The State of New Hampshire

MERRIMACK COUNTY **SUPERIOR COURT**

Clerk's Notice of Decision
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on 05/26/2021

DAVID MEEHAN, INDIVIDUALLY, AND
ON BEHALF OF ALL OTHERS SIMILARLY SITUATED

v.

STATE OF NEW HAMPSHIRE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ET AL.

Docket No.: 217-2020-CV-00026

ORDER

The Plaintiff, David Meehan, acting in his individual capacity and on behalf of "all others similarly situated," filed a Class Action Complaint and demand for jury trial against the State of New Hampshire Department of Health and Human Services ("DHHS"); Kerrin Rounds, Acting Commissioner of DHHS; Division of Juvenile Justice Services ("DJJS"); Division for Children, Youth, and Families ("DCYF"); and Sununu Youth Services Center ("SYSC") f/k/a Youth Development Center ("YDC") (hereafter, collectively "the State Defendants"). The State Defendants move to dismiss or strike the class allegations set forth in the Complaint, deny class certification, and/or dismiss Mr. Meehan's individual claims. Mr. Meehan objects. The Court held a hearing on the matter on March 25, 2021. For the following reasons, the State's motion to dismiss is GRANTED as to the class action; and GRANTED IN PART and DENIED IN PART as to the individual claims brought by Mr. Meehan.

I. Standard

In reviewing a motion to dismiss, the Court assumes the truth of all well-pleaded facts of the nonmoving party and construes "all reasonable inferences in the light most favorable" to the nonmoving party. Beane v. Dana S. Beane & Co., 160 N.H. 708, 711 (2010). The Court need not, however, "assume the truth of statements . . . that are merely conclusions of law." Clark v. N.H. Dep't of Emp. Security, 171 N.H. 639, 645 (2019). The Court must determine, as a threshold matter, whether the facts alleged by the nonmoving party "constitute a basis for legal relief" when tested "against the applicable law." Grand Summit Hotel Condo. Unit Owners' Ass'n v. L.B.O. Holding, Inc., 171 N.H. 343, 345 (2018). In conducting this inquiry, the Court may additionally consider documents attached to the nonmoving party's pleadings, documents the authenticity of which is not disputed, official public records, or documents sufficiently referred to in the Complaint. Ojo v. Lorenzo, 164 N.H. 717, 721 (2013).

II. Background

The Complaint contains horrific allegations as to Mr. Meehan's treatment while detained at the YDC facility between 1995 and 1999. As relevant to this Order, the Complaint alleges the following. On December 1, 1995, Mr. Meehan was committed to YDC at age fourteen. (Compl. ¶ 36.) While in transit to YDC, Mr. Meehan and another youth ran away, while handcuffed, and remained on the run for two weeks. (Id. ¶ 38.) The two boys ran away after the other youth told Mr. Meehan that children were raped and beaten at YDC and that no one believed them. (Id. ¶ 38.)

Within Mr. Meehan's first two weeks at YDC, he saw a boy dragged away by staff members Woodlock and Murphy. (Id. ¶ 40.) When the boy was seen again, all of his blood vessels were broken and the boy had allegedly been nearly choked to death. (Id.) Mr. Meehan had only one disciplinary action at YDC, for failing to report the presence of smoking, and as such he lived at a medium-security facility. (Id. ¶¶ 39, 41.) However, Mr. Meehan was reassigned to a maximum security facility after Mr. Meehan's father refused to let Mr. Meehan spend his "Administrative release" at home for the summer months in 1996. (Id. ¶¶ 42, 43.)

After Thanksgiving 1996, Mr. Meehan was reported as Away Without Leave ("AWOL") when he failed to return after visiting his family for the holiday. (Id. ¶ 44.) When Mr. Meehan was apprehended on December 12, 1996, he was sanctioned to Out of Community ("OOC") confinement, which is akin to solitary confinement. (Id. ¶¶ 44, 45.) While in OOC, Mr. Meehan was denied the use of a bathroom, was stripped to his underwear, and was unable to attend school or make up missed lessons. (Id. ¶¶ 49, 50, 52.) Mr. Meehan was placed into OOC again between December 1996–January 1997, where he was raped by staff member Davis. (Id. ¶ 55.) The rape was witnessed by staff member Brown, who was standing guard at Mr. Meehan's room. (Id.) Mr. Meehan, who was only fifteen years old at the time of the rape, contracted gonorrhea from the incident and had to be treated by YDC staff. (Id.)

