

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

| | | |
|--|---|------------------|
| THE UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO: |
| |) | |
| THE STATE OF MISSISSIPPI; Ronnie Musgrove, |) | |
| Governor of the State of Mississippi; |) | |
| THE MISSISSIPPI DEPARTMENT OF HUMAN |) | |
| SERVICES; Thelma Brittain, Executive |) | |
| Director; THE MISSISSIPPI DIVISION OF |) | |
| YOUTH SERVICES; Willie Blackmon, Director; |) | |
| Irvin Holston, Acting Administrator of |) | |
| Oakley Training School; Richard James, |) | |
| Acting Administrator of Columbia |) | |
| Training School; |) | |
| |) | |
| Defendants. |) | |
| |) | |

COMPLAINT

1. This action is brought by the Attorney General, on behalf of the United States, pursuant to the pattern or practice provision of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, to enjoin the State of Mississippi from depriving youth confined in Mississippi's Oakley Training School in Raymond, Mississippi ("Oakley") and Columbia Training School in Columbia, Mississippi ("Columbia") of rights, privileges, or immunities secured or protected by the Constitution and laws of the United States.

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 is authorized to initiate this action pursuant to 42 U.S.C. § 14141.

4. Venue in the United States District Court for the Southern District of Mississippi is proper pursuant to 28 U.S.C. § 1391(b). All claims set forth in the Complaint arose in this District.

DEFENDANTS

5. Defendant STATE OF MISSISSIPPI ("STATE") is responsible for the administration of juvenile justice in the State. The STATE operates, or contracts for the operation of, all secure juvenile justice facilities in the State. This action concerns the administration of Oakley and Columbia (collectively referred to as "the facilities"). The facilities house youth in STATE custody who are confined for periods of time established by the youth and chancery courts.

6. Defendant Mississippi DEPARTMENT OF HUMAN SERVICES establishes the general policy to be followed by its juvenile institutions and contractors; provides leadership in developing programs to rehabilitate youth committed to STATE custody; and is responsible for the promulgation of all rules and regulations

necessary and appropriate to the administration of the Mississippi DIVISION OF YOUTH SERVICES, including the operation of Oakley and Columbia.

7. Defendant Mississippi DIVISION OF YOUTH SERVICES is responsible for providing for the supervision, detention, education, medical care, mental health care, and rehabilitation of youth committed to the STATE's custody at Oakley and Columbia.

8. Defendant RONNIE MUSGROVE is the Governor of Mississippi, and, in this capacity, heads the executive branch of Mississippi's government. The Governor of Mississippi, as chief of the executive branch, has the duty to ensure that the departments that compose the executive branch of Mississippi guarantee the constitutional and federal statutory rights of the youth confined in secure juvenile correctional facilities owned and operated by, or providing services on behalf of, Mississippi.

9. Defendant THELMA BRITTAIN is the Executive Director of the Department of Human Services, and, in this capacity, exercises administrative control of, and has responsibility for, the operation of Oakley and Columbia.

10. Defendant WILLIE BLACKMON is the Director of the Division of Youth Services, and, in this capacity, exercises administrative control of, and has responsibility for, the operation of Oakley and Columbia.

11. Defendant IRVIN HOLSTON is the Acting Administrator of Oakley and is responsible for the administration and day-to-day operations of Oakley.

12. Defendant RICHARD JAMES is the Acting Administrator of Columbia and is responsible for the administration and day-to-day operations of Columbia.

13. The individual Defendants named in ¶¶ 8 - 12 above are sued in their official capacities.

14. Defendants are legally responsible, in whole or in part, for the operation of and conditions at the facilities; for ensuring that all youth in the facilities receive appropriate treatment, training, and education commensurate with their needs and abilities; and for ensuring that programs in the facilities are consistent with the Division of Youth Services' mission to provide opportunities for the treatment and rehabilitation of youth.

15. All relevant acts or omissions described below have been undertaken by the STATE, a political subdivision of the STATE, or an official, employee, agent or person acting on behalf thereof.

