

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

|                                         |   |                            |
|-----------------------------------------|---|----------------------------|
| UNITED STATES OF AMERICA,               | ) |                            |
|                                         | ) |                            |
| Plaintiff,                              | ) | No. 86 C 7520              |
|                                         | ) |                            |
| v.                                      | ) |                            |
|                                         | ) |                            |
| STATE OF ILLINOIS; JAMES R. THOMPSON,   | ) | Judge Prentice H. Marshall |
| Governor of the State of Illinois;      | ) |                            |
| ILLINOIS DEPARTMENT OF MENTAL HEALTH &  | ) |                            |
| DEVELOPMENTAL DISABILITIES; ANN KILEY,  | ) |                            |
| Director, Illinois Department of Mental | ) |                            |
| Health & Developmental Disabilities;    | ) |                            |
| ROALDA J. ALDERMAN, Facility Director,  | ) |                            |
| Elgin Mental Health Center,             | ) |                            |
|                                         | ) |                            |
| Defendants.                             | ) |                            |

DOCKETED  
FEB 20 1987

CONSENT DECREE

Introduction

1. This case was instituted by the United States on October 3, 1986, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. 1997 et seq.

2. This Court has jurisdiction over this civil action pursuant to 28 U.S.C. 1345.

3. Venue is appropriate pursuant to 28 U.S.C. 1391(b).

4. The United States is authorized to institute this civil action by 42 U.S.C. 1997a and has met all prerequisites for the institution of a civil action prescribed by that statute.

5. The Defendants are the State of Illinois; the Honorable James R. Thompson, Governor of the States of Illinois; the Illinois Department of Mental Health and

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Developmental Disabilities; Ann Kiley, Director, Illinois Department of Mental Health and Developmental Disabilities; and Roalda J. Alderman, Facility Director, Elgin Mental Health Center. The individual Defendants are sued in their respective official capacities.

6. The Defendants have authority and responsibility for the operation of Elgin Mental Health Center and are officers of the Executive Branch of the State of Illinois.

7. On February 17, 1983, the Attorney General of the United States, by and through the Assistant Attorney General, Civil Rights Division, Wm. Bradford Reynolds, notified the Governor of Illinois, the Attorney General, and the Facility Director of the Elgin Mental Health Center, Elgin, Illinois, of his intention to commence an investigation of alleged unlawful conditions of confinement at the Elgin Mental Health Center, Elgin, Illinois, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. 1997.

8. Following a thorough investigation, on December 3, 1984, and March 6, 1986 the Attorney General, by and through the Assistant Attorney General, Civil Rights Division, informed the Governor of Illinois, the Attorney General of Illinois, and the Superintendent of the Elgin Mental Health Center that the Attorney General had reasonable cause to believe that persons residing in or confined to the Elgin Mental Health Center (Elgin) were being subjected to egregious or flagrant conditions that

deprived them of rights, privileges, and immunities secured by the Constitution of the United States.

9. The parties agree that the care, confinement, treatment, and training of recipients of Elgin implicates rights of these recipients are secured and protected by the Constitution of the United States. The parties entering into this Consent Decree recognize these constitutional interests and, for the purpose of avoiding protracted and adversarial litigation, agree to the provisions set forth herein.

10. In entering into this Consent Decree, the Defendants do not admit any violation of law, and this Consent Decree may not be used as evidence of liability in any other proceeding.

11. The provisions of this Consent Decree are a fair and appropriate resolution of this case.

12. This Consent Decree shall be applicable to and binding upon all the parties, their officers, agents, employees, assigns, and successors.

#### I. Purposes and Objectives

The State of Illinois and the United States stipulate and agree that the purposes and objectives of this Consent Decree are to establish as promptly as practicable the following conditions at Elgin in order to ensure that recipients at the facility are not being deprived of rights, privileges, or immunities secured or protected by the Constitution of the United States:

1. Treatment programs professionally designed to reduce

or eliminate unreasonable risks to personal safety and developed by qualified professionals must be available to all recipients whom it is determined by qualified professionals are in need of such programs in order to reduce or eliminate such risks.

2. Adequate medical care must be afforded all recipients pursuant to the exercise of professional judgment by a qualified professional.

3. Psychotropic drugs and other medications must be prescribed and administered to recipients pursuant to the exercise of professional judgment by a qualified professional.

These purposes and objectives shall be achieved at Elgin by implementing the requirements set forth in Part III and by developing and implementing the plans described in Part IV of this Consent Decree.

## II. Definitions

As used in this Consent Decree, the following definitions shall apply:

1. "Physician": A medical doctor lawfully entitled to practice medicine, including doctors of osteopathy.

2. "Psychiatrist": A physician who either is certified by or is eligible for certification by the American Board of Psychiatry and Neurology or who has successfully completed an approved residency program in psychiatry and upon completion of post-residency requirements will become eligible for examination for such certification.

3. "Psychologist": A person who has attained at least a master's degree in the field of psychology.