In October 1997, Mr. Buskey, a counselor at YDC, forced Mr. Meehan to call Mr. Meehan's girlfriend to breakup with her, then Mr. Buskey raped Mr. Meehan. (Id. ¶¶ 63, 64.) Mr. Murphy another YDC counselor, also raped Mr. Meehan and left visible bruises on him. (Id. ¶ 65.) Mr. Buskey raped Mr. Meehan after seeing the bruises left by Mr. Murphy. (Id.) Mr. Buskey also forced Mr. Meehan to observe Mr. Buskey as he sexually assaulted a female resident. (Id. ¶ 67.) Mr. Buskey once raped Mr. Meehan with a gun pointed at his head. (Id. ¶ 68.) Mr. Meehan was subjected to rapes on an almost daily basis, along with physical beatings, at the hands of YDC staff. (Id. ¶ 71.)

Mr. Woodlock would stand guard while the rapes occurred, and would hold Mr. Meehan down, undress Mr. Meehan, and beat Mr. Meehan. (Id. ¶ 73.)

Following a beating and a rape by Mr. Buskey in April 1998, Mr. Meehan sought help from a nurse, known as "Nurse Jane." (Id. ¶ 75.) Nurse Jane came to Mr. Meehan's room and saw that he was crying, covered in urine, with a bruised face and a broken nose. (Id.) Nurse Jane said his injuries appeared to be self-inflicted, and she left without helping Mr. Meehan. (Id.) Mr. Meehan believed that Nurse Jane thought he was lying. (Id.)

Around this time, Mr. Searles, who was House Leader of Mr. Meehan's residence hall, came to Mr. Meehan's cell and saw that Mr. Meehan was severely bruised, had a black eye, and a split lip. (Id. ¶ 78.) Mr. Searles jokingly asked Mr. Meehan what happened. (Id.) Mr. Meehan stated that he had been beaten and raped. (Id.) Mr. Searles cut off Mr. Meehan, then said, "[l]ook little fella, that just doesn't happen." (Id.)

Mr. Meehan was raped for the last time on September 12, 1998, during which he passed out and was transported to the hospital. (Id. ¶ 82.) Mr. Meehan told a group counseling session in January 1999 that he had been raped, and Mr. Woodlock told the group that Mr. Meehan was lying and that Mr. Meehan misunderstood what had happened. (Id. ¶ 84.) When Mr. Meehan turned eighteen in 1999, he was released from YDC. (Id. ¶ 85.)

Upon leaving YDC, Mr. Meehan has struggled with trauma and substance abuse. (Id. ¶ 88.) The shame Mr. Meehan carried with him from the abuse caused him to avoid thinking about the abuse, which was itself traumatizing, and so he "made a conscious effort to put it out of his mind." (Id.) Mr. Meehan, like other abused putative plaintiffs, had their normal life functioning robbed from them. (Id. ¶ 89.) Mr. Meehan eventually confided to his wife about his abuse in January 2017, and with her support, he reported the abuse to the police. (Id. ¶ 90.) The disclosure occurred because Mr. Meehan was "no longer able to suppress the memories of the horrific abuse he had suffered." (Id.) Six weeks later, Mr. Meehan spoke with a State Police Investigator who had once interned at the YDC. (Id. ¶ 91.) The Investigator told Mr. Meehan that over the course of her internship she was concerned about abuse and was "told by a superior that it was in her best interest to keep quiet and stay out of things that do not concern her." (Id.) It was this conversation that first caused Mr. Meehan to question whether other YDC staff had knowledge of Mr. Buskey, Mr. Murphy, and Mr. Woodlock's abuse. (Id. ¶ 92.) The conversation with the Investigator "was the first time that it occurred to [Mr. Meehan] that persons in positions of authority at YDC knew or should have known about the conduct of YDC personnel and failed to protect him from the abuse." (Id.) Prior to that time, Mr. Meehan believed his abusers were "acting alone and without the knowledge of anyone else at YDC, and he believed that the [Nurse Jane] and [Mr.] Searles thought he was lying." (Id.)

