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23 UNITED STATES DISTRICT COURT
24 EASTERN DISTRICT OF CALIFORNIA
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1 RALPH COLEMAN, WINIFRED WILLIAMS)
2 DAVID HEROUX, DAVID McKAY, ROY)
3 JOSEPH, and all others similarly situated,)

4 Plaintiffs,)

5 v.)

6 PETE WILSON, Governor of the State)
7 of California, JOSEPH SANDOVAL,)
8 Secretary of Youth and Corrections)
9 Agency, JAMES GOMEZ, Director of)
10 the California Department of)
11 Corrections, NADIM KHOURY, M.D.,)
12 Assistant Deputy Director for)
13 Medical Services, JOHN S. ZIL, M.D.)
14 Chief, Psychiatric Services,)

15 Defendants.)

No. Civ S-90-0520 LKK-JFM

AMENDED COMPLAINT
CLASS ACTION

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A. NATURE OF ACTION

1. Plaintiffs are five state prisoners who suffer from serious mental disorders. They bring this action because they cannot obtain necessary and adequate treatment for their illnesses. Plaintiffs ask the Court to compel defendants to furnish them and other similarly situated prisoners with constitutionally adequate psychiatric care.

2. Tens of thousands of prisoners languish in their cells tormented by psychotic episodes and other grave conditions, while defendants pretend these excruciatingly painful conditions do not exist. There are approximately 25,000 other state prisoners who suffer from serious mental illnesses. 2,000 desperately need hospitalization at any given time, but there are services available only for a meager 735, or 37 percent. For 23,000 prisoners the need for outpatient services is equally critical, yet existing resources are sufficient only to provide treatment for about 2,000 prisoners, or less than ten percent.

1 3. Although California officials have known for at least two years that almost
2 one-quarter of the prison population suffers from a serious mental illness, they have
3 done nothing, nor do they have any plans, to increase the psychiatric outpatient services
4 beyond the existing capacity. This already deplorable situation will get worse in the
5 coming years as the prison population skyrockets from 100,000 to 160,000 prisoners by
6 1995.

7 4. Defendants' policies have caused plaintiffs and the class they represent to
8 endure unnecessary and extreme psychological pain, culminating at times in mental
9 decompensation and death by suicide. By their actions defendants not only endanger
10 the well being of over 25,000 prisoners, but society as well. Without proper care many
11 of these prisoners are more likely to be subject to arrest and conviction for new crimes
12 or parole violations upon release. Defendants exacerbate the problem by refusing to
13 make available rehabilitative programs generally available to other prisoners.

14 5. Plaintiffs contend that defendants' deliberate policy of confining prisoners with
15 mental illness in state prisons without offering sufficient psychiatric care constitutes cruel
16 and unusual punishment in violation of the Eighth and Fourteenth Amendments to the
17 United States Constitution. They also submit that defendants discriminate against
18 prisoners with mental illness in violation of §504 of the federal Rehabilitation Act.

19 6. Plaintiffs bring this action under 42 U.S.C. §1983 and the Eighth and
20 Fourteenth Amendments and 29 U.S.C. §794 against California officials who have
21 responsibility for, and complete control over, the psychiatric care, treatment and
22 rehabilitation activities provided to plaintiffs. Defendants are, or should be, aware of
23 the tremendous gap between plaintiffs' mental health needs and the existing level of
24 psychiatric services, but, under color of state law, have repeatedly and persistently
25 denied plaintiffs the required care, treatment and rehabilitative activities thereby
26 subjecting them to severe unnecessary pain and injury. Therefore, plaintiffs seek
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1 declaratory and injunctive relief to remedy the unconstitutional and illegal conditions to
2 which they are perpetually subjected.

3 B. JURISDICTION

4 7. This Court has jurisdiction of this action under 28 U.S.C. §1343. Plaintiffs
5 seek declaratory and injunctive relief under 28 U.S.C. §§1343 and 2201.

6 C. PARTIES

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8 8. Plaintiffs are citizens of the United States who are confined in prisons
9 throughout California, including Folsom, Pelican Bay State Prison at Crescent City, R.J.
10 Donovan State Prison at San Diego, and the Central California Women's Facility at
11 Chowchilla. These prisons are operated by and under the control of the California
12 Department of Corrections. All plaintiffs are "individuals with handicaps" as that term is
13 defined in 29 U.S.C. §706(8)(B).