4. "Direct Care Staff": Staff immediately responsible for implementing treatment and training programs and providing care to residents.

5. "Qualified Professional": A person competent, whether by education, training, or experience, to make the particular decision at issue.

6. "Psychotropic Drugs": Drugs which are prescribed for the treatment of mental illness whose purpose is to improve brain functioning and/or modify behavior. Included are the major and minor tranquilizers, antidepressants, antimanics, sedatives, hypnotics, anxiolytics and any other drugs used primarily for the treatment of mental illness. Excluded are drugs that may have behavior modifying effects but that are not prescribed or administered for that purpose, such as anticonvulsants.

7. "Treatment": A program of steps and activities, including psychiatric treatment and medication, determined by a qualified professional consistent with professional judgment to be necessary to protect a recipient from unreasonable risks to personal safety and to facilitate his or her ability to function free from undue bodily restraints.

8. "State": The Executive Branch of the Government of the State of Illinois, specifically including the Governor of the State of Illinois; Illinois Department of Mental Health and Developmental Disabilities; the administration of Elgin; and any and all of their officials, agents, employees, or assigns,

and the successors in office of such officials, agents, employees or assigns.

9. "Professional judgment": A decision by a qualified professional that is not such a substantial departure from accepted professional opinion, practice, or standards as to demonstrate that the person responsible did not base the decision on such professional opinion, practice, or standards.

10. "Recipient": As used herein are persons confined to the Elgin Mental Health Center.

### III. Staffing

The State agrees to employ additional psychiatrist staff at Elgin aimed at achieving at least the staff-to-recipient ratios set forth below:

1. By no later than one year from the date of entry of this Decree by the Court, the State shall employ or otherwise provide a sufficient number of psychiatrists to assure attainment and consistent maintenance of ratios of such staff to the total recipient populations at Elgin as indicated in this Section with respect to each designated group.

At the State's discretion, the ratios may be attained by hiring additional staff or by reducing the recipient population of the Elgin Mental Health Center. The State agrees that, if it decides to reduce the population of Elgin by discharging recipients, the determination as to which recipients shall be discharged will be made by qualified professional exercising professional judgment.

2. Minimum psychiatrist to recipient ratios which shall be achieved for each Elgin Mental Health Center program within one year of the entry of this settlement are as follows:

a. Acute Treatment Program

1 full-time equivalent (FTE) to every 40 recipients of mental health services.

b. Extended Care Program

1 FTE to every 85 recipients.

c. Medical Program

1 FTE to every 85 recipients.

d. Mental Illness/Mental Retardation

1 consultant

e. Forensic Program

1 FTE to every 60 recipients.

3. Within four months of the entry of this Consent Decree psychiatrist/recipient staffing levels shall not fall below the ratios set forth below during the year in which full compliance with Section III (2) above is being met:

a. Acute Treatment Programs

1 FTE to every 50 recipients.

b. Extended Care Program

1 FTE to every 106 recipients.

c. Medical program

1 FTE to every 106 recipients.

d. Mental Illness/Mental Retardation Program

1 consultant

e. Forensic Program

1 FTE to every 75 recipients.

4. In addition to the ratios set forth above, by one year from the entry of this Decree Elgin shall hire a psychiatrist for the position of Medical Director.

IV. Plans

1. Attached is a plan of compliance provided by the State. The United States has reviewed the plan and is satisfied that, if implemented, the plan will fulfill the minimum constitutionally required measures contemplated by this Consent Decree.

2. If approved by the Court, the plan shall be issued as an order of the Court and be enforceable as such.

V. Construction and Implementation

In construing and implementing the terms of this Decree, the following are agreed to by the parties:

1. If State officials decide to modify the plan of compliance or any portion thereof, State officials shall notify the Court and the United States of the proposed modification. The United States shall have sixty (60) days from the receipt of any plan in which to file a response to the plan with the Court. If the United States objects to the modification sought, State and Federal officials shall meet in a good faith effort to resolve their differences concerning the

proposed modification. If State and Federal officials are unable to resolve their differences through negotiation, the adequacy of the proposed modification to achieve the purposes and objectives set forth in Part I of this Consent Decree shall be determined by the Court. The Defendants shall have the burden to persuade the Court that the modified plan is adequate under one or more of the Purposes and Objectives in Section I. Modifications of plans to which the United States does not timely object may be approved by the Court without hearing.

2. The State shall submit periodic compliance reports to the United States and the Court. The reports shall be filed semi-annually, fifteen (15) days after the end of each six months beginning six months from the date of entry of this Decree by the Court, and shall continue until such time as this Consent Decree is terminated.

3. The compliance reports shall describe the State's progress towards implementation and compliance with the provisions of this Consent Decree and the plan submitted pursuant thereto. In regard to Section III of this Decree, these reports shall:

- a. (1) State the average daily recipient population for each treatment program for the last month of each reporting period;
- (2) Translate the ratios set forth in Section III of this Decree into the average number of

psychiatrist FTE's employed in each  
respective treatment program during  
the last month of the reporting period;

b. State the projected recipient population figures for each  
treatment program for the next reporting period.