The conversation with the Investigator led Mr. Meehan to seek out counseling and begin investigating how adults in positions of authority at YDC could have known about the abuse and failed to protect him. (Id. ¶ 93.) Other victims began to come forward, and Mr. Meehan learned that Mr. Brown and Mr. Searles, who were both made aware of his abuse while Mr. Meehan was at YDC, had themselves physically, sexually, mentally, and emotionally abused other youths at YDC. (Id. ¶ 95.) Through his investigation, Mr. Meehan learned that the abuse occurring at YDC was pervasive, and known to many YDC staff members. (Id. ¶ 97–99.)

III. Analysis

As relevant here, Mr. Meehan's January 11, 2018 Complaint asserts six claims against the State Defendants: Negligent Hiring, Training, Supervision, and Retention (Count I); Negligence (Count II); Breach of Fiduciary Duty (Count III);[1] Violation of Civil Rights: 42 U.S.C. § 1983 (Count VI); Violation of Title IX (Count VII); and Violation of Right to Education (Count VIII). (See Compl.) In moving to dismiss these claims, the State Defendants question whether Mr. Meehan may properly assert claims on behalf of a class. The State Defendants further challenge the viability of those claims Mr. Meehan has asserted on his own behalf. The Court will address each issue, in turn.

A. Class Action

"The class action is an exception to the usual rule that litigation is conducted by and on behalf of the individual named parties only." Eby v. State, 166 N.H. 321, 340 (2014) (quoting Wal-Mart Stores, Inc., v. Dukes, 564 U.S. 338, 340 (2011)). In order to depart from the usual rule and bring a class action, "a class representative must be part of the class and possess the same interest and suffer the same injury as the class members." Id. In New Hampshire, Superior Court Civil Rule 16 sets forth the requirements for class representatives. See Super. Ct. Civ. Ru. (16)(a)(2). Rule 16 is very similar to its counterpart in the Federal Rules of Civil Procedure, and thus the Court "rel[ies] upon federal cases interpreting the federal rule as analytic aids." Id. (citing In re Bayview Crematory, LLC, 155 N.H. 781, 784 (2007) (construing former Superior Court Rule 27-A which was identical to Superior Court Civil Rule 16)).

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[1] Count IV asserts a claim of civil conspiracy, and Count V asserts a claim under 42 U.S.C. § 1983. Those claims are asserted against certain individual defendants, not the State Defendants.

Rule 16 provides the following prerequisites for a class action:

(1) The class is so numerous that joinder of all members, whether otherwise required or permitted, is impracticable;
(2) There are questions of law or fact common to the class which predominate over any questions affecting only individual members;
(3) The claims or defenses of the representative parties are typical of the claims or defenses of the class;
(4) The representative parties will fairly and adequately protect the interests of the class;
(5) A class action is superior to other available methods for the fair and efficient adjudication of the controversy; and
(6) The attorney or non-attorney representative for the representative parties will adequately represent the interests of the class.

Trial courts "must conduct a rigorous analysis of the prerequisites established by [the] Rule . . . before certifying a class." Cantwell v. J & R Props. Unlimited, Inc., 155 N.H. 508, 511 (2007) (quoting Smilow v. Southwestern Bell Mobile Systems, Inc., 323 F.3d 32, 38 (1st Cir. 2003)). In this case, the State Defendants have moved to deny class certification prior to discovery, and as such, "it should be construed according to the same legal standards as a motion to dismiss." Walls v. Wells Fargo Bank, N.A., 262 B.R. 519, 524 (E.D. Cal 2001). Therefore, Mr. Meehan bears the burden of making a prima facie showing that "the class action requirements of [Rule 16] are satisfied or that discovery is likely to produce substantiation of the class allegations." Mantolete v. Bolger, 767 F.2d 1416, 1424 (9th Cir. 1985). Even if the prerequisites of Rule 16 are met, however, the Court has discretion in certifying a class. In re Bayview Crematory, 155 N.H. at 784–85.

