

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, STATE OF FLORIDA
CIVIL DIVISION

BRYANT MIDDLETON,
WILLIAM HORNE,
ROGER KISER, and
JIMMY JACKSON, individually and
on behalf of all others similarly situated,

CASE NO.: 08-19597CI-19

Plaintiffs,

CLASS REPRESENTATION

vs.

THE FLORIDA DEPARTMENT OF
AGRICULTURE, THE FLORIDA
DEPARTMENT OF CHILDREN
& FAMILY SERVICES, THE FLORIDA
DEPARTMENT OF JUVENILE JUSTICE,
THE FLORIDA DEPARTMENT OF
CORRECTIONS, TROY TIDWELL, and
ROBERT E. CURRY,

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Defendants.

AMENDED COMPLAINT FOR DAMAGES - CLASS REPRESENTATION

Plaintiffs, BRYANT MIDDLETON, WILLIAM HORNE, and ROGER KISER, individually and on behalf of all others similarly situated, sue Defendants, the Florida Department of Agriculture, The Florida Department of Children & Family Services, The Florida Department of Juvenile Justice, Florida Department of Corrections, as successors to the Florida departments which operated Florida Reform Schools for Boys, Troy Tidwell, and Robert E. Curry, and state as follows:

NATURE OF ACTION

1. Plaintiffs were minors who were residents and citizens of various locations throughout the State of Florida during the 1940's, 1950's and 1960's who were sent to the Florida Reform Schools for Boys located in Marianna, Florida or Okeechobee, Florida.

2. This is an action for damages in excess of fifteen thousand dollars (\$15,000), exclusive of costs and interest.

3. All conditions precedent to the relief requested have occurred, been satisfied, or have been waived.

4. Defendants, The Florida Department of Agriculture, The Florida Department of Children & Family Services, the Florida Department of Juvenile Justice, and the Florida Department of Corrections, are successors to the Florida agencies charged with operation of the Florida Reform Schools for Boys operated in Marianna, Florida and Okeechobee, Florida during the 1940's, 1950's and 1960's.

5. Defendant, Troy Tidwell, was an employee of the State of Florida working at the Florida Reform School for Boys located in Marianna, Florida, at times relevant to this action.

6. Defendant, Robert E. Curry, was an employee of the State of Florida working at the Florida Reform School for Boys located in Marianna, Florida, at all times relevant to this action. Defendant Curry was the purported psychologist or psychiatrist responsible for counseling the boys, dealing with psychological issues affecting the boys, and caring for the boys' mental and psychological well-being.

7. Plaintiffs, and all others similarly situated, were minors in the custody of the State of Florida at the State Reform Schools in Marianna or Okeechobee, Florida, between the years of 1940 and 1969 and the children ranged in age from nine to seventeen years of age.

8. While housed at the Florida State Reform Schools, Plaintiffs were segregated by race into areas characterized by the personnel as the "colored" and "white" sides. In both areas, the children were housed in cottages which accommodated approximately fifty or sixty children each, grouped by age.

9. In the Reform School at Marianna, each cottage was supervised by a "cottage father" who was employed by the State of Florida and was responsible for the safety and welfare of Plaintiffs, and all others similarly situated. The "cottage father" slept upstairs in the cottages. In the Okeechobee facility, "cottage fathers" did not sleep in the cottages. Night supervision was provided by security guards who patrolled the premises.

10. The superintendent of the school at Marianna was Mr. Arthur G. Dozier, who was an employee of the State of Florida and responsible for the operation of the Reform

School for Boys at Marianna, Florida. The presently operating Florida School for Boys in Marianna, Florida, is named for Mr. Arthur G. Dozier.

11. The boys in custody at the reform schools attended classes three days per week and worked at various jobs three days per week.

12. The schooling provided for the boys in the classes was inferior and inadequate, and little attention was paid to whether the boys received an education.

13. The jobs the boys were forced to perform were often dangerous and involved operation of hazardous equipment or use of knives or other sharp objects. The boys were not paid for the physical labor which they were forced to perform, and their treatment was tantamount to slavery.

14. Plaintiffs, and other boys similarly situated, were subjected to physical and psychological abuse, at times under the guise of "discipline," which falls below all standards of civilized conduct and decency, and which would more likely be expected to occur in a torture chamber located in a concentration camp.