4. The United States and its attorneys, consultants,  
and agents shall have reasonable access to the facilities,  
records, recipients, and employees of Elgin upon reasonable  
notice to the State for the purpose of ascertaining compliance  
with the Decree. Such access shall continue until this  
Consent Decree is terminated.

5. All parties shall bear their own costs, including  
attorney fees.

#### VI. TERMINATION OF DECREE

1. The Defendants shall fully and faithfully implement all  
provisions of this Consent Decree and the attached Plan of Compliance  
within two years from the date of entry of this Decree by the  
Court.

2. The Court shall retain jurisdiction of this action  
for all purposes under this Consent Decree for at least two  
years and until the Defendants have fully and faithfully  
implemented all provisions of the Consent Decree and the Plan  
of Compliance and until the judgment be discharged.

3. Two years after the entry of this Decree by which date the  
Defendants shall have fully and faithfully implemented all provisions  
of this Consent Decree and Plan of Compliance or any later date, the

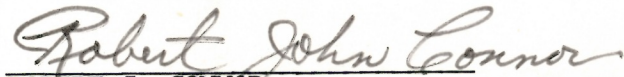
Defendants may move that the injunctions entered herein be dissolved, the judgment discharged, jurisdiction terminated, and the case closed and dismissed with prejudice on grounds that the Defendants have fully and faithfully implemented and maintained all provisions of this Consent Decree and Plan of Compliance.

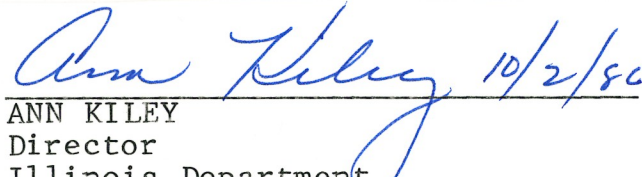
4. Dismissal shall be granted unless, within sixty (60) days after receipt of the Defendant's motion, the United States objects to the motion. If such an objection is made with particularity, the Court shall hold a hearing on the motion and the burden shall be on the United States to demonstrate that the Defendants have not fully and faithfully implemented all provisions of this Consent Decree or the Plan of Compliance or any part thereof; provided that if any objection is based upon a failure to implement any part of the Plan of Compliance, that the part of the Plan of Compliance not implemented must be essential to the achievement of one or more of the Purposes and Objectives set forth in Part I of this Consent Decree. If the United States fails to meet this burden, the injunctions shall be dissolved, this judgment shall be discharged, jurisdiction shall be terminated forthwith, and the case shall be closed and dismissed with prejudice.

CONSENTED TO BY THE UNDERSIGNED:

FOR THE STATE OF ILLINOIS

  
Date: 10/1/86  
JAMES R. THOMPSON  
Governor  
State of Illinois

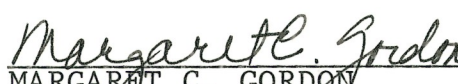
  
ROBERT J. CONNOR  
Special Assistant Atty. Gen.  
Attorney for Defendant  
DEPT OF MENTAL HEALTH

  
Date: 10/2/86  
ANN KILEY  
Director  
Illinois Department  
of Mental Health and  
Developmental Disabilities

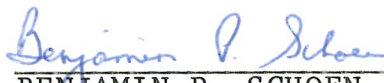
FOR THE UNITED STATES  
OF AMERICA

  
Date: \_\_\_\_\_  
WM. BRADFORD REYNOLDS  
Assistant Attorney General  
Civil Rights Division

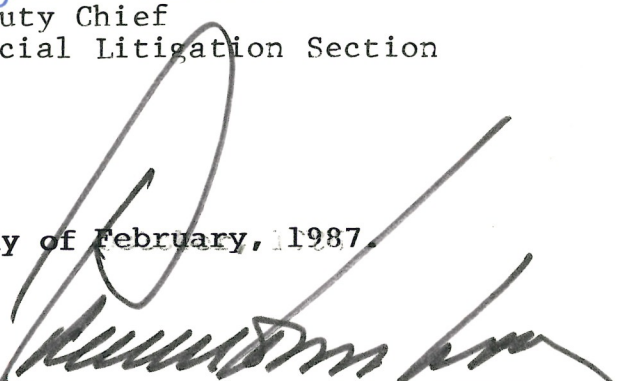
  
Date: 10-1-86  
ANTON R. VALUKAS  
United States Attorney  
Northern District of Illinois

  
Date: 10/1/86  
MARGARET C. GORDON  
Assistant U.S. Attorney  
Northern District of Illinois

  
Date: 9/30/86  
ARTHUR E. PEABODY, JR.  
Chief  
Special Litigation Section

  
Date: 7/30/86  
BENJAMIN P. SCHOEN  
Deputy Chief  
Special Litigation Section

So ORDERED this 18 day of February, 1987.

  
UNITED STATES DISTRICT  
COURT JUDGE