The State Defendants assert that the Complaint should be dismissed because Mr. Meehan has failed to demonstrate the existence of a sufficiently precise class. (Mot. Dismiss at 4.) Prior to evaluating the class certification prerequisites, "the court must consider the likely difficulties in managing the case, specifically 'the whole range of practical problems that may render the class action format inappropriate for a particular suit.'" Foley v. Buckley's Great Steaks, Inc., 2015 U.S. Dist. LEXIS 46477 at *19 (D.N.H. 2015) (quotation and citation omitted). "[A] proposed class must be precisely defined and its members must be ascertainable through the application of 'stable and objective factors' so that a court can decide, among other things, 'who will receive notice, who will share in any recovery, and who will be bound by the judgment.'" Van West v. Midland Nat'l Life Ins. Co., 199 F.R.D. 448, 451 (D.R.I. 2001). For manageability purposes, the Court must be able to "clearly define and ascertain the contours of the proposed class." Schwarz v. Upper Deck Co., 183 F.R.D. 672, 679–80 (S.D. Cal. 1999). A class is sufficiently ascertainable "when defined by objective criteria that are administratively feasible and when identifying its members would not require a mini-hearing on the merits of each case." Charron v. Pinnacle Grp. N.Y. LLC, 269 F.R.D. 221, 229 (S.D.N.Y. 2010) (citations and quotation omitted).

Mr. Meehan defines the putative class as "men and women who, while minors in the care, custody and control of the defendants, were victims of physical, sexual, and mental/emotional abuse, solitary confinement, and deprivation of education at the hands of defendants, their agents, employees, and/or contractors." (Compl. ¶ 18.) At the time the Complaint was filed, counsel represented thirty-five members of the putative class "with claims against not only these defendants, but other individual perpetrators, who will be identified in later court filings." (Id. ¶ 19.) However, Mr. Meehan contends that the putative class is open to the "thousands of children who have been removed from their families, group homes, and foster homes by and placed in the custody of YDC over the past several decades" because, "[w]hile in the physical and legal care, custody, and control of YDC, many of these juveniles were . . . abused." (Id.)

In looking at the claims set forth in the Complaint, the Court agrees with the State Defendants that the proposed class definition leaves "no realistic way to determine who belongs in the class short of conducting a mini-trial on the merits for each potential class member to determine his or her status as a victim." (Mot. Dismiss at 5.) As an initial matter, for Counts I, II, III, and VI, each putative class member would need to identify their abusers, and then establish that it was foreseeable to the State Defendants that those abusive employees would commit their crimes. Specifically, Count I alleges negligent hiring, training, supervision, and retention of an employee "that the employer knew or should have known was unfit for the job so as to create a danger of harm to third persons." Marquay v. Eno, 139 N.H. 708, 718 (1995) (citing Cutter v. Town of Farmington, 126 N.H. 836, 840-41 (1985)). In order to pursue this claim, each putative class member would be required to identify their own individual abusers and then establish that the State Defendants, through their agents, knew or should have known that those particular employees were likely to create a harm to third persons.

Similarly, because Count II alleges negligence for failing to enact rules, each putative class member would need to establish that it was "reasonably foreseeable" to the State Defendants that the abusers would engage in conduct that would result in injury. Walls v. Oxford Management Co., 137 N.H. 653, 656 (1993). Likewise, Count III is for breach of fiduciary duty, which is limited "by what risks are reasonably foreseeable." Marquay, 139 N.H. at 717. In order to pursue Count VI, a claim of cruel and unusual punishment for failing to enact rules that would have protected the youths at YDC, each putative class member would need to establish that their abuse was reasonably foreseeable or that the specific Commissioner in office at the time of their abuse was able to draw the inference that all prisoners, including the putative plaintiff, were at risk but that the Commissioner still failed to act. Farmer v. Brennan, 511 U.S. 825, 832 (1994); Calderon-Ortiz v. LaBoy-Alvarado, 300 F.3d 60, 64 (1st Cir. 2002). Because the Court agrees with the State Defendants that one cannot realistically determine who belongs in the class with respect to Counts I, II, III, and VI, without conducting "a mini-hearing on the merits" for each potential class member, the Court concludes that the class is not sufficiently ascertainable with respect to those claims. See Charron, 269 F.R.D. at 229.

