(a)(3), my belief that this action by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution and laws of the United States.

In addition, I certify that I have the "reasonable cause to believe," set forth in 42 U.S.C. § 1997a, to initiate this action. Finally, I certify that all prerequisites to the initiation of this suit under 42 U.S.C. § 1997 have been met.

Pursuant to 42 U.S.C. § 1997a(c), I have personally signed the foregoing Complaint. Pursuant to 42 U.S.C. § 1997b(b), I am personally signing this Certificate.

Signed this 3 day of May, 2007, at
Washington, D.C.



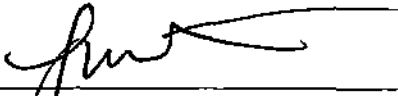
Alberto R. Gonzales
Attorney General of the United States

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by First-Class mail, postage prepaid to:

ELLEN A. EFROS
Chief, Equity 1 Section
Office of the Attorney General
441 4th Street, N.W.
6th Floor
Washington, D.C. 20001

on this 11th day of May, 2007.



LAURIE WEINSTEIN
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