14 9. Defendant Pete Wilson is Governor of the State of California and the Chief
15 Executive of the state government. He is sued herein in his official capacity. As
16 Governor he is obligated under state law to supervise the official conduct of all
17 executive and ministerial officers and to see that all offices are filled and their duties
18 lawfully performed. Defendant Wilson has the authority to appoint and remove the
19 subordinate defendants named herein. Governor Wilson retains the ultimate state
20 authority over the care and treatment of plaintiffs.

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22 10. Defendant Joseph Sandoval is Secretary of the Youth and Corrections
23 Agency of the State of California and is sued herein in this capacity. The Youth and
24 Corrections Agency supervises the operation of the California Department of
25 Corrections.

26 11. Defendant James Gomez is the acting Director of the California Department
27 of Corrections and is sued herein in that capacity. The Department of Corrections is
28 responsible for the operation of the California state prison system, including the

1 provision of constitutionally adequate psychiatric care to prisoners with serious mental
2 disorders.

3 12. Defendant Nadim Khoury, M.D. is the Assistant Deputy Director for Medical
4 Services for the California Department of Corrections and is sued in that capacity. As
5 Assistant Deputy Director, Dr. Khoury is responsible for supervising the provision of
6 psychiatric care for all prisoners within the custody of the Department.
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8 13. Defendant John S. Zil, M.D. is Chief of Psychiatric Services for the
9 Department of Corrections. As Chief of Psychiatric Services, Dr. Zil is responsible for
10 supervising the provision of psychiatric care for all prisoners within the custody of the
11 Department.
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12 D. CLASS ACTION ALLEGATIONS

13 14. Plaintiffs bring this action on their own behalf and, pursuant to Rule 23(b)(1)
14 and Rule 23(b)(2) of the Federal Rules of Civil Procedure, on behalf of all persons
15 suffering from serious mental disorders who are now, or will in the future be, confined
16 within the California Department of Corrections, except those confined at San Quentin,
17 the Northern Reception Center at Vacaville and the California Medical Facility-Main at
18 Vacaville.
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20 (a) There are now approximately 25,000 prisoners incarcerated within the
21 California Department of Corrections who suffer from a serious mental disorder.
22 Accordingly, the class is so numerous that joinder of all its members is impracticable.

23 (b) The conditions, practices and omissions that form the basis of this
24 complaint are common to all members of the class and the relief sought will apply to all
25 of them.

26 (c) The claims of the plaintiffs are typical of the claims of the entire class.
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1 (d) The prosecution of separate actions by individual members of the
2 class would create a risk of inconsistent and varying adjudications which would establish
3 incompatible standards of conduct for defendants.

4 (e) The prosecution of separate actions by individual members of the
5 class would create a risk of adjudications with respect to individual members which
6 would, as a practical matter, substantially impair the ability of other members to protect
7 their interests.

8 (f) Defendants have acted or refused to act on grounds generally
9 applicable to the class, making appropriate injunctive and declaratory relief with respect
10 to the class as a whole.

11 (g) There are questions of law and fact common to the members of the
12 class, including defendants' violation of the Eighth and Fourteenth Amendments to the
13 United States Constitution and the Rehabilitation Act of 1973 as amended by failing to
14 provide adequate psychiatric services and rehabilitative activities.

15 (h) The named plaintiffs are capable, through counsel, of fairly and
16 adequately representing the class and protecting its interests because they are prisoners
17 confined within the California Department of Corrections who suffer from serious
18 mental disorders but are not receiving adequate psychiatric care and treatment or
19 rehabilitative activities in violation of the Eighth and Fourteenth Amendments and the
20 Rehabilitation Act of 1973 as amended.

21 E. STATEMENT OF CLASS CLAIMS

22 15. The State of California has enthusiastically embarked on a policy that has led
23 directly and foreseeably to a dramatic increase in the number of persons with mental
24 illnesses in prison. At the same time it has failed to increase the quality and quantity of
25 psychiatric services to meet the critical, life threatening mental health needs of plaintiffs.
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27 16. There are now approximately 100,000 prisoners in California's prisons, at
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1 least 25% of whom suffer from a serious mental disorder. The increase in the absolute
2 number of prisoners with mental illnesses is fueled by the growth of the general prison
3 population as a result of longer and mandatory sentences, and more frequent parole
4 revocations. By 1995 the prison population is expected to reach 160,000.

