NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE COMMITTEE ON OPINIONS

PATIENTS; C.T., P.T., and J.C., a former patient on behalf of themselves and all other persons similarly situated, Plaintiffs, v. CAMDEN COUNTY BOARD OF CHOSEN FREEHOLDERS, each individually and in their official capacity; VIVIAN HENDRICKSON, Superintendent; H. EDWARD YASKIN, M.D., Medical Director, each individually and in their official capacity, Defendants.	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION - CAMDEN COUNTY Docket No. L 33417-74 P.W. DECISION

Argued: June 2, 1976 Decided: July 19, 1976

Mr. John Matrullo of Camden Regional Legal Services, Inc., for the plaintiffs.

Mr. John R. Gercke, Assistant County Counsel, for the defendant, Camden County Board of Chosen Freeholders (John A. Yacovelle, County Counsel).

Mr. M. Donald Forman for the defendants, Vivian Hendrickson and H. Edward Yaskin, M.D.

King, J.S.C.

This is an action filed on May 8, 1975 by certain patients of the Camden County Psychiatric Hospital against the Board of Chosen Freeholders and several members of the staff at the hospital. The

action has been certified as a class action. See generally Rule 4:32. The action seeks several forms of relief but essentially the plaintiffs seek judicial implementation of a right to a constitutionally minimum standard of treatment in the least restrictive environment and judicial enforcement of their civil rights as patients. This court has heard testimony over an extensive period of time both on the application for preliminary relief, which was denied without prejudice, and at the final hearing. This court is of the opinion that the patients at the County Psychiatric Hospital (hereinafter Lakeland) are entitled as a matter of constitutional right to adequate treatment in the least restrictive environment. New Jersey's appellate authorities seem quite clear on this point.

> It is beyond question that a person committed to a state hospital for the mentally afflicted has a right to receive treatment in an effort to cure or improve his or her condition. It is a notorious fact that overcrowding and understaffing in our public mental institutions result in inadequate treatment for the average patient. But recognition must be given to a patient's right to treatment. It is not enough to confine the patient, to afford only minimal custodial care, to institutionalize him or her in a mental prison. It has been stated that civil confinement for an indefinite duration may be sufficiently inhumane so as to constitute cruel and unusual punishment, violative of due process of law. 15 Villanova Law Review 961 (1970). In Re D.D., 118 N.J. Super. 1, 6 (App. Div. 1971).

In State v. Carter, 64 N.J. 382 (1974) our Supreme Court succinctly set forth the State's obligation to an involuntarily committed patient. Justice Pashman in delivering the opinion of the Court stated:

> While the court is not now directly faced with delineating the scope of the right to treatment in New Jersey, the existence of such a right bears on the availability of conditional release, at least to the extent that such release is a therapeutic measure. The right to treatment is an affirmative obligation on behalf of the State. Supra., 64 N.J. 393.

Again more recently Justice Pashman in speaking for the Court in State v. Krol, 68 N.J. 236, 261-262 (1975) stated:

> Once the court has determined that defendant is mentally ill and is dangerous to himself or others, it must formulate an appropriate order. As we noted in State v. Carter, supra, this is an exceedingly difficult task, one calling for a high degree of judicial flexibility and imagination. The object of the order is to impose that degree of restraint upon defendant necessary to reduce the risk of danger which he poses to an acceptable level. Doubts must be resolved in favor of protecting the public, but the court should not, by its order, infringe upon defendant's liberty or autonomy any more than appears reasonably necessary to accomplish this goal. Nonetheless, where the public cannot be adequately protected by any practical lesser restraint, the court is justified in ordering defendant institutionalized in an appropriate public psychiatric hospital. Court imposed restraints must, of course, always be coupled with a corresponding opportunity for care and treatment. State v. Carter, surpa., 64 N.J. at 393-94; In re D.D., 118 N.J. Super. 1, 6 (App. Div. 1966). Cf. O'Connor v. Donaldson, ___ U.S. ___, 95 S.Ct. 2486 45 L. Ed. 2d 396 (1975); Wyatt v. Stickney, 325 F.Supp. 781 (M.D. Ala. 1971) aff'd sub nom. Wyatt v. Aderholt, 503 F. 2d 1305 (5 Cir. 1974). (Emphasis added).

Of further persuasive note is our Supreme Court's citation of the landmark case of Wyatt v. Stickney, supra, in which Alabama Federal Judge Johnson articulated minimum federal constitutional standard of care for patients involuntarily committed to state mental hospitals.