15. The abuses were inflicted based on false allegations by State employees, and minor infractions such as poor school performance, smoking, improper language, smiling, not smiling, and inadvertently observing improprieties by the State of Florida personnel.

16. The personnel employed by the State of Florida at the Reform Schools for Boys, including Arthur G. Dozier, Troy Tidwell, and Robert E. Curry, "disciplined" the boys in an outrageous physically and psychologically abusive manner, including, by way of example, the following:

- A) In the Marianna Reform School, boys were singled out for "discipline" and were taken to a building which was referred to as the "white house", which was a building consisting of several rooms in which vicious physical beatings, assaults, and psychological torture occurred. Similar abuses took place at the Okeechobee Reform School.
- B) Children were often awakened in the middle of the night, wearing only pajamas, and subjected to beatings during which they were required to lay face down on a cot with their faces in a pillow which was stained with blood and mucus from other boys who had been abused. The boys were ordered to hold the rails on the bed, as they were struck on the buttocks, legs and back with a

weighted leather razor strap. The number of “lashes” with the strap typically ranged from fifty to one hundred, with beatings lasting thirty minutes or more.

- C) Similar beatings and assaults took place at the Reform Schools for Boys in Marianna, Florida and Okeechobee, Florida.
- D) While waiting for their beatings, the boys could hear the blood-curdling screams from other boys being beaten, which intensified the psychological trauma associated with the “discipline”.
- E) During at least one beating, after the blood curdling screams of a boy stopped, one of the State employees was heard to state “I think he is dead” and the boys waiting in line for their beatings were discharged to return to their cottages without a beating. Plaintiffs believe that more than one child was killed by the Florida State employees by beatings or other methods of torture. Those employees were ostensibly charged with the duty to protect and provide guidance to the boys in custody.
- F) On another occasion, a child was placed in an industrial-sized clothes dryer which killed him. The body was loaded into the back seat of an automobile and apparently disposed of. The death of this boy was apparently covered up by the State, its officials and employees.
- G) Boys were at times taken to the infirmary to have small pieces of their cotton underwear extracted from their flesh with tweezers and surgical tools due to the cruel and brutal beatings they endured.
- H) On other occasions, some boys were sexually assaulted by State of Florida employees who worked at the Reform Schools for Boys.
- I) At the Reform School at Okeechobee, boys were sodomized with a “probing rod” by the Florida State employees responsible for their safety and welfare, as a method of punishment.
- J) Some of the boys who were beaten were as young as ten years of age.
- K) The Florida State personnel who administered the beatings would make monetary bets regarding which assailant could draw blood from the boys first during the beatings. The “winner” of the bets was the person who could draw blood first.

- L) On at least one occasion, an eleven year old boy was tied between two trees by Florida State employees who directed an older boy to beat and kick him in the groin so severely that as a consequence of the beating, Plaintiff's groin remains numb to this date.
- M) In the Marianna Reform School, the boys were sometimes placed in the "hole", which was an approximately eight feet by eight feet cell with no lights or windows. Light was only seen when the door was opened to provide food, which consisted of a half ration, three times a day, along with a small cup of water. There was a bunk in the "hole" with a mattress, but no sheets, and a bucket was placed in the room to be used as the "bathroom". Once a week, boys in the "hole" were sprayed down with a water hose, and boys would spend as many as thirty days in the "hole" following beatings, presumably to cover up the severe nature of those beatings. The Reform School at Okeechobee also had a solitary confinement facility, with similar abuses taking place as outlined above.
- N) Solitary confinement was apparently utilized to hide the most severely beaten boys to conceal evidence of the abuse. Subsequent to the most severe beatings, boys were prevented from seeing visitors for a significant period of time as a method of preventing the evidence of the beatings from being observed.
- O) Mr. Arthur G. Dozier, the superintendent of the reform school in Marianna, supervised and participated in the beatings of the boys on a regular basis, as did Defendant, Troy Tidwell.
- P) Beatings of the boys occurred in similar fashion at both of the reform schools located in Marianna and Okeechobee, Florida, and were a standard accepted practice and procedure for administering discipline at the schools.
- Q) On occasions, the boys were removed from their beds at night and sexually assaulted and abused by State of Florida employees for their amusement and entertainment.
- R) Defendant Curry sexually molested members of the class through inappropriate sexual touching and sexually connotated conversations constituting physical, sexual and mental abuse.

