



JI-OR-004-001

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ROBYN A., JUSTIN H., and RICKIE H.,
by and through their next friend,
SUSAN F. MANDIBERG, on behalf of
themselves and all others similarly
situated,
Plaintiffs,
vs.
GLADYS MCCOY, PAULINE ANDERSON,
RICK BAUMAN, GRETCHEN KAFOURY,
and SHARRON KELLEY, in their official
capacity as chairperson and members
of the Multnomah County Board of
Commissioners; and HAROLD OGBURN, in
his official capacity as director of
the Multnomah County Juvenile
Department,
Defendants.

Civil No.

COMPLAINT

CIVIL RIGHTS
CLASS ACTION

1 INTRODUCTION

2 1. This civil rights class action is brought by two thirteen-year old boys and a
3 fifteen-year old girl who are confined at the Donald E. Long Home (DELH) under
4 conditions which violate their constitutional rights. The DELH is a juvenile detention
5 facility owned and operated by Multnomah County.

6 2. The DELH is an old, decaying, unsafe facility which is too cold during the
7 winter and too hot during the summer. Most children in the DELH are locked in cells with
8 no water and no toilet. They are almost never permitted out of doors. Children at the
9 DELH complain of constant hunger; the food they are fed is inadequate to meet the needs
10 of growing bodies. Children at the DELH receive no specialized emergency intervention
11 services although many of them are in dire need of drug or alcohol detoxification, crisis
12 counseling, or suicide prevention counseling. Multnomah County treats its adult prisoners
13 better than it treats the children in the DELH, some of whom are as young as twelve.

14 3. Defendants' deliberate failure to provide plaintiffs with healthy, safe, and
15 sanitary conditions, an adequate and nutritious diet, emergency intervention services and
16 outdoor exercise and recreation serves no legitimate state interest, denies plaintiffs the
17 special solicitude to which they are entitled as children, is harmful to their physical,
18 emotional and mental health, is cruel, unusual and punitive, and violates all standards of
19 human decency, all in violation of the Eighth and Fourteenth Amendments to the U.S.
20 Constitution.

21 4. Plaintiffs seek declaratory and injunctive relief to remedy these constitutional
22 violations.

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JURISDICTION

5. This is a civil action authorized by Title 42 USC §1983 to redress the deprivation under color of state law of rights, privileges and immunities guaranteed by the Fourteenth Amendment to the U.S. Constitution to plaintiffs and the class they seek to represent. This court has jurisdiction of this action under Title 28 USC §1331(a) and §§1343(3) and (4).

6. Plaintiffs' action for declaratory relief is authorized by Title 28 USC §2201 and Rule 57 of the Federal Rules of Civil Procedure. Injunctive relief is authorized by Title 28 USC §2202, Title 42 USC §1983 and Rule 65 of the Federal Rules of Civil Procedure.

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PARTIES

Plaintiffs

7. Plaintiff Robyn A. is a fifteen-year old girl who was admitted to the Girls Unit at the DELH on October 19, 1990. On or about October 26, 1990, she was transferred to the Assessment, Intervention, Transition Program (AITP) at the DELH and remains confined there.

8. Plaintiff Justin H. is a thirteen-year old boy who was admitted to Boys Unit II at the DELH on November 4, 1990 and remains confined there.

9. Plaintiff Rickie H. is a thirteen-year old boy who was admitted to Boys Unit II at the DELH on October 19, 1990, and remains confined there.

10. Plaintiffs bring this action by and through Susan F. Mandiberg, a professor of law at Northwestern School of Law of Lewis and Clark College, as their next friend. Professor Mandiberg is a member in good standing of the bar of this court and is

1 competent to understand and protect the rights of the minor plaintiffs. She has no interests
2 adverse to plaintiffs nor has she any business ties to defendants.

3 Defendants

4 11. Defendants Gladys McCoy, Pauline Anderson, Rick Bauman, Gretchen
5 Kafoury, and Sharron Kelley are, respectively, the chairperson and members of the Board
6 of County Commissioners, which is the governing body of Multnomah County. As such,
7 they are responsible for funding, equipping, maintaining and operating the DELH. They
8 are also responsible for appointing or designating the director of the juvenile department.
9 They are sued in their official capacity.

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11 12. Defendant Harold Ogburn is the director of the Multnomah County Juvenile
12 Department. The juvenile department is an agency of Multnomah County. As director,
13 defendant Ogburn is charged with the administration of the DELH and supervision of its
14 staff, subject to the direction of the board of county commissioners. He is sued in his
15 official capacity.

16 **CLASS ACTION**

17 13. The individual plaintiffs bring this action on their own behalf and on behalf
18 of all others similarly situated pursuant to Rule 23(a) and (b)(2) of the Federal Rules of
19 Civil Procedure. The class consists of all children who are or who may be confined at the
20 DELH.
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22 14. The members of this class are so numerous that joinder of all members is
23 impracticable. During the past year there were between 2,800 and 2,900 admissions to the
24 DELH, although some were repeat admissions for the same child. There are questions of
25 law and fact common to the class; the claims of the representative parties are typical of the
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1 claims of the class; and the representative parties will fairly and adequately protect the
2 interests of the class.