The 5th Circuit Court of Appeals in response to the argument of Governor George Wallace and the Alabama legislature that governmental funds were not available to meet constitutionally mandated minimum standards stated as follows:

> We find these arguments unpersuasive. It goes without saying that state legislatures are ordinarily free to choose among various social services competing for legislative attention and state funds. But that does not mean that a state legislature is free, for budgetary or any other reasons, to provide a social service in a manner which will result in the denial of individuals' constitutional rights. And it is the essence of our holding, here and in Donaldson, that the provision of treatment to those the state has involuntarily confined in mental hospitals is necessary to make the state's actions in confining and continuing to confine those individuals constitutional. That being the case, the state may not fail to provide treatment for budgetary reasons alone. "Humane considerations and constitutional requirements are not, in this day, to be measured or limited by dollar considerations". Jackson v. Bishop, 8 Cir. 1968, 404 F. 2d 571 580 (Blackmun, J.), quoted Rozecki v. Gaughan, 1 Cir. 1972, 459 F.2d 6, 8. "Inadequate resources can never be an adequate justification for the state's depriving any person of his constitutional rights." Hamilton v. Love, E.D. Ark. 1972, 328 F. Supp. 1182, 1194. "[T]he obligation of the Respondents [prison officials] to eliminate unconstitutionalities does not depend upon what the Legislatures may do". Holt v. Sarver, E.D. Ark. 1970, 309 F.Supp. 362 385, aff'd, 8 Cir. 1971, 442 F.2d 304. See also Hawkins v. Town of Shaw, 5 Cir. 1971, 437 F.2d 1286, 1292. Wyatt v. Adeholt, supra. 1314-1315.

See also Stoner, Overview: The Right to Treatment - Comments on the Law and Its Impact, 132 Am.J. Psychiatry 1125 (November 1975).

This court sees its duty in this case as one of setting forth standards which should be met by the Board in the operation of the institution to insure that the patients, about 90% of whom are involuntarily committed, will receive the constitutionally mandated treatment in a humane environment. Lakeland's principal buildings were constructed about 50 years ago when the institution was designed as an "insane asylum", i.e., essentially a custodial institution. Developments in psychiatric medicine since that time now allow many of those previously considered as chronic and irreversibly ill with no hope of release to look forward to conditional or full release after a period of commitment. The emphasis today is directed towards the development and dynamic maintenance of a "therapeutic community" adopted to treatment rather than a "custodial community for the asylum of lunatics." From the testimony and the court's several inspections of the hospital it is apparent that for many years the political leaders of the county had neglected this facility or at the least short changed the hospital at budget time. The court is convinced from the evidence that the medical and administrative staff of the hospital have over the years labored with diligence to perform their obligation to the patients. However, without the physical and staff facilities, which could only be provided by the budgetary attentions of the Board as the responsible public authority, the staff was struggling uphill and against the tide, both at once.

The present Board has during the past several years been much more responsive to the needs of the psychiatric hospital at Lakeland.

The evidence confirms this recognition of responsibility in several ways. Funds have been made available to hire additional psychiatrists, nurses and attendants. The funding has been sufficient to attract Board Certified and Board Eligible psychiatrists and other professionals of high calibre. Funds have been appropriated for six new elevators to replace the antiquated and inefficient elevators now in use. These elevators are of great importance if the "open hospital" philosophy is to be successfully implemented. On June 3, 1976, the Board by resolution approved a bond issue in the sum of $4,650,000, which funds are to be used for the upgrading of the physical plant. When this work is completed in the fashion described by the Board's architect the facility should be attractive and adequate for hospital purposes. The medical staff under the leadership of Dr. Yaskin and Dr. Ornoff are working towards the goal of accreditation by the recognized national body, the Joint Committee on Accreditation of Hospitals, by the end of the year 1977. If such accreditation is achieved following the improvement of the physical plant this court is satisfied that the hospital will meet the minimum standards constitutionally required for care and treatment. The Board has provided funding for the development of two satellite out-patient clinics, Jefferson House North and South. These clinics afford discharged patients out-patient and follow-up care necessary to avoid the "revolving door" serial admissions phenomenon so frequently characteristic of public psychiatric hospitals. The Board has also provided funds to permit the development of what this court finds to be a highly successful in-patient rehabilitation program at Jefferson House South under the direction of Dr. Yaskin and Dr. Zane. The recidivism rate from this program is remarkable low. The Board has also within the past month committed

itself to developing a residential program at Cedar Ridge Apartments in Gloucester Township which undertaking is consistent with the current philosophy of mobilizing patients out of the hospital whenever possible.

These are the court's findings on the issues presented:

PSYCHIATRIC, PSYCHOLOGICAL AND THERAPEUTIC STAFF

There has been a definite decrease in the hospital's population, reduced from 910 patients in 1970 to 506 patients in 1974 to an approximate population of 414 patients at present. The court is of the opinion that staff/population ratios per se are of limited value unless considered in the context of the psychiatric illnesses afflicting the patient population and the totally integrated program.[1] In the present patient population 84 patients have a diagnosis of psychotic illness - organic brain syndrome. These patients cannot effectively

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1. "The proper balance of an integrated system for mental health care in a public sector creates certain fiscal problems which are related to such matters as appropriate staff ratios in institutions and the provision of appropriate community services. Most public systems are beginning to attempt to develop an integrated system of delivery of psychiatric care with more and more emphasis on community programs. It is not usually productive to set a specific staff/patient ratio that can be universally applied. The staff/patient ratio that is optimal will vary depending on many programmatic and architectural considerations. Staff to patient ratio should be sufficiently high as to allow appropriate planning, and training and treatment programs. In states where an integrated system of delivery of care is being developed, undue concentration on staff/patient ratio in institutions may threaten sufficient funding to community programs since the cost of hospital care within institutions continues to increase." American Psychiatric Association Standards for Psychiatric Facilities, Revised Standards, 1974, p. 13-15.