- S) As the purported psychologist for the Reform School located in Marianna, Florida, Defendant Curry was charged with the obligation to oversee the psychological and mental well-being of members of the class, and to otherwise protect and counsel members of the class. Instead, Defendant Curry sexually molested and abused members of the class physically and psychologically.
- T) Defendants Curry and Tidwell were charged with the obligation to protect Plaintiffs and members of the class and to report to appropriate authorities criminal and/or abusive activities involving boys living at the Reform School located in Marianna, Florida. Rather than report the atrocities as aforesaid, Defendants Tidwell and Curry participated in the physical, sexual, and mental abuses and assaults and failed and refused to report the physical and psychological molestation and abuse.

17. As a direct and proximate result of the wrongful and unlawful actions, both negligent and intentional, of Defendants, Plaintiffs and others of the class suffered injuries, have suffered and continue to suffer damages, including without limitation physical injuries, severe emotional distress, anguish, suffering, humiliation, post-traumatic stress disorder, scarring, causing special damages, consequential damages, and incidental damages including lost wages.

CLASS REPRESENTATION ALLEGATIONS

18. Plaintiffs bring this action as a class action pursuant Rule 1.220, *Fla.R.Civ.P.*, and on behalf of a class consisting of all persons who were in the custody of the Florida State Reform Schools during the years of their operation, and who were subjected to physical beatings, physical and mental abuse, sexual assaults, sodomy, lack of medical care and attention, and lack of schooling.

19. In accordance with Rules 1.220(c)(2)(A) and 1.220(b)(3), *Fla.R.Civ.P.*, the questions of law and fact are common to the claims of the representative parties and the claims of each member of the class predominate over any question of law or fact affecting only individual members of the class, and class representation is superior to other available methods for the fair and efficient adjudication of the controversy.

20. In accordance with Rule 1.220(c)(2)(B), *Fla.R.Civ.P.*, there are many questions of fact and law in common to the class, including but not limited to:

- i) questions of fact regarding the circumstances, extent, practice, customs, policy and procedure with regard to the physical beatings, physical and mental abuse,

sexual assaults, sodomy, lack of medical care and attention, lack of schooling, and forced labor subjected upon Plaintiffs and others similarly situated and determination of destruction of and changing of records relating to Plaintiffs, and others similarly situated, and the Florida Reform Schools; and

- ii) questions of law with regard to actions, practices and procedures beyond proper discipline and administration, determination of negligence and intentionally torturous conduct, indifference to the health and safety of Plaintiffs and others similarly situated, and determination of the existence of cruel and unusual punishment, equal protection violations, and involuntary servitude as defined by the Florida Constitution.

21. In accordance with Rule 1.220(c)(2)(C), *Fla.R.Civ.P.*, Plaintiffs' claims are typical of those of the class they seek to represent. Upon information and belief, many, if not most of the children placed in the custody of the Florida State Reform Schools during the years between the 1940s through 1969 were subjected to similar beatings, abuse, sexual assaults, lack of medical care and attention, and lack of schooling, as were Plaintiffs, as more fully described in paragraphs 13 through 17 above.

22. In accordance with Rule 1.220(c)(2)(D), *Fla.R.Civ.P.*, the class is so numerous that joinder of all its members is impracticable. Plaintiffs believe there are hundreds, if not thousands, of class members so similarly situated, the alleged class is defined as all children in the custody of the Florida State Reform Schools during the 1940s through 1960 who were beaten, abused, assaulted and enslaved, and Plaintiffs will fairly and adequately protect and represent the interests of each member of the class in that the Plaintiffs' interests are consistent with and not antagonistic to the interests of the class. Information regarding the exact number of class members is in the possession of Defendants, which information is sought by this suit.

