

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. § 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 Connecticut is proper pursuant to 28 U.S.C. § 1391.

DEFENDANTS

6. Defendant State of Connecticut (“State”) owns and operates CVH, an in-patient facility housing individuals in need of forensic, general psychiatric, and substance abuse services, and as such, has responsibility for the protections, services, and supports provided to CVH residents.

7. Defendant THOMAS A. KIRK, Jr., Ph.D., is the Commissioner of the Connecticut Department of Mental Health and Addiction Services and has authority over CVH and over the care of patients at CVH. Commissioner KIRK is sued in his official capacity.

8. Defendant LUIS PEREZ, L.C.S.W., is the Chief Executive Director of CVH and is responsible for the day-to-day operations of CVH. Director PEREZ is sued in his official capacity.

9. Defendants are legally responsible, in whole or in part, for the operation and conditions of CVH, and for the health and safety of persons institutionalized at CVH.

10. Defendants are governmental authorities or agents thereof with responsibility for the administration of CVH within the meaning of 42 U.S.C. § 1997a.

11. At all relevant times, the Defendants or their predecessors in office have acted or failed to act, as alleged herein, under color of state law.

FACTUAL ALLEGATIONS

12. CVH is an institution within the meaning of 42 U.S.C. § 1997(1).

13. Individuals are confined to, or reside at, CVH because they have been determined by the courts or Defendants to have mental illness or other disabilities requiring protections, supports, and services.

14. Defendants are obligated to operate CVH in a manner that does not infringe upon the federal rights, as protected by the Fourteenth Amendment to the Constitution of the United States and by other federal law, of CVH residents.

15. The protections, supports, and services at CVH substantially depart from generally accepted professional standards of care, thereby exposing the individuals residing there to significant risk of harm, and in some cases, to actual harm.

16. The protections, supports, and services substantially depart from generally accepted professional standards of care in the following specific respects, among others:

- a. the provision of reasonably safe conditions, including protection from harm, so as to ensure the reasonable safety and personal security of the CVH residents;
- b. the provision of adequate treatment planning, necessary to protect the CVH residents' liberty interests, sufficient to ensure their safety and freedom from undue or unreasonable restraint;
- c. the provision of adequate psychological and psychiatric services to CVH residents with mental illness;
- d. the provision of adequate suicide prevention;
- e. the provision of adequate discharge planning and community placement; and
- f. the provision of adequate therapeutic services.

17. Persons residing at CVH are "qualified individual[s] with a disability" under the ADA, 42 U.S.C. §§ 12101, 12131.

18. The State and the State of Connecticut Department of Mental Health and Addiction Services are "public entities" under Title II of the ADA, 42 U.S.C. § 12131.

19. Defendants have failed to meet the requirements of the ADA by excluding CVH residents, by reason of their disability, from placement in the most integrated setting appropriate to their needs by failing and continuing to fail to ensure that CVH residents 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, when appropriate; and that the CVH residents are served in the most integrated setting appropriate to each resident's individual needs.

VIOLATIONS ALLEGED

20. The United States incorporates by reference the allegations set forth in Paragraphs 1 through 19, as if fully set forth herein.

21. The acts and omissions alleged in Paragraphs 15 and 16 constitute a pattern or practice and infringe upon the CVH 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 Fourteenth Amendment to the Constitution of the United States and by other federal law, and deprive the CVH residents of such rights, privileges, or immunities.

22. The acts and omissions alleged in Paragraph 19 violate the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, and the regulations promulgated thereto, 28 C.F.R. Part 35, by failing to administer services, programs, or activities to CVH residents in the most integrated setting appropriate to their needs.

23. Unless restrained by this Court, Defendants will continue to engage in the acts and omissions set forth in Paragraphs 15, 16, and 19 that deprive CVH residents of rights, privileges, or immunities secured or protected by the Constitution and laws of the United States.

PRAYER FOR RELIEF

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

WHEREFORE, the United States prays that this Honorable Court enter an order 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 15, 16, and 19 above, and that this Court require Defendants to take such actions as will ensure lawful conditions are afforded to patients at CVH. 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/ Michael B. Mukasey

MICHAEL B. MUKASEY
Attorney General of the
United States

NORA R. DANNEHY
United States Attorney
District of Connecticut

/s/ John B. Hughes

JOHN B. HUGHES
Federal Bar No. ct05289
Assistant U.S. Attorney
District of Connecticut
Connecticut Financial Ctr.
157 Church Street
23rd Floor
New Haven, CT 06510
(203) 821-3700
Fax: (203) 773- 5376

/s/ Grace Chung Becker

GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division

/s/ Shanetta Y. Cutlar

SHANETTA Y. CUTLAR
Chief
Special Litigation Section
Civil Rights Division

/s/ Judy Preston

JUDY C. PRESTON
Deputy Chief
Special Litigation Section

/s/ Kerry Krentler Dean

KERRY KRENTLER DEAN
WILLIAM G. MADDOX
Senior Trial Attorneys
Civil Rights Division
Special Litigation Section
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5026
Washington, DC 20530
(202)514-1841
kerry.k.dean@usdoj.gov