benefit from psychiatric treatment. One hundred and sixty patients are described by the Psychiatric Director Dr. Yaskin as a hard core normalization stage 2, 3 or 4. They are regressed, chronic and require resocialization before active intensive treatment may be of benefit. These patients need some degree of psychiatric attention but do not require and would not benefit from the intensity of such attention afforded the actively treated acutely psychotic patient. Seventy patients fall into the active acutely psychotic category which patients receive maximum benefit from more intensive treatment. The 100 patients presently in the in-patient rehabilitation program in Jefferson House South and the Community Placement Program are not in present need of intensively active psychiatric care but are benefitted more by structured programs designed to develop social, educational and vocational skills to prepare for re-entry into society. The court is of the opinion that the recent addition of three full time, well qualified psychiatrists to the staff for the in-patient facility bringing the in-patient staff to a total of seven full time and three part time psychiatrists, is adequate when considered in the light of the type of patient population and the program and staff now designed to carry out the team approach to treatment. The court is of the opinion that the psychiatric staff serving the two out-patient psychiatric clinics, in Blackwood and Camden, a total of two full time and six part time is presently adequate. The staff of 13 psychologists to serve both the in-patient and out-patient communities is also presently adequate. Of course, a shift in the type of population at the hospital, or an increase in case load at the satellite clinics, may require fu-

ture adjustments. Approximately 180 patients or 36% of the population are over 65 years of age. These patients appear less susceptible to improvement on a psychiatric basis because of the chronicity and longevity of illness. If the population's age level were to decrease in the future more patients may be susceptible to intensive psychiatric treatment and the staff would have to be increased. This court also finds the therapeutic staff in other respects adequate at the present time. The staff of 141 male and female institutional attendants is also presently adequate. This is not to mean that needs for increase in staff should not be reconsidered from time to time, independent of this court's opinion, as this court is concerned with minimal constitutional standards. In service training of all personnel should also be undertaken continuously.

SOCIAL WORKER STAFF

There is considerable variance in the evidence as to the number of additional psychiatric social workers needed at the hospital in addition to the present component. After a consideration of the competing views the court is of the opinion that four additional psychiatric social workers are required at the present time, at least one of whom should hold the degree of Master of Social Work. As the trend towards mobilization of the patients back to the community continues the need for social work personnel increases. Additionally these personnel are most helpful in the team effort, i.e., nurses, psychiatrists, psychologists and social workers, currently being implemented for ward treatment and for the in-patient rehabilitation program at Jefferson House South and the Community Placement Program.

NURSING NEEDS

The evidence discloses a definite need to increase the nursing staff. At the present population level of 414 the hospital should have at least 70 Registered Nurses and at least a similar number of Licensed Practical Nurses to allow for appropriate coverages considering the requirements for three shifts, weekends, holidays, vacation, illness, and in-service training. (Presently there are 38 Registered Nurses and 51 Licensed Practical Nurses). The hospital has recently engaged Ms. Baker who is emphasizing recruitment and in-service training in conjunction with Ms. Gallagher, the nursing superintendent. Properly trained psychiatric nurses who are well motivated may fulfill many of the therapeutic needs of the patients on a daily basis, perhaps in some instances as well or better than a psychiatrist. Such nursing personnel may also be especially helpful in preparing patients for re-entry into the community in the rehabilitation and community placement programs as witness the performance of Ms. Matreale and Schuyler in these programs.

OPEN NURSING STATIONS

All nursing stations should be open. The hospital has made some progress lately with development of open care nursing stations on several wards. The atmosphere created by such stations is definitely more therapeutic and accessability of staff to patient is greatly enhanced.

TELEPHONES

The new law relating to patients' civil rights requires patients to have reasonable access to and use of telephones for the purpose of receiving and making confidential calls. Ch. 85, Law of 1975, §2(e)(6). The hospital is instructed to have a telephone installed on each ward accessible to the patients.

FOOD SERVICE

From the evidence the court is convinced that the nutritional value of the food as presently served is generally adequate. Certain testimony points up deficiencies in maintaining an adequate food inventory because of lack of storage facilities and the present ordering practices. A consultant has been retained by the Board to do a complete study and make recommendations for architectural and equipment changes, including freezer and dry storage space. This court will retain jurisdiction on this aspect of the plaintiff's claims to review the findings and recommendations of the Board's consultant. Where the Board is undertaking voluntary improvement of the food service facility the court feels that the Board should be afforded adequate time to upgrade the current plant, reserving for the court's review whether the upgrading meets minimum standards of acceptability.

The evidence clearly demonstrates a need for at least two additional dieticians to service the psychiatric hospital complex. The Board must provide these dieticians as soon as possible. Deficiencies are noted in the service of special medical diets prescribed by the patient's physician. Additional dieticians will help insure that dietary feeding on the floor is as prescribed by physicians.

The method of presently delivering and serving hot food on the floor is inadequate. The present bulk food carts frequently do not keep the food hot and seem to make appetizing and congenial service of the food impossible. The Board should obtain as soon as reasonably possible new food carts to be used for service on the floors. Corrections in serving food on the floors must also include adoption of a

system designed to assure that special diets are actually served as ordered by the physicians and as implemented by the dieticians and that proper inventories of food to meet these diets are maintained. Compliance with the Accreditation Manual for Psychiatric Facilities 1972 and addendum published by the Joint Commission on Accreditation of Hospitals pages 55 through 60 which provides the guiding principles should be accomplished.