Count VII alleges violations of Title IX, which prohibits sex discrimination by recipients of federal education funding. Jackson v. Birmingham Bd. of Educ., 544 U.S. 167, 173 (2005). The statute provides that "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." See 20 U.S.C. § 1681(a). The Supreme Court holds that Title IX "implies a private right of action to enforce its prohibition on intentional sex discrimination." Jackson, 544 U.S. at 174. Students can recover from the school, if the student was sexually harassed and an "appropriate person" was given the opportunity to rectify the violation. Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274, 290 (1998). An appropriate person is "an official of the recipient entity with authority to take corrective action to end the discrimination." Id. The appropriate person must have knowledge of the abuse and then have displayed "deliberate indifference to [the] discrimination." Id. As such, each putative class member would present unique factual questions as to whether the appropriate person in their case had knowledge of the abuse, and whether that defendant then displayed deliberate indifference once they learned of the abuse. Accordingly, one cannot realistically determine who belongs in the class with respect to Count VII without conducting "a mini-hearing on the merits" for each potential class member, and thus the class is not sufficiently ascertainable with respect to this claim. See Charron, 269 F.R.D. at 229.

The Court's analysis is somewhat different as it pertains to Count VIII, which alleges the failure to provide a free public education as required by Part II, Article 83 of the New Hampshire Constitution. New Hampshire courts have interpreted Part II, Article 83 as creating "an important, substantive right." Claremont School Dist. v. Governor, 138 N.H. 183, 192 (1993) (hereinafter Claremont I). The provision imposes "a duty on the State to provide a constitutionally adequate education to every educable child in the public schools in New Hampshire and to guarantee adequate funding." Claremont Sch. Dist. v. Governor, 142 N.H. 462, 469 (1997) (quoting Claremont I, 138 N.H. at 184). The right to access "a constitutionally adequate public education is a fundamental right," but one that is "not based on the exclusive needs of a particular individual, but rather is a right held by the public to enforce the State's duty." Id. at 472–73 (emphasis added). In short, New Hampshire courts have interpreted the State Constitution as providing a right to enforce the adequate access to public education as a member of the public, not as private individuals seeking tort damages. See id. For this reason, the Court agrees with the State Defendants that Count VIII—wherein Mr. Meehan improperly seeks to recover tort damages on behalf of himself and the other class members—should be dismissed.

In addition to above-described issues concerning Mr. Meehan's discrete claims, the Court has broader concerns about the viability of the putative class. The putative class consists of "hundreds of children" who were injured over the course of "six decades" at the hands of an unidentified number of predators. (Compl. ¶¶ 18, 19; Obj at 2.) As of the filing, the abuse was perpetrated by the six named defendants, as well as Defendants John and Jane Does 1–100, who were "officers, directors, supervisors, employees, servants or agents of DHHS, DJJS, DCYF, SYSF, f/k/a YDC and other public or private agencies or businesses involved in the care, custody, and control of the members of the putative class." (Id. ¶ 13.) Further, the putative plaintiffs will have suffered different injuries, whether emotional, physical, mental, treatment for their trauma, and other damages. The damages, and the elements needed to establish them, will be specific to each individual class member. Finally, the plaintiff raises the affirmative defense of limitations, which will be discussed in the following section. For each class member, the specific date of their injury will be relevant to whether or not their claim is barred by the statute of limitations. If time-barred, then the facts which will allow for a tolling analysis under the discovery rule will be unique to each class member.

