

RSS

STATE OF SOUTH CAROLINA)

IN THE FIFTH JUDICIAL CIRCUIT

COUNTY OF RICHLAND)

CIVIL ACTION NO. 2005-CP-40-02925

T.R., P.R., and K.W., on behalf of)
themselves and others similarly situated;)
and Protection and Advocacy for People)
with Disabilities, Inc.,)

Plaintiffs,)

v.)

ORDER

SOUTH CAROLINA GENERAL)
ASSEMBLY and SOUTH CAROLINA)
DEPARTMENT OF CORRECTIONS,)

Defendants.)

RICHLAND COUNTY
FILED
2005 JUN 27 PM 4:35
BARBARA A. SCOTT
C.C.C. & G.S.

In this action Plaintiffs allege systemic deficiencies in the provision of mental health treatment to inmates in custody of the South Carolina Department of Corrections, in violation of the South Carolina Constitution. The Defendants have moved to dismiss Plaintiff Protection and Advocacy for People With Disabilities, Inc. ("SCP&A") for lack of standing.

Job 1

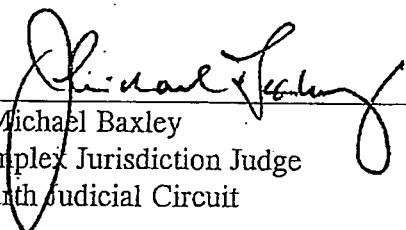
A review of South Carolina law reveals that SCP&A was specifically created pursuant to the dictates of United States Public Law 94-103, for the express purpose to protect and advocate for the rights of developmentally disabled and handicapped persons by "pursuing legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons..." S.C. Code Ann. 43-33-350(1). Defendants argue that under this mandate, SCP&A may facilitate litigation, but may not be a party. This Court finds no controlling precedent to support Defendants' position. A plain reading of the statute, which is entitled

"Powers and Duties of System," states that the organization is authorized to pursue legal remedies. Filing a lawsuit is the seeking of a legal remedy, and therefore Defendants' motion to dismiss Plaintiff SCP&A for lack of standing is respectfully denied. On a related issue, I hold that SCP&A is not automatically entitled class status simply because it has standing to sue. Therefore, class certification must be specifically granted in order for Plaintiffs to proceed as a class.

Sub 2

The parties are also in dispute regarding time limitations on discoverable information. Defendants seek to prevent Plaintiffs from being able to discover any information prior to January 1, 2003. Defendants cite several bases for their position, including the voluminous nature of the requested documentation, the multiple Corrections institutions involved, and the difficulty of archival and computer retrieval for documents several years old. The Complaint in this case alleges that the Plaintiffs are seeking declaratory and injunctive relief that is prospective in nature. At the crux of this case is the issue of the present level of mental health care in the Department of Corrections. Plaintiffs' argument that they must go back in time in an effort to prove a pattern of deliberate indifference is not convincing. Conditions and events prior to January 1, 2003 are not generally relevant and probative to the issue of present day conditions and a request for prospective relief, and I find that the discovery and production of such information is unduly burdensome and costly to the Defendants. For these reasons, I find that Plaintiffs may not seek discovery of documents and information prior to January 1, 2003, without leave of this Court, and such leave shall only be granted, on a specific item by specific item basis, upon a substantial showing of direct and substantial relevance to a pivotal issue in the case.

IT IS SO ORDERED.



J. Michael Baxley
Complex Jurisdiction Judge
Fourth Judicial Circuit

Hartsville, South Carolina
June 20, 2006

FORM 4

Rec'd. 7-3-06
11998/05049
File

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 05-CP-40-2925
SC General Assembly
et al.

T.R.
et al.

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j) SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____

2006 JUN 27 PM 4:38
BARBARA A. SCOTT
CLERK OF COURT
RICHLAND COUNTY

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Dated at Cola, South Carolina, this 27 day of June, 2006.

PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this 28 day of June, 2006 to attorneys of record or to parties (when appearing pro se) as follows:

D. Westbrook

Wm. Davidson
K. Woodington

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

s/BARBARA A. SCOTT
CLERK OF COURT