FACTUAL ALLEGATIONS

16. Defendants are governmental authorities or agents thereof with responsibility for the administration of juvenile

justice or the incarceration of youth within the meaning of 42 U.S.C. § 14141.

17. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that youth at Oakley and Columbia are adequately protected from harm and from undue risk of harm from staff abuse and abusive institutional practices.

18. Defendants have engaged, and continue to engage, in a pattern or practice of subjecting youth at Oakley and Columbia to unreasonable isolation and restraints (including mechanical and chemical restraints), and failing to provide adequate due process for youth.

19. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that youth at Oakley and Columbia receive adequate mental health care and rehabilitative treatment.

20. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that youth at Oakley and Columbia receive adequate medical care.

21. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide adequate educational services to the youth confined at Oakley and Columbia.

22. The youth residing in Oakley and Columbia include youth with mental illness, mental retardation, and other learning

disabilities who fall within the meaning of "children with disabilities" as defined in the Individuals with Disabilities Education Act, 20 U.S.C. § 1401(a)(1).

23. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide adequate special education and related services to the qualified youth confined at Oakley and Columbia.

VIOLATIONS ALLEGED

24. Through the acts, practices, and omissions alleged in ¶¶ 17 - 23, Defendants have engaged, and continue to engage, in a pattern or practice of depriving youth confined at Oakley and Columbia of rights, privileges, or immunities secured or protected by the Constitution of the United States, including the Eighth and Fourteenth Amendments, and in violation of 42 U.S.C. § 14141(a).

25. Through the acts, practices, and omissions alleged in ¶¶ 21 - 23, Defendants have engaged, and continue to engage, in a pattern or practice of failing to comply with the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1401 et seq., and the regulations promulgated pursuant thereto, thereby depriving qualified youth of their rights under that Act and violating 42 U.S.C. § 14141(a).

26. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in ¶¶ 17 - 23 that deprive youth confined at Oakley and Columbia of rights, privileges, or immunities secured or protected by the Constitution of the United States and federal law.

PRAYER FOR RELIEF

27. The Attorney General is authorized, pursuant to 42 U.S.C. § 14141, to seek equitable and declaratory relief.

WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their officers, their agents, employees, subordinates, successors in office, contractors, and all those acting in concert or participation with them from continuing the acts, practices, and omissions set forth in ¶¶ 17 - 23, above, and to require Defendants to take such action as will provide legal and constitutional conditions of care to youth confined at Oakley and Columbia and any other secure facility to which defendants transfer youth confined at Oakley and Columbia during the pendency of this action. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,

/s/ Dunn O. Lampton

DUNN O. LAMPTON
United States Attorney
Southern District of
Mississippi
188 East Capitol Street,
Suite 500
Jackson, MS 39201
(601) 965-4480
(601) 965-4409 (FAX)
MS. Bar Number 1790

/s/ Robert G. Anderson

ROBERT G. ANDERSON
Assistant United States
Attorney
Chief, Civil Division
188 East Capitol Street,
Suite 500
Jackson, MS 39201
(601) 973-2819
(601) 965 4409 (FAX)
MS. Bar Number 1589

/s/ Mitzi Dease Paige

MITZI DEASE PAIGE
Assistant United States
Attorney
188 East Capitol Street,
Suite 500
Jackson, MS 39201
(601)973-2840
(601)965-4409 (FAX)
MS. Bar Number 6014

/s/ R. Alexander Acosta

R. ALEXANDER ACOSTA
Assistant Attorney General
Civil Rights Division

/s/ Shanetta Y. Cutlar

SHANETTA Y. CUTLAR
Chief
Special Litigation Section

/s/ Judy C. Preston

JUDY C. PRESTON
Deputy Chief
Special Litigation Section

/s/ Jim Eichner

JIM EICHNER (Lead Counsel)
Special Counsel
Special Litigation Section
TAMMI R. SIMPSON
RYAN H. RAINEY
S. NICOLE NARDONE
Trial Attorneys
U.S. Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 514-9811
(202) 514-0212 (FAX)