5 17. The increase in the number of prisoners with mental illness under
6 defendants' custody and control is the result of other State policies as well. California
7 has delegated the prime responsibility for the treatment of mentally ill persons to its 58
8 counties, while at the same time sharply reducing the funds available to counties for
9 providing necessary services. This fact, coupled with a trend toward de-
10 institutionalization of mentally ill persons, has led to a striking rise in the number of
11 persons with serious mental disorders who live on the streets and in shelters. Because
12 of their mental illness these persons are more likely to be subject to arrest and
13 conviction when not properly treated or supervised. Tougher sentencing laws make it
14 more difficult for mentally ill offenders to avoid a state prison sentence. The net result
15 has been the transfer of a large number of persons with complex and acute mental
16 illness from local mental health facilities to state prison.

17 18. By increasing the population of offenders with mental illness through the
18 policies described above, defendants have not only greatly expanded the class of
19 prisoners requiring psychiatric services, but have raised the acuity level of the illnesses
20 suffered by the class.

21 19. The California prison system is now grossly overcrowded, operating at 176
22 percent of design capacity. The deliberate overcrowding of California prisons by
23 defendants causes prisoners with serious mental illness to experience unnecessary
24 psychological trauma, stress and mental decompensation.

25 20. At least 25,000 California prisoners currently suffer from a serious mental
26 disorder. If defendants were providing the plaintiff class with an adequate outpatient
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1 program, approximately 2,000 prisoners at any given time would require inpatient care at
2 a licensed hospital for adequate treatment of their illness. Since outpatient care is
3 virtually nonexistent in all but a few California prisons, the number requiring inpatient
4 care is correspondingly higher. Thus, defendants have failed to provide the vast majority
5 of these prisoners with the quality and quantity of care appropriate to their mental
6 disorder.

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8 21. Defendants currently operate or have available facilities sufficient to provide
9 adequate psychiatric inpatient treatment to only 735 prisoners. Defendants have no
10 current or specific plans to provide immediate inpatient care to the remaining 1,265
11 prisoners in need of such care.

12 22. Defendants have no plans, nor have they allocated any funds, to provide
13 additional inpatient services between now and 1995 for the rising population of severely
14 disturbed prisoners under their control. By 1995 approximately 3,200 prisoners will
15 require inpatient services at any given time. This is five times the capacity of the
16 current psychiatric hospitals operated by defendants.

17 23. The remaining 23,000 members of the plaintiff class require outpatient
18 treatment to prevent unnecessary pain. Defendants have inadequate staff and facilities
19 to provide necessary and sufficient treatment for all prisoners requiring outpatient care.

20 24. At the present time, defendants maintain only 2,194 beds dedicated to
21 prisoners requiring outpatient treatment. Defendants maintain these beds at only four
22 prisons, the California Mens Colony, California Medical Facility, California Institution
23 for Men and California Institution for Women. The other 22,806 prisoners requiring
24 outpatient care are scattered throughout 18 other prisons, many of which offer no
25 treatment besides medication therapy and "counseling."
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27 25. Generally, defendants ignore plaintiffs' mental well being unless the
28 prisoner's condition has reached acute crisis. Even after mental decompensation occurs

1 defendants consistently fail to properly diagnose the problem and fail to provide
2 appropriate treatment.

3 26. By instituting these policies and practices defendants have deprived plaintiffs
4 of psychiatric services essential to their continued well being. Plaintiffs and the class
5 they represent are now and will continue to be denied necessary psychiatric care in
6 numerous ways, including, but not limited to, the following:

7 a. Inadequate professional staffing and lack of proper procedures prevents
8 defendants from properly identifying prisoners with serious mental disorders.

9 b. Prisoners seeking access to psychiatric care often experience
10 unnecessary delay that causes severe harm to their mental condition.

11 c. There is no comprehensive, systematic, mental health quality assurance
12 program at individual prisons. Consequently, errors in treatment and diagnosis are not
13 identified or corrected. Also, prisoners do not receive mental health treatment plans,
14 and existing plans often lack essential elements, such as recommended action, laboratory
15 test results and frequency of needed follow-up care.

16 d. There are insufficient resources, including professional staffing, to
17 provide consistent care for prisoners, especially those who are not suicidal or disruptive.
18 Many prisoners suffering extreme mental anguish often go untreated because they do
19 not manifest symptoms that bring them to the attention of psychiatric or correctional
20 staff.

21 e. Plaintiffs who are disruptive are placed in segregation in lieu of
22 treatment. The conditions in segregation units unnecessarily exacerbate plaintiffs'
23 illnesses and trigger psychosis.

24 f. Mental health records are not adequately maintained. Contacts
25 between professional staff and prisoners are not documented. Neither are the results of
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1 medication therapy. Psychiatric records are rarely reviewed or updated because of a
2 lack of clerical support.