23. In accordance with Rules 1.220(c)(2)(E) and 1.220(b)(3), *Fla.R.Civ.P.*, the questions of law and fact common to the claims of the Plaintiffs and the claims of each member of the class predominate over any question of law or fact affecting only individual members of the class, and class representation is superior to other available methods for the fair and equitable adjudication of the controversy between the parties. Plaintiffs are informed and believe that the interests of members of the class in individually controlling the prosecution of a separate action is low, no known litigation concerning the controversy has already begun by any class members, it would be desirable to concentrate the claims in one forum, and it is unlikely there will be difficulties in managing the class action.

24. Plaintiffs do not know the identity of all the class members. Plaintiffs believe that the identities of the class members may be ascertained from records maintained by Defendants.

25. In accordance with Rule 1.220(d), *Fla.R.Civ.P.*, notice will be provided to all class members.

26. Plaintiffs demand access to all records maintained by any agency or department of the State of Florida relating to the Florida Reform Schools operated at Marianna and Okeechobee, Florida, including but not limited to the names of all personnel who worked at the schools, the names of all former residents at the schools, written procedures and protocols relating to discipline of residents, and medical records for all residents of the schools during the 1940's, 1950's and 1960's, including any who died while in custody of the schools.

COUNT I
(VIOLATION OF SECTION 8 OF THE DECLARATION OF RIGHTS
OF THE FLORIDA CONSTITUTION (1885))

27. Plaintiffs reallege paragraphs 1 through 26 as if fully stated herein.

28. Section Four of the Declaration of Rights of the Florida Constitution (1885), provides "All courts in the State shall be open, so that every person for any injury done him in his lands, goods, person, or reputation shall have remedy, by due course of law, and rights and justice shall be administered without sale, denial or delay." (Currently Article I, Section 21 of the Florida Constitution (1968)).

29. Section Eight of the Declaration of Rights of the Florida Constitution (1885) prohibits "cruel or unusual punishment". (Currently Article 1, Section 17 of the Florida Constitution (1968)).

30. The actions, inaction, policies, practices, customs and procedures of Defendants, as alleged above, both directly and indirectly, amounted to cruel and unusual punishment in violation of Section Eight of the Declaration of Rights of the Florida Constitution (1885).

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of members of the class represented herein, respectfully demand judgment against Defendants for all damages allowed under Florida law, plus costs and interest, and for such other and further relief as the Court deems just and proper.

COUNT II
(VIOLATION OF SECTION ONE OF THE DECLARATION OF RIGHTS
OF THE FLORIDA CONSTITUTION (1885))

31. Plaintiffs reallege paragraphs 1 through 30 as if fully stated herein.

32. Section Four of the Declaration of Rights of the Florida Constitution (1885), provides "All courts in the State shall be open, so that every person for any injury done him in his lands, goods, person, or reputation shall have remedy, by due course of law, and rights and justice shall be administered without sale, denial or delay." (Currently Article I, Section 2 of the Florida Constitution (1968)).

33. Section One of the Declaration of Rights of the Florida Constitution (1885) provides "All men are equal before the law, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing happiness and obtaining safety." (Currently Article 1, Section 2 of the Florida Constitution (1968)).

34. The actions, inaction, policies, practices, customs and procedures of Defendants, as alleged above, both directly and indirectly, were unequally applied for the purpose of discriminating and amounted to violations of Section One of the Declaration of Rights of the Florida Constitution (1885).

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of members of the class represented herein, respectfully demand judgment against Defendants for all damages allowed under Florida law, plus costs and interest, and for such other and further relief as the Court deems just and proper.

COUNT III
(VIOLATION OF SECTION NINETEEN OF THE DECLARATION OF RIGHTS
OF THE FLORIDA CONSTITUTION (1885))

35. Plaintiffs reallege paragraphs 1 through 34 as if fully stated herein.

36. Section Four of the Declaration of Rights of the Florida Constitution (1885), provides "All courts in the State shall be open, so that every person for any injury done him in his lands, goods, person, or reputation shall have remedy, by due course of law, and rights and justice shall be administered without sale, denial or delay." (Currently Article I, Section 21 of the Florida Constitution (1968)).

37. Section Nineteen of the Declaration of Rights of the Florida Constitution (1885) prohibits slavery and involuntary servitude, except as a punishment for crime, whereof the party has been duly convicted.