3 15. The defendants have acted and refused to act on grounds generally applicable
4 to the class, thereby making appropriate final injunctive and corresponding declaratory relief
5 with respect to the class as a whole. The named plaintiffs and their counsel will fairly,
6 vigorously and adequately protect the interests of the class.
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8 16. The injuries suffered by the named plaintiffs and the members of the plaintiff
9 class as a result of the policies and practices of defendants are capable of repetition, yet
10 may evade review, thereby making class relief appropriate.

11 FACTS

12 The Children

13 17. Multnomah County operates the DELH as a juvenile detention facility. Only
14 children charged with, or adjudicated to have committed, an act which would be a crime
15 if committed by an adult may be held there; no dependent children are confined in the
16 DELH. The facility houses both girls and boys.
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18 18. Prior to adjudication and disposition, a child may be held for a few days or
19 for several weeks. After each adjudication and disposition, a child may be held for up to
20 thirty days in one wing and for up to eight days in the other wings. The average length of
21 stay per admission is now almost five days and will likely increase.

22 The Physical Plant

23 19. The DELH is located at 1401 N.E. 68th Avenue, Portland, Oregon, and is
24 part of a larger juvenile court and office facility.

25 20. There are four housing wings in the DELH, each of which contains locked
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1 cells and common areas. They are: the Girls Unit, Boys Unit II, Boys Unit III, and AITP.
2 There are two other housing wings which are physically part of the DELH but they are
3 leased to and operated by the State of Oregon. For purposes of this complaint, DELH
4 refers only to those portions of the building which are operated by Multnomah County as
5 a juvenile detention facility.

6 21. The physical condition of the DELH and of its mechanical, electrical,
7 plumbing, heating and ventilation systems is inadequate, unsanitary and hazardous to the
8 children confined there.

9 22. Heating and ventilation at the DELH is inadequate. Asbestos covering the
10 steam pipes prevents needed maintenance and repairs. The temperature in the facility is
11 erratic. It is too cold in the winter and too hot in the summer.

12 23. The majority of cells in the DELH do not have running water or toilet
13 facilities and children in those cells must gain the attention of staff whenever they need a
14 drink or to use the toilet. This causes both physical discomfort and humiliation and has
15 resulted in children urinating in the cells. The smell of urine pervades the DELH.

16 24. The children at the DELH are only infrequently provided with clean outer
17 clothing, bedding and towels and are required to share toiletries such as soap, shampoo,
18 Vaseline and razors, resulting in an increased risk of disease and the spread of athlete's
19 foot, body lice and other contagious conditions.

20 Emergency Intervention Services

21 25. Children in need of emergency intervention services, including medically
22 supervised drug and alcohol detoxification, individual and family crisis counseling and
23 suicide prevention counseling, receive none from defendants.

1 Diet

2 26. Children in the DELH are not provided adequate or nutritious meals. The
3 food is unpalatable, and sometimes contains foreign objects. Neither the frequency of food
4 service nor the amount of food is adequate to meet the needs of growing children, some
5 of whom have special dietary requirements. Children rarely receive second portions,
6 regardless of their hunger.
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8 Outdoor Recreation

9 27. Children at the DELH have only rare access to outdoor exercise and
10 recreation.

11 General Allegations

12 28. The above conditions and practices are punitive, have no valid purpose and
13 are harmful to the plaintiffs' physical, mental and emotional health.

14 29. Defendants have been aware of and have acknowledged some of the above
15 conditions and practices for approximately two years.

16 30. Defendants have acted intentionally and with deliberate indifference to
17 plaintiffs' rights.

18 31. Defendants at all times pertinent to this action have acted under color of state
19 law.
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21 32. Plaintiffs and the class they represent have suffered and will suffer harm for
22 which there is no adequate remedy at law.

23 **CLAIM FOR RELIEF**

24 33. Defendants' deliberate failure to provide plaintiffs with healthy, safe, and
25 sanitary conditions, an adequate and nutritious diet, emergency intervention services and
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1 outdoor exercise and recreation serves no legitimate state interest, denies plaintiffs the
2 special solicitude to which they are entitled as children, is harmful to their physical,
3 emotional and mental health, is cruel, unusual and punitive, and violates all standards of
4 human decency, all in violation of the Eighth and Fourteenth Amendments to the U.S.
5 Constitution.
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8 WHEREFORE, plaintiffs on their own behalf and on behalf of all others similarly
9 situated, request that this court:

10 A. Assume jurisdiction of this case;

11 B. Issue an order certifying this action to proceed as a class action pursuant to
12 Rule 23(b)(2) of the Federal Rules of Civil Procedure;

13 C. Issue a judgment declaring that confinement in the DELH under the
14 conditions described above violates plaintiffs' rights under the Eighth and Fourteenth
15 Amendments to the U.S. Constitution;

16 D. Issue preliminary and permanent injunctions enjoining the defendants, their
17 agents, employees, successors in office and assigns from confining plaintiffs in the DELH
18 under the unconstitutional conditions described above;
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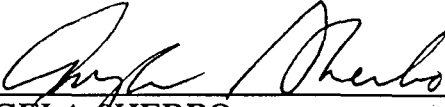
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- 1 E. Award plaintiffs reasonable attorney fees and costs;
2 F. Award such other and further relief as this court may deem necessary.
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4 Respectfully submitted,
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6 DATED: November 9, 1990

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