3 g. Plaintiffs are not provided consistent care when they move within and
4 between prisons. This causes inappropriate disruption, and in some cases, termination
5 of treatment.

6 h. Undesirable working conditions and overcrowded prison conditions
7 cause an inability to recruit sufficient psychiatric staff and to retain those staff who are
8 hired. The turnover rate for professional staff is unacceptably high.

9 i. All prisons, including those built within the last five years, lack the
10 space and physical facilities necessary to provide care and treatment for prisoners with
11 serious mental disorders. Prisoners are denied admission to inpatient units because of
12 insufficient space. Prisoners are often discharged from inpatient units before it is
13 medically appropriate to do so. Those who are prematurely discharged from inpatient
14 units suffer from renewed psychosis or other decompensation.

15 j. The dearth of outpatient individual therapy and other appropriate
16 services contributes to the unnecessary mental decompensation of the plaintiff class. By
17 failing to provide adequate outpatient services defendants significantly increase the pain
18 suffered by prisoners and the cost of providing services. The cost of providing
19 outpatient services is only a fraction of the cost of inpatient care to those who will
20 require hospitalization in the absence of outpatient treatment. Defendants' failure to
21 plan and budget for outpatient mental health services is inconsistent with proven,
22 acceptable mental health practice in the community and in other prison systems.

23 k. Unnecessary deaths occur because of the absence of sufficient staff and
24 adequate practices to identify and monitor prisoners who are at risk of committing
25 suicide.
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1 l. Inadequate and improper policies and practices are used by defendants
2 to restrain mentally disturbed prisoners.

3 m. Medication is not properly prescribed, dispensed, distributed or
4 monitored.

5 27. Prisoners with serious mental disorders and mental disabilities have been
6 excluded from, denied the benefits of, and subjected to discrimination under various
7 programs and activities, including work, education, therapy and other rehabilitation
8 programs that they are otherwise qualified to participate in.

9 28. The California Department of Corrections is a recipient of federal financial
10 assistance as that term is used in 29 U.S.C. §794.

11 29. As a result of defendants' repeated and continuing denial of necessary
12 psychiatric care and appropriate living conditions, plaintiffs and the class they represent
13 presently suffer unnecessary physical pain, mental anguish, and temporary or permanent
14 mental disabilities.

15 30. By repeatedly and persistently denying plaintiffs and the plaintiff class
16 necessary psychiatric care and appropriate living conditions, despite repeated requests
17 and obvious need as herein alleged, defendants, acting under color of state law have
18 acted with deliberate indifference depriving the plaintiff class of their rights to be free
19 from cruel and unusual punishment as guaranteed by the Eighth and Fourteenth
20 Amendments to the United States Constitution.

21 31. By repeatedly and persistently denying plaintiffs and the plaintiff class
22 necessary psychiatric care, and by denying class members with mental disabilities
23 meaningful access to programs and facilities that they are otherwise qualified to
24 participate in and by denying prisoners with mentally disabilities the benefits of
25 participation in programs and activities that they are otherwise qualified to participate
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1 in, and subjecting them to discrimination, defendants have violated the Rehabilitation
2 Act of 1973 as amended.

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4 WHEREFORE, plaintiffs pray that this Court:

5 A. Declare the suit is maintainable as a class action pursuant to Federal
6 Rule of Civil Procedure 23 (b)(1) and 23(b)(2);

7 B. Adjudge and declare that the conditions, practices, and omissions
8 described above are in violation of the rights of the plaintiffs and the class they
9 represent under the Constitution and the Rehabilitation Act of 1973 as amended.

10 C. Preliminarily and permanently enjoin defendants, their agents,
11 employees and all persons acting in concert with them, from subjecting plaintiffs and the
12 class they represent to the unconstitutional and illegal conditions, practices and
13 omissions described above;

14 D. Order defendants to provide plaintiffs and the class they represent with
15 the psychiatric care that is consistent with their constitutional and statutory rights as
16 described herein;

17 E. Order defendants to end their practices of denying prisoners with
18 mental disabilities the benefits of, excluding them from participation in, and subjecting
19 them to discrimination under programs and activities available in the California
20 Department of Corrections;
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F. Order defendants to accommodate the special needs of prisoners with mental disabilities;

G. Award attorney fees and costs; and

H. Grant such further relief as the Court may deem just and proper.

Dated: June 25, 1991

PRISON LAW OFFICE

By: *Donald Specter*
DONALD SPECTER

Attorneys for Plaintiffs