In sum, this case concerns different perpetrators and different damages resulting from different injuries incurred via different abuses suffered at different times in a sixty-year period. In the Court's view, a single class action is too unwieldy given the nature of the allegations and the imprecise putative class. The Court thus GRANTS the State Defendants' motion to dismiss the case as a single class action, and the Court further DISMISSES the class-based claims asserted in Counts IV and V. See In re Bayview Crematory, 155 N.H. at 784–85 (recognizing the court's discretion in certifying a class).

B. Individual Claims

The State Defendants also challenge the viability of the claims Mr. Meehan has asserted against them on his own behalf. The Court will now address this issue.

1. Right to Education

The State Defendants argue that Mr. Meehan's individual right to education claim (Count VIII) should be dismissed because "[t]he law does not recognize a private right of action for damages pursuant to New Hampshire Constitution, Part II, Article 83." (Mot. Dismiss at 15.) For the reasons set forth above, the Court agrees. See Claremont Sch. Dist., 142 N.H. 472–73. As such, the Court GRANTS the State Defendants' motion to dismiss as it pertains to Mr. Meehan's individual right to education claim (Count VIII).

2. Limitations on the Individual Claims

The State Defendants further assert that the statute of limitations bars all of Mr. Meehan's individual claims. (Mot. Dismiss at 15.) The statute of limitations acts to "ensure timely notice to an adverse party and to eliminate stale or fraudulent claims." Donnelly v. Eastman, 149 N.H. 631, 634 (2003) (citations omitted). The statute of limitations "establishes a deadline after which the defendant may legitimately have peace of mind; it also recognizes that after a certain period of time it is unfair to require the defendant to attempt to piece together his defense to an old claim." Id. (quotations omitted).

Claims made against the State, such as those asserted in the present case, are governed by the statute of limitations codified in RSA 541-B:14, IV. The statute states that "[a]ny claim submitted under this chapter shall be brought within 3 years of the date of the alleged bodily injury, personal injury or property damage or the wrongful death resulting from bodily injury." See RSA 541-B:14, IV.

Mr. Meehan's injuries occurred while he was a resident at YDC. Because he was released from YDC in 1999 when he turned eighteen, (Compl. ¶ 85.), Mr. Meehan's claims became time-barred in 2002 unless some exception to the statute of limitations applies. For the reasons articulated below, however, the Court is persuaded that the discovery rule applies to Mr. Meehan's claims.

The discovery rule in New Hampshire considers when a plaintiff knew, or should have known: (1) that an injury occurred; and (2) that the injury "was proximately caused by conduct of the defendant." Beane v. Dana S. Beane & Co., 160 N.H. 708, 713 (2010) (citations omitted). Once a defendant has established that a plaintiff's claim falls outside of the applicable statute of limitations, the burden shifts to the plaintiff to "rais[e] and prov[e] that the discovery rule is applicable . . . ." Id. The discovery rule "provide[s] relief in situations where the plaintiff is unaware of either his injury or that the injury was caused by a wrongful act or omission." Id. Further, the discovery rule is only applicable in circumstances "where the prospective plaintiff did not have, and could not have had with due diligence, the information essential to bringing suit. A party attempting to invoke that doctrine will be held to a duty of reasonable inquiry." Portsmouth Country Club v. Town of Greenland, 152 N.H. 617, 624 (2005) (citation omitted). Under the discovery rule, the limitations period begins to run when "the plaintiff discovers, or in the exercise of reasonable diligence should have discovered, the injury and its causal relationship to the act or omission complained of." Perez v. Pike Indus., 153 N.H. 158, 160 (quotation omitted). Relevant to this case, the discovery rule applies to RSA 541-

B:14, IV via RSA 508:4, I. Pet. of N.H. Div. for Children, Youth and Families, 173 N.H. 613, 614 (2020).

The discovery rule exists to "provide injured parties an avenue of relief when they did not and reasonably could not know of the harm or its causal link to a wrongful act or omission by another party." Id. at 8. This is a motion to dismiss and the facts alleged are viewed in the light most favorable to Mr. Meehan, which here support that Mr. Meehan "did not and reasonably could not know" that his injuries were caused by the State Defendants. The Court is persuaded that a child released from state custody, as Mr. Meehan was at the age of eighteen, after suffering years of brutal abuse, would likely not understand "that the abuse he had suffered was caused by institutional negligence in addition to the intentional acts of the individual abusers." (Obj. Mot. Dismiss at 12.) Rather, Mr. Meehan alleges facts that show he was an abused child who would not have known that his abuse was part of a coordinated effort by many YDC staff members.

