

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA,
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Plaintiff,

vs.

Civil Action No.

STATE OF TEXAS
P.O. Box 12428
Austin, Texas 78711-2428
County of Residence:
Travis;

COMPLAINT

TEXAS YOUTH COMMISSION
4900 N. Lamar Blvd
Austin, TX 78765
County of Residence:
Travis;

RICHARD NEDELKOFF,
Conservator
Texas Youth Commission
4900 N. Lamar Blvd
Austin, TX 78765
County of Residence:
Travis;

DIMITRIA D. POPE,
Acting Executive Director
Texas Youth Commission
4900 N. Lamar Blvd
Austin, TX 78765
County of Residence:
Travis;

MELODY VIDAURRI,)
Superintendent)
Evins Regional Juvenile Center)
3801 East Monte Cristo Road)
Edinburg, TX 78541)
County of Residence:)
Hidalgo,)
)
)
)
Defendants.)

Plaintiff, the United States of America, by its undersigned attorneys, for its complaint alleges:

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 Texas from depriving youth confined in the Evins Regional Juvenile Center ("Evins") in Edinburg, Texas 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 under 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 Southern District of Texas is proper pursuant to 28 U.S.C. § 1391(b). All claims set forth in this complaint arose in this District.

DEFENDANTS

5. Defendant STATE OF TEXAS ("State") is responsible for the administration of juvenile justice in the State, including the operation of certain secure juvenile facilities. This action concerns the administration of Evins.

6. Defendant Texas Youth Commission ("TYC") is a department of the Executive Branch of the State of Texas and is the state agency responsible for the care and custody of youth confined at Evins.

7. Defendant Richard Nedelkoff is the Conservator of TYC and, in this capacity, exercises administrative control of, and responsibility for Evins.

9. Defendant Dimitria D. Pope is the Acting Executive Director of TYC and is responsible for the administration and day-to-day operations of TYC.

10. Defendant Melody Vidaurri is the Superintendent of Evins, and is responsible for the administration and day-to-day operations of Evins.

11. The individual Defendants named in paragraphs 5-10 above are officers of the Executive Branch of the State of Texas and are sued in their official capacities.

12. Defendants are legally responsible, in whole or in part, for the operation of and conditions at Evins; for ensuring

the safety and security of youth; for ensuring that youth are adequately protected from harm; for ensuring that youth receive appropriate treatment, rehabilitation, and education commensurate with their needs and abilities; and for ensuring that youth are provided due process of law.

13. 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

14. Defendants are governmental authorities or agents thereof with responsibility for the administration of juvenile justice within the meaning of 42 U.S.C. § 14141.

15. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that the youth at Evins are adequately protected from harm and from undue risk of harm from staff assault and youth-on-youth assault.

16. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide youth at Evins adequate due process.

17. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that youth at Evins receive adequate rehabilitative treatment.

VIOLATIONS ALLEGED

18. Through the acts, practices, and omissions alleged in paragraphs 14-17, Defendants have engaged, and continue to engage, in a pattern or practice of depriving youth confined at the facilities of rights, privileges, or immunities secured by the Constitution of the United States, including the Fourteenth Amendment, and in violation of 42 U.S.C. § 14141(a).

19. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 14-17 that deprive youth confined at the facilities of rights, privileges, or immunities secured or protected by the laws and Constitution of the United States.

PRAYER FOR RELIEF

20. The Attorney General is authorized under 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, 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 paragraphs 14-17, above, and to require Defendants to take such action as will provide legal and constitutional conditions of

care to youth confined at the facility and any other secure facility to which Defendants transfer youth confined at the facility 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,

DONALD J. DEGABRIELLE, Jr
United States Attorney
Southern District of Texas
P.O. Box 61129
Houston, TX 77208
(713) 567-9535

/s/ Grace C. Becker
GRACE C. BECKER
Acting Assistant Attorney General
Civil Rights Division

/s/ Keith Edward Wyatt
KEITH EDWARD WYATT
Assistant United States Attorney
Texas Bar No. 22092900
Federal Bar No. 3480
P.O. Box 61129
Houston, TX 77208
Telephone: (713) 567-9713
Fax: (713) 718-3303

/s/ Shanetta Y. Cutlar
SHANETTA Y. CUTLAR
Chief
Special Litigation Section

/s/ Daniel H. Weiss
DANIEL H. WEISS
Deputy Chief
Special Litigation Section
Sheridan Leigh England
Trial Attorney
U.S. Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Ave, NW
Washington, DC 20530
Telephone: (202) 514-6253
Fax (202) 514-0212