OPEN HOSPITAL POLICY

A so-called "open hospital policy" was initiated on May 12, 1976 by the staff. Such a policy is necessary to comply with the requirement that patients be treated in the least restrictive or confining environment. The policy consists of a series of eleven steps of privileges for mobility in the hospital and the community conferred by the medical staff as the patient's condition progresses. Previously, probably in large part because of the unmanned and antiquated elevators on Ivy Hall and the locked doors to the stairwells, many patients were unduly and unnecessarily restricted to locked floors. The hospital is ordered to continue the "open hospital policy" as it presently exists. Each patient's privileges should be periodically reviewed as part of his or her individualized treatment plan as discussed infra. A patient's freedom and mobility should depend on the patient's individual capability for freedom and not on the previous woefully inadequate unmanned antique elevator system or some other accident of housing. This court finds this "open hospital policy" to be a salutary development as presently adopted.

THE PHYSICAL COMPLEX

Much of the negative side of the psychiatric hospital at Lakeland is attributable to the old and inadequate physical facilities. The age of the facilities further accentuates the maintenance problems. This court heard extensive testimony and considered plans and other exhibits concerning the Board's recent efforts to upgrade and improve the facilities from the Board's architect Rudolph Gutwein Guenther and others. The Board's efforts in this regard culminated in the passage of a resolution on June 3, 1976 appropriating $4,650,000 to be used for improvements at the psychiatric hospital. The appropriation is to be financed by the issuance of the bonds. If the hospital obtains accreditation it will then qualify for reimbursement for cost of care to indigent patients from various federal programs. It is estimated that these federal "third party payments" will be quite adequate to insure prompt repayment of the bond indebtedness. The expenditure of the $4,650,000 proceeds of the bond issue are directly designed to upgrade the physical facilities so as to meet the Joint Committee on Accreditation of Hospitals' standards for accreditation. This court is well satisfied from the proposed plans and specifications that the envisioned alterations and renovations when completed will more than comport with minimum constitutional standards and will qualify the hospital for Joint Committee on Accreditation of Hospitals' approval. This court cannot legally require the Board to do anymore in this respect than it has undertaken on its own initiative. The Bond resolution and architect's plans provide for extensive

improvements to the nurses stations, private and enclosed toilet areas, windows, wardrobe units, climate control system, lighting, walls, flooring, ceilings, rooms, roofs, recreation areas, dining areas and indeed the entire facility. This court specifically finds that improvements as described by the Bond resolution, Mr. Gutwein-Guenther's testimony, and the plans and specifications placed in evidence satisfy constitutional and legislative mandates. The Board is directed to pursue its effectuation of these undertakings and the staff to pursue its quest for accreditation as expeditiously as possible. Once these goals are accomplished the constitutional goal of a humane physical environment will be satisfied.[2]

PATIENTS' CIVIL RIGHTS

Contemporaneous with the inception of this action the Senate and General Assembly has passed into law an act concerning the civil rights of the mentally ill. Chapter 18, Laws of 1975, effective May 7, 1975. This enactment is extensive and detailed. The passage of this legislation grants to the patients the wide spectrum of human and civil rights demanded in the plaintiffs' broad prayer for relief. Because of the importance of this legislation to the parties to this litigation the statute is quoted in full as part of this decree and all parties in interest here are instructed to follow the law as declared by the legislature.

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2. Implicit if not explicit from the testimony may be gleaned the Board's undertaking to provide new furniture, bedding, redecorated and re-equipped day rooms, and other modest pleasantries of everyday living. This of course must be done as part of the interior renovation. The present furnishings are definitely substandard by any test.

AN ACT CONCERNING THE RIGHTS OF THE MENTALLY ILL

CHAPTER 85, LAWS OF 1975

1. Every individual who is mentally ill shall be entitled to fundamental civil rights and to medical care and other professional services in accordance with accepted standards, provided however that this shall not be construed to require capital construction. Every individual between the ages of 5 and 20 years shall be entitled to education and training suited to his age and attainments.

Every patient shall have the right to participate in planning for his own treatment to the extent that his condition permits.

2. a. Subject to any other provisions of law and the Constitution of New Jersey and the United States, no patient shall be deprived of any civil right solely by reason of his receiving treatment under the provisions of this Title nor shall such treatment modify or vary any legal or civil right of any such patient including but not limited to the right to register for and to vote at elections, or rights relating to the granting, forfeiture, or denial of a license, permit, privilege, or benefit pursuant to any law.

b. Every patient in treatment shall be entitled to all rights set forth in this act and shall retain all rights not specifically denied him under this Title. A notice of the rights set forth in this act shall be given to every patient within 5 days of his admission to treatment. Such notice shall be in writing and in simple understandable language. It shall be in a language the patient understands and if the patient cannot read it shall be read to him. In the case of an adjudicated incompetent patient, such procedure shall be followed for the patient's guardian. Receipt of this notice shall be acknowledged in writing with a

copy placed in the patient's file. If the patient or guardian refuses to acknowledge receipt of the notice, the person delivering the notice shall state this in writing with a copy placed in the patient's file.

