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DISTRICT OF ARIZONA
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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

CV '04 1926 PHX EHC

United States of America, Plaintiff, vs. The State of Arizona; Janet Napolitano, Governor of the State of Arizona; The Arizona Department of Juvenile Corrections, Michael Branham, Director; Joseph Jericho, Superintendent, Adobe Mountain School; Judy Dyess, Superintendent, Black Canyon School; Manuel Lopez, Superintendent, Catalina Mountain School, Defendants.	No. **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 Arizona from depriving youth confined in Arizona's Adobe Mountain School ("Adobe"), Black Canyon School ("Black Canyon") in Phoenix, Arizona and Catalina Mountain School ("Catalina") in Tucson, Arizona 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 District of Arizona is proper pursuant to 28 U.S.C. § 1391. All claims set forth in this Complaint arose in this District.

DEFENDANTS

5. Defendant State of Arizona ("State") is responsible for the administration of juvenile justice in the State. The State operates all secure juvenile facilities in the State. This action concerns the administration of Adobe, Black Canyon, and Catalina (collectively, "the facilities"). The facilities house youth in State custody who are confined for periods of time established by the juvenile courts.

6. Defendant Michael Branham is the Director of the Arizona Department of Juvenile Corrections and, in this capacity, exercises administrative control of, and

responsibility for, Adobe, Black Canyon, and Catalina.

7. Defendant Joseph Jericho is the Superintendent of Adobe Mountain School and is responsible for the administration and day-to-day operations of Adobe.

8. Defendant Judy Dyess is the Superintendent of Black Canyon School and is responsible for the administration and day-to-day operations of Black Canyon.

9. Defendant Manuel Lopez is the Superintendent of Catalina Mountain School and is responsible for the administration and day-to-day operations of Catalina.

10. The individual Defendants named in paragraphs 6, 7, 8, and 9 above are officers of the Executive Branch of the State of Arizona and are sued in their official capacities.

11. 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 Arizona Department of Juvenile Correction's mission to provide opportunities for the treatment and rehabilitation of youth.

12. 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

13. 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.

14. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that the youth at Adobe, Black Canyon, and Catalina are adequately protected from harm and from undue risk of harm from staff abuse and abusive institutional practices.

15. Defendants have engaged, and continue to engage, in a pattern or practice of subjecting youth at Adobe, Black Canyon, and Catalina to unreasonable isolation, and failing to provide adequate due process for youth.

16. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that youth at Adobe, Black Canyon, and Catalina receive adequate mental health care and rehabilitative treatment.

17. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that youth at Adobe, Black Canyon, and Catalina receive adequate medical care.

18. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that youth with disabilities at Adobe, Black Canyon, and Catalina receive adequate special education services.

19. Defendants receive federal financial assistance and, as such, are subject to Section 504 of the

Rehabilitation Act of 1973, 29 U.S.C. § 794, and the regulations promulgated thereunder.

20. The youth residing at Adobe, Black Canyon, and Catalina 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), and "individual[s] with a disability" as defined in Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 705(20).

VIOLATIONS ALLEGED

21. Through the acts, practices, and omissions alleged in paragraphs 13 through 17, Defendants have engaged, and continue to engage, in a pattern or practice of depriving youth confined at Adobe, Black Canyon, and Catalina 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).

22. Through the acts, practices and omissions alleged in paragraph 18, 19, and 20, 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).

23. Through the acts and omissions alleged in paragraphs 18, 19 and 20, Defendants have engaged, and

continue to engage, in a pattern or practice of failing to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq., and the regulations promulgated pursuant thereto, thereby depriving qualified youth of their rights under that Act and regulations and violating 42 U.S.C. § 14141(a).

24. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 13 through 20 that deprive youth confined at Adobe, Black Canyon, and Catalina, of rights, privileges, or immunities secured or protected by the laws and Constitution of the United States.

PRAYER FOR RELIEF

25. 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 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 through 20, above, and to require Defendants to take such action as will provide legal and constitutional conditions of care to youth confined at Adobe, Black Canyon, and Catalina and any other secure

facility to which Defendants transfer youth confined at Adobe, Black Canyon, and Catalina 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.

DATED this 15th day of ~~August~~ September, 2004.

Respectfully submitted,

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