The abuse suffered by Mr. Meehan occurred in circumstances where the injuries were apparent to him at the time, but "the facts about causation may be in the control of the putative defendant, unavailable to the plaintiff or at least very difficult to obtain." United States v. Kubrick, 444 U.S. 111, 122 (1979) (analyzing the federal discovery rule, which the State Defendants argue is "instructive, and parallels how New Hampshire courts approach the discovery rule inquiry in case of supervision liability." (Mot. Dismiss at 21)). Due to these circumstances, the discovery rule tolls the statute of limitations until "a reasonably prudent person similarly situated" to Mr. Meehan would discover these two key pieces of factual information -- namely, the existence of the injury and its probable cause. Ouellette v. Beaupre, 977 F.3d 127, 136 (1st Cir. 2020) (citations omitted).

In Ouellette, the First Circuit determined that the statute of limitations did not begin to run until the plaintiff realized that the police department had not investigated his claims, and in fact, covered up for his abuser. Id. at 133, 143. Similarly here, the statute of limitations did not begin to run until Mr. Meehan realized the causal connection between YDC staff and his injuries. Mr. Meehan did not begin to process his trauma until 2017, at which time he was no longer able to suppress the memories he worked hard to avoid thinking about. (Compl. ¶ 90.) In "late February of early March, 2017," he spoke with a State Police Investigator, who told Mr. Meehan that over the course of her YDC internship she was concerned about abuse and was "told by a superior that it was in her best interest to keep quiet and stay out of things that do not concern her." (Id. ¶ 91.) It was this conversation that first caused Mr. Meehan to question whether other YDC staff had knowledge of Mr. Buskey, Mr. Murphy, and Mr. Woodlock's abuse. (Id. ¶ 92.) The conversation with the Investigator "was the first time that it occurred to David that persons in positions of authority at YDC knew or should have known about the conduct of YDC personnel and failed to protect him from the abuse." (Id.) Prior to that time, Mr. Meehan believed that his abusers were "acting alone and without the knowledge of anyone else at YDC, and he believed that the nurse and Mr. Searles thought he was lying." (Id.)

The conversation with the Investigator led Mr. Meehan to seek out counseling and began investigating how adults in positions of authority at YDC could have known about the abuse and failed to protect him. (Id. ¶ 93.) Other victims began to come forward and Mr. Meehan learned that Mr. Brown and Mr. Searles, who were both made aware of his abuse while Mr. Meehan was at YDC, were themselves physically, sexually, mentally, and emotionally abusing other youths at YDC. (Id. ¶ 95.)

In looking at a reasonable person similarly situated to Mr. Meehan, it is reasonable to conclude that prior to "late February or early March, 2017," someone in Mr. Meehan's position did not know and could not reasonably have known that his injuries were caused by the coordinated efforts of the State Defendants. As such, the discovery rule renders the claims asserted in Mr. Meehan's January 11, 2021 Complaint timely. Accordingly, the Court DENIES the State Defendants' motion to dismiss Mr. Meehan's individual claims on timeliness grounds.

IV. Conclusion

For the aforementioned reasons, the Court GRANTS the State Defendants' motion to dismiss the case as a single class action, and the Court further DISMISSES the class-based claims asserted in Counts IV and V. In addition, the Court GRANTS the State Defendants' motion to dismiss Mr. Meehan's individual right to education claim (Count VIII). However, because the Court concludes that the discovery rule renders the balance of Mr. Meehan's individual claims timely, the Court DENIES the State Defendants' motion to dismiss Mr. Meehan's remaining, individual claims on timeliness grounds.

SO ORDERED.

5/25/21
Date

John C. Kissinger, Jr.
Presiding Justice

Clerk's Notice of Decision
Document Sent to Parties
on 05/26/2021