c. No patient may be presumed to be incompetent because he has been examined or treated for mental illness, regardless of whether such evaluation or treatment was voluntarily or involuntarily received. Any patient who leaves a mental health program following evaluation or treatment for mental illness, regardless of whether that evaluation or treatment was voluntarily or involuntarily received, shall be given a written statement of the substance of this act.

d. Each patient in treatment shall have the following rights, a list of which shall be prominently posted in all facilities providing such services and otherwise brought to his attention by such additional means as the department may designate:

(1) To be free from unnecessary or excessive medication. No medication shall be administered unless at the written order of a physician. Notation of each patient's medication shall be kept in his treatment records. At least weekly, the attending physician shall review the drug regimen of each patient under his care. All physician's orders or prescriptions shall be written with a termination date, which shall not exceed 30 days. Medication shall not be used as punishment, for the convenience of staff, as a substitute for a treatment program, or in quantities that interfere with the patient's treatment program. Voluntarily committed patients shall have the right to refuse medication.

(2) Not to be subjected to experimental research, shock treatment, psychosurgery or sterilization, without the express and informed consent of the patient after consultation with

counsel or interested party of the patient's choice. Such consent shall be made in writing, a copy of which shall be placed in the patient's treatment record. If the patient has been adjudicated incompetent a court of competent jurisdiction shall hold a hearing to determine the necessity of such procedure at which the client is physically present, represented by counsel, and provided the right and opportunity to be confronted with and to cross-examine all witnesses alleging the necessity of such procedures. In such proceedings, the burden of proof shall be on the party alleging the necessity of such procedures. In the event that a patient cannot afford counsel, the court shall appoint an attorney not less than 10 days before the hearing. An attorney so appointed shall be entitled to a reasonable fee to be determined by the court and paid by the county from which the patient was admitted. Under no circumstances may a patient in treatment be subjected to experimental research which is not directly related to the specific goals of his treatment program.

(3) To be free from physical restraint and isolation. Except for emergency situations, in which a patient has caused substantial property damage or has attempted to harm himself or others and in which less restrictive means of restraint are not feasible, a patient may be physically restrained or placed in isolation only on a medical director's written order or that of his physician designee which explains the rationale for such action. The written order may be entered only after the medical director or his physician designee has personally seen the patient concerned, and evaluated whatever episode or situation is said to require restraint or isolation. Emergency use of restraints or isolation shall be for no more than 1 hour, by which time the medical director or his physician

designee shall have been consulted and shall have entered an appropriate order in writing. Such written order shall be effective for no more than 24 hours and shall be renewed if restraint and isolation are continued. While in restraint or isolation, the patient must be bathed every 12 hours and checked by an attendant every 2 hours with a notation in writing of such checks placed in the patient's treatment record along with the order for restraint or isolation.

(4) To be free from corporal punishment.

e. Each patient receiving treatment pursuant to this Title, shall have the following rights, a list of which shall be prominently posted in all facilities providing such services and otherwise brought to his attention by such additional means as the commissioner may designate:

(1) To privacy and dignity.

(2) To the least restrictive conditions necessary to achieve the purposes of treatment.

(3) To wear his own clothes: to keep and use his personal possessions including his toilet articles; and to keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases.

(4) To have access to individual storage space for his private use.

(5) To see visitors each day.

(6) To have reasonable access to and use of telephones, both to make and receive confidential calls.

(7) To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence.

(8) To regular physical exercise several times a week. It shall be the duty of the hospital to provide facilities and equipment for such exercise.

(9) To be outdoors at regular and frequent intervals, in the absence of medical considerations.

(10) To suitable opportunities for interaction with members of the opposite sex, with adequate supervision.

(11) To practice the religion of his choice or abstain from religious practices. Provisions for such worship shall be made available to each person on a nondiscriminatory basis.

(12) To receive prompt and adequate medical treatment for any physical aliment.

f. Rights designated under subsection d, of this section may not be denied under any circumstances.

g. (1) A patient's rights designated under subsection e. of this section may be denied for good cause in any instance in which the director of the program in which the patient is receiving treatment feels it is imperative to deny any of these rights; provided, however, under no circumstances shall a patient's right to communicate with his attorney, physician or the courts be restricted. Any such denial of a patient's rights shall take effect only after a written notice of the denial has been filed in the patient's treatment record and shall include an explanation of the reason for the denial.

(2) A denial of rights shall be effective for a period not to exceed 30 days and shall be renewed for additional 30 day periods only by a written statement entered by the director of the program in the patient's treatment record which indicates the detailed reason for such renewal of the denial.

(3) In each instance of a denial or a renewal, the patient, his attorney, and his guardian, if the patient has been adjudicated incompetent, and the department shall be given written notice of the denial or renewal and the reason therefor.

h. Any individual subject to this Title shall be entitled to a writ of habeas corpus upon proper petition by himself, by a relative, or a friend

to any court of competent jurisdiction in the county in which he is detained and shall further be entitled to enforce any of the rights herein stated by civil action or other remedies otherwise available by common law or statute.

