

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW JERSEY  
VICINAGE OF TRENTON

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 05-
	)	
THE STATE OF NEW JERSEY;	)	
Richard J. Cody, Acting Governor	)	
of the State of New Jersey;	)	
James Davy, Commissioner,	)	
Department of Human Services;	)	
Carol Grant, Director,	)	
Division of Developmental	)	
Disabilities;	)	
John Dougherty, Chief	)	
Executive Officer,	)	
Woodbridge Developmental Center,	)	
	)	
Defendants.	)	
	)	
	)	
_____	)	

**COMPLAINT**

PLAINTIFF, THE UNITED STATES OF AMERICA, 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 named Defendants from depriving residents housed in the Woodbridge Developmental Center 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 New Jersey is proper pursuant to 28 U.S.C. § 1391.

**DEFENDANTS**

6. Defendant STATE OF NEW JERSEY ("State") owns and operates Woodbridge Developmental Center ("Woodbridge"), a facility housing individuals with developmental disabilities.

7. Defendant RICHARD J. CODY is the Acting Governor of the State of New Jersey, 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 Woodbridge.

8. Defendant JAMES DAVY is the Commissioner of the Department of Human Services and, in this capacity, exercises administrative control of, and responsibility for, Woodbridge.

9. Defendant CAROL GRANT is the Director of the Department

of Developmental Disabilities, and in this capacity exercises administrative control of, and responsibility for, Woodbridge.

10. Defendant JOHN DOUGHERTY is the Chief Executive Officer of Woodbridge and is responsible for the administration and day-to-day operations of Woodbridge.

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

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

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

#### **FACTUAL ALLEGATIONS**

14. Woodbridge is an institution as that term is defined in 42 U.S.C. §§ 1997(1)(A), (1)(B)(i), and (1)(B)(v).

15. Persons residing at Woodbridge are individuals with developmental disabilities, and some of the individuals also have mental illness.

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

17. The State of New Jersey and the New Jersey Department of Human Services are "public entities" under Title II of the

Americans with Disabilities Act, 42 U.S.C. § 12131.

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

19. Defendants have failed and are continuing to fail to provide Woodbridge 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.

20. Defendants have failed and are continuing to fail to ensure that residents of Woodbridge are free from undue or unreasonable restraint.

21. 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.

22. Defendants have failed and are continuing to fail to provide adequate health care to Woodbridge residents.

23. Defendants have failed and are continuing to fail to provide adequate nutritional management and related services to

Woodbridge residents.

24. 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 Woodbridge residents.

25. Defendants have failed and are continuing to fail to provide adequate psychiatric care and related services to Woodbridge residents with mental illness.

26. 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 25 as required by the laws and Constitution of the United States.

27. Defendants have failed and are continuing to fail to ensure that citizens living at Woodbridge are adequately evaluated for placement in the most integrated setting; that those individual residents whom professionals determine are appropriate for community placement and who do not oppose such placement are actually placed in the community; and that the institution's residents are served in the most integrated setting appropriate to each resident's individual needs.

**VIOLATIONS ALLEGED**

28. The acts and omissions alleged in paragraphs 14 through 27 constitute a pattern or practice and deprive Woodbridge residents of their rights, privileges or immunities secured or protected by federal law and the Fourteenth Amendment to the Constitution of the United States.

29. Due to the acts and omissions alleged in paragraphs 16, 17, and 27, 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 institution, 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.

30. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 14 through 27 that deprive residents of Woodbridge of rights, privileges, or immunities secured or protected by the laws and Constitution of the United States.

**PRAYER FOR RELIEF**

31. 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 14 through 27, and that this Court require Defendants to take such action as will bring Defendants into compliance with federal law and provide constitutional and lawful conditions of care to persons who presently reside at Woodbridge. 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/ Alberto R. Gonzales

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