3. This act shall take effect immediately.

Approved and effective May 7, 1975.

Any persons in the class of patients-plaintiffs who may be aggrieved by a violation of this act may apply to this court for specific injunctive relief for the enforcement of any enumerated rights pursuant to §2 h. of the act during the period of time within which this court retains jurisdiction of this action.

ELEVATORS AND STAIRWELL DOORS

During the pendency of this litigation the Board has appropriated $540,000 for the installation of elevators, four in Ivy Hall, and two in other places in the hospital facility. The contracts have been signed and it has been represented to the court that installation of the new elevators is to take place very soon. The present antiquated elevators on Ivy Hall contribute substantially to the undesirability of the facility. Many patients are in effect restricted unnecessarily to their floor. The court finds that the new elevator installation is essential to reasonable patient care in Ivy Hall and the Board is ordered to pursue the presently contracted installation as soon as reasonably practical. A proper elevator system means a great deal to group or individual patient movement, as well as to staff movement and efficient use of staff time. A new elevator system is essential for the functioning of the "open hospital policy" recently instituted by the medical director, Dr. Yaskin. The court finds such a system a constitutional necessity if the patients are to be treated in the least

restrictive environment.

Some improvement has been accomplished as an interim measure by placing two elevator operators on duty from noon to 8:00 p.m. on Ivy Hall. The hospital should continue the use of such operations on the old elevators pending the new installation. Additionally, the state official's testimony does not support the previous position of the Department of Institutions and Agencies that the doors to the stairwells in Ivy Hall need be locked at all times. These doors need only be latched in order to meet state requirements. Therefore on all floors not designated as "locked wards" by the medical staff the stairwell doors should be adjusted so as to latch during normal working hours when patients are permitted to move about the facility.

PROSTHETIC DEVICES

Funds have not previously been provided by the Board, at least on a regular basis, for certain prosthetic devices required on a fairly regular basis by the patients. Such items include hearing aids, eye glasses, false teeth, special orthopedic shoes, etc. Indigent patients have been provided with those items from a so-called "patient welfare fund" accumulated from canteen profits. The "patient welfare fund" has not been adequate for such purposes, sometimes requiring long waiting periods before the patient is accomodated. Minimum standards of care require that indigent patients be furnished with such devices, especially since these items are frequently integrally related to the patient's treatment and potential rehabilitation. The Board is therefore ordered to include in the annual budget a line item so that such prosthetic devices may be furnished to indigent patients as the need arises.

VISITING

Patients in the hospital shall have the unrestricted right to visitation at all reasonable times, except to the extent that a psychiatrist writes a medical order restricting visitation and explains the reason for such restriction. Such order shall be reviewed and renewed if necessary on a monthly basis. This court finds the presently posted visiting hours, 2:30 p.m. to 4:00 p.m. Monday through Friday and 2:00 p.m. to 5:00 p.m. Saturday and Sunday, too restrictive. Although the court understands that these hours are not rigigly adhered to by the administration the posting of these hours surely tend to inhibit visitation. The administration should provide for longer visiting hours and especially for visiting hours in the early evening for the convenience of those who work during the day time. See also Chapter 85, Laws of 1975, §2 e. (5).

PATIENTS HAVE A RIGHT TO REGULAR PHYSICAL EXERCISE

The Board should provide indoor and outdoor facilities and equipment for such programs. The testimony suggests a great lack of athletic and recreational facilities at Lakeland. The testimony is not sufficient for this court to formulate precise standards. Some testimony indicates a desire on the part of the staff and patients for baseball diamonds outside, basketball and shuffleboard courts, a gymnasium, a pool, a social complex, a bus to transport patients on sojurns, etc. Rather than enter any specific decree based on the present testimony the court requests the Board to arrange for a qualified recreational specialist of its chosing to submit to the court within 120 days recommendations for improving recreational facilities at Lakeland on a short term and long term basis. This court will therefore retain jurisdiction so as to permit the entry of a more specific order on this point at the proper time.

PATIENTS' MEDICAL RECORDS

The patient's complete records, i.e., medical, psychiatric, and legal, shall be kept on the ward to which the patient is assigned. These records shall be maintained in a manner so that they will be available for all nursing and therapeutic personnel so as to afford these staff members a better understanding of the patient.

MEDICAL STAFF

This court finds that the medical treatment afforded the patients is adequate as presently provided. The attending and consulting staffs are fully competent and the hospital makes appropriate use of the services of a general hospital, Cooper Hospital, in Camden, when necessary. This court therefore makes no order with respect to the medical care afforded the patients other than to state that the care presently being provided should be continued at the same level.

INDIVIDUALIZED TREATMENT PLANS

According to the testimony of Dr. Yaskin the hospital now has adopted a policy of providing each patient with an individualized treatment plan. This appears to have been done in some cases prior to this action's commencement, but not as an invariable rule. Henceforth each patient should be provided with an individualized treatment plan within 10 days after admission. This treatment plan should include (a) a statement of the patient's present mental status and the least restrictive treatment conditions, both medically and custodially, necessary to achieve the treatment purposes of his or her commitment; (b) a description of intermediate and long term treatment goals with a projected time table for their accomplishment; (c) a notation of any

therapeutic tasks to be performed by the patient. Every individualized treatment plan should be reviewed by the patient's psychiatrist on a monthly basis for the first six months of admission and thereafter on a quarterly basis, and such review should be noted in the patient's medical file. Patients shall be permitted as much as their condition permits to participate in planning their own treatment program. See Chapter 85, Laws of 1975, §1.

ENCLOSURES

The hospital administration during the course of this proceeding and at the suggestion of the court has removed the barbed wire on top of the fences enclosing outside recreational areas. The court finds that the presence of such barbed wire served no useful purpose and diminished the therapeutic image of the institution. Such wire should not be used and indeed the court is convinced that the administration has no intention of using the wire in the future. Plaintiffs have requested the removal of the fences entirely. In view of the difficulties presented in supervision of patients while outside because of the topographical nature of the area and the proximity to other institutional facilities, as well as roadways substantially trafficked by motor vehicles, the court will not require removal of the fences. The "open hospital policy" to which the hospital is presently committed should permit sufficient freedom for those patients amenable thereto and it may well be necessary at present to retain the fences for supervision of those patients who require the closest custodial attention.

SAFETY CODES

The Board has within the past several years undertaken extensive

commitments to conform the safety standards at the institution to the Life Safety Code. The court has been led to understand from the evidence that the work under the contracts designed to comply with these codes is virtually finished and is awaiting imminent inspection by the State and other public authorities. Compliance with the Life Safety Code when and if such approvals are granted will fulfill the Board's legal obligations to the plaintiffs in this respect.

PATIENTS' PROPERTY

Certain portions of the evidence indicates a lack of security for patients' private belongings and clothing. The administration is ordered to provide adequate security in this respect on each ward so that patients' personal belongings may be locked and secured against theft, but still be available to the patient upon request. See Chapter 85, Laws of 1975, §2 e.(3) and (4).

PATIENT LABOR

The court is of the opinion that consenting patients should be allowed to perform uncompensated labor for therapeutic purposes. This position was ultimately taken by Judge Johnson in Wyatt v. Stickney, supra, aff'd sub nom. Wyatt v. Aderholt, 503 F.2d 1305 (5th Cir. 1974). See Note, The Wyatt Case: Implementation of a Judicial Decree Ordering Institutional Change, 84 Yale L.J. 1338, 1376 fn. 218 (1975). Any such work should be performed only on written order of a physician who should explain the therapeutic value of the work on the patient's chart, which order should be renewed quarterly in writing.

PATIENT AFTER CARE

The Board has within the past year addressed itself to the problem of patient after care. This is not a question capable of resolu-

tion on the present record. The court has granted plaintiff's an application to join the Commissioner of Institutions and Agencies as a party defendant, the joinder being limited to the question of the responsibilities of the parties following discharge from the four walls of the institution because the parties allege that the State is at least co-responsible with the Board for this service. The Board has recently by Resolution and other action, taken steps to establish a residential after-care center in the Cedar Ridge Apartment complex in Gloucester Township. The State's position on this project is according to the evidence ambiguous and the court feels that any resolution, of the legal implications of after care would best be resolved with the Commissioner as a party. The problem of post-institutionalization placement and follow-up created difficulties in the enforcement of the court's decree in Wyatt v. Stickney, supra; See Note, The Wyatt Case, etc., supra. 84 Yale L.J. 1338, 1374 (1975). The following excerpt from the Scientific American's special issue in September, 1973 summarizes the present situation well:

> The most obvious indicator of the extent of the recent change in psychiatric practices is evident in the number of resident patients in the state and county mental hospitals of the U.S. *** The number of patients peaked at about 560,000 in 1955. Over the preceding decade the number of patients had increased at the rate of 3 percent per year, almost twice the rate of growth of the population. Then the trend reversed sharply. The resident state and county mental-hospital population fell to 276,000 by 1972, in spite of general population growth and increased rates for both first admissions and readmis-

sions. From 1962 to 1969 first admission rates rose from 130,000 to 164,000 and readmission rates from 150,000 to 216,000 as the number of resident patients fell from 516,000 to 370,000. These figures reflect the dramatic decline in the average length of stay.

Although these data convey an overall picture of national trends, they fail to portray the extent of change in some areas. At present California has only some 5,400 patients in its state hospitals, a reduction of 80 percent since 1961, and it plans to eliminate all state-hospital beds for mental patients by 1977. Lest this be mistaken for the elimination of mental illness in California, or even the elimination of inpatient care as a mode of treatment, it should be noted that the state plan projects the transfer of care of mental patients to the counties. California counties now operate, in more or less adequate fashion, programs for the mentally ill, including psychiatric inpatient units in general hospitals and beds in nursing homes.

The total number of patient-care episodes (inpatient plus outpatient) in the U.S. increased from 1,675,000 in 1955 to 4,038,000 in 1971. In that period the number of inpatient episodes zoomed from 379,000 to 2,317,000. Placed in relation to population growth, inpatient episodes per 100,000 population rose marginally from 799 to 847, whereas outpatient episodes increased from 234 to 1,134. The locus of care has shifted from the isolated and neglected wards of the state hospital to newly created but not always adequate facilities in the community. There is growing evidence that some of the former hospital patients are not cared for by anyone; they live in single-room-occupancy units, kinless and friendless, subsisting marginally on welfare allotment. Given what most state mental hospitals once were and what many still are, most patients are

> better off out of them than in them. This, however, does not excuse our failure to provide for the patients lost in the shuffle from one pattern of care to another.
>
> The net change in patient treatment has been enormous, with the number of patients in state and county mental hospitals reduced by half, with the great majority of patients spending less time in the hospital for a given episode of illness and with far fewer of those admitted being condemned to an endless hospital stay. Eisenberg, Psychiatric Intervention, Life and Death and Medicine, Scientific American. September, 1973, pp. 79-80.

When the Commissioner is properly joined and appears the court will consider the responsibilities of the parties as to after care. Jurisdiction is retained on this issue.

HUMAN RIGHTS COMMITTEE

The plaintiffs' application for the appointment of a Human Rights Committee to oversee the implementation of this decree is denied without prejudice to renew the application for good cause shown pending this court's retention of jurisdiction. This court does not feel that such a committee is necessary at the present time for several reasons. Judicial hearings on involuntary commitments are presently being held at the hospital three mornings a month by a county judge pursuant to Rule 4:74-7. The advisory Board for the Camden County Hospital Complex comprised of 12 members, has nine citizen members, and is most interested in conditions at the hospital. The Advisory Board is appointed by the Board of Freeholders. The interest of the Advisory Board in improving conditions at the hospital has been manifest over the years from the evidence and one of its members, Ms. Enderly, rendered testimony

for the plaintiffs in this case. The Camden County Mental Health Association has for many years worked to improve conditions at the hospital and its executive director Ms. Stallings also was called as a witness by the plaintiffs. The court is of the opinion that there is sufficient judicial and citizen involvement on a continuous basis, which coupled with the plaintiffs' legal representation, will serve to insure the rights of the patients and the implementation of this decree in the circumstances of this case. The court sees no need at this time to create a new committee.

CONCLUSION

For appellate purposes the balance of relief requested by the plaintiffs is hereby denied. It is entirely possible that one or all of the parties may wish to move on notice for amendment or supplementation of this decree during the pendency of its enforcement and any party has this privilege. The parties should prepare a consent order if possible in conformity with this decree. In any event the court will schedule a hearing on the precise wording of the decree on the 30th day of July, 1976, at 9:00 a.m. at Camden if the parties wish to be heard at that time.

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CAMDEN REGIONAL LEGAL SERVICES, INC.
Attorney for Plaintiffs
Point and Pearl Streets
Camden, New Jersey 08102
Phone: (609) 964-2010
Filing Fee Waived Per R.1:13-2
By: JOHN MATRULLO, Esquire
Of Counsel

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-CAMDEN COUNTY
DOCKET NO. L-33417-74 P.W.

"PATIENTS", et al.,

Plaintiffs,

vs.

CAMDEN COUNTY BOARD OF CHOSEN FREEHOLDERS, et al.,

Defendants.

Civil Action

ORDER AS TO JOINDER AND LEAVE TO FILE SUPPLEMENTAL COMPLAINT

This matter having been opened to the Court on June 1, 1976 pursuant to R.4:28-1 and R.4:29-1 by the class(es) of plaintiffs, John Matrullo, Esq., of counsel, and John R. Gercke, Esq., Assistant County Counsel, attorney for defendant Camden County Board of Chosen Freeholders and M. Donald Forman, Esq., attorney for Vivian Hendrickson, R.N., Superintendent, and H. Edward Yaskin, M.D., Psychiatric Director of the Camden County Psychiatric Hospital at Lakeland, appearing, and the Court having heard the arguments of counsel as to the jurisdiction of the Commissioner of Institutions and Agencies pursuant to Title 30 of the New Jersey Statutes over the Camden County Psychiatric Hospital at Lakeland

and having determined that complete relief, specifically limited to less restricitive community-based residential alternative care and after-care facilities for patients discharged from the Camden County Psychiatric Hospital, cannot be accorded among those already parties and good cause showing,

IT IS ORDERED on this 19th day of July, 1976, that Ann Klein, Commissioner of the Department of Institutions and Agencies, be joined as a necessary party as to her duty pursuant to the United States and New Jersey Constitutions and Laws of New Jersey to provide and sufficiently fund less restrictive community-based residential alternative care and after-care facilities for patients discharged from the Camden County Psychiatric Hospital;

IT IS FURTHER ORDERED that plaintiffs' request for leave to supplement their Complaint be granted;

IT IS FURTHER ORDERED that the certified copies of the Supplemental Complaint and this Order be served upon the Commissioner of the Department of Institutions and Agencies by certified mail, return receipt requested, or personally within days from the date hereof.

Michael Patrick King

MICHAEL PATRICK KING, J.S.C.

CONSENT TO THE ~~SUBSTANCE~~
~~AND~~ FORM OF THE ABOVE ORDER

JOHN YACOVELLE
COUNTY COUNSEL

Attorney for Defendant Camden County
Board of Chosen Freeholder

By: _____
JOHN G. GERCKE, ESQ.
Assistant County Counsel