38. The actions, inaction, policies, practices, customs and procedures of Defendants, as alleged above, both directly and indirectly, amounted to violations of Section Nineteen of the Declaration of Rights of the Florida Constitution (1885).

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of members of the class represented herein, respectfully demand judgment against Defendants for all damages allowed under Florida law, plus costs and interest, and for such other and further relief as the Court deems just and proper.

COUNT IV
(ASSAULT AND BATTERY AGAINST TROY TIDWELL)

39. Plaintiffs reallege paragraphs 1 through 38 as if fully stated herein.

40. Defendant, Troy Tidwell, personally and individually, participated in the beatings as aforesaid, causing harm to Plaintiffs and other members of the class, with the intent to cause such contact or the apprehension of contact was imminent.

41. As a direct and proximate result of the wrongful and unlawful actions of Defendant, Troy Tidwell, Plaintiffs and other members of the class were injured, have suffered and continue to suffer damages, including but not limited to physical injuries, severe emotional distress, anguish, suffering, humiliation, post-traumatic stress disorder, and other incidental, consequential, and special damages.

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of the members of the class represented herein, respectfully demands judgment against Defendant Tidwell for compensatory damages, special damages, consequential damages and incidental damages, in an amount to be determined at the trial of this cause, and for such other and further relief as the Court deems just and proper.

COUNT V
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST
TROY TIDWELL)

42. Plaintiffs reallege paragraphs 1 through 41 as if fully stated herein.

43. Defendant, Troy Tidwell, personally and individually, participated in conduct as aforesaid that was intentional and/or reckless, and he intended his behavior and knew or should have known that emotional distress would likely result.

44. Defendant Troy Tidwell's individual conduct was outrageous, as to go beyond all bounds of decency, and to be regarded as odious and utterly intolerable in a civilized society.

45. As a direct and proximate result of the wrongful and unlawful actions of Defendant Troy Tidwell, Plaintiffs and other members of the class were injured, have suffered and continue to suffer damages, including but not limited to physical injuries, severe emotional distress, anguish, suffering, humiliation, post-traumatic stress disorder, and other incidental, consequential, and special damages.

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of the members of the class represented herein, respectfully demands judgment against Defendant Troy Tidwell for compensatory damages, special damages, consequential damages and incidental damages, in an amount to be determined at the trial of this cause, and for such other and further relief as the Court deems just and proper.

COUNT VI

(ASSAULT AND BATTERY AGAINST ROBERT E. CURRY)

46. Plaintiffs reallege paragraphs 1 through 45 as if fully stated herein.

47. Defendant, Robert E. Curry, personally and individually, participated in the sexual molestation and sexual assaults on Plaintiffs and other members of the class as aforesaid, with the intent to cause such contact or the apprehension of contact, or that the apprehension of contact was imminent.

48. As a direct and proximate result of the wrongful and unlawful actions of Defendant, Robert E. Curry, Plaintiffs and other members of the class were injured, have suffered and continue to suffer damages, including but not limited to physical injuries, severe emotional distress, anguish, suffering, humiliation, post-traumatic stress disorder, and other incidental, consequential, and special damages.

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of the members of the class represented herein, respectfully demands judgment against Defendant Curry for compensatory damages, special damages, consequential damages and incidental damages,

in an amount to be determined at the trial of this cause, and for such other and further relief as the Court deems just and proper.

COUNT VII
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST
ROBERT E. CURRY)

49. Plaintiffs reallege paragraphs 1 through 48 as if fully stated herein.

50. Defendant, Robert E. Curry, personally and individually, participated in conduct as aforesaid that was intentional and/or reckless, and he intended his behavior and knew or should have known that emotional distress would likely result.

51. Defendant Robert E. Curry's individual conduct was outrageous, as to go beyond all bounds of decency, and to be regarded as odious and utterly intolerable in a civilized society.

52. As a direct and proximate result of the wrongful and unlawful actions of Defendant Robert E. Curry, Plaintiffs and other members of the class were injured, have suffered and continue to suffer damages, including but not limited to physical injuries, severe emotional distress, anguish, suffering, humiliation, post-traumatic stress disorder, and other incidental, consequential, and special damages.

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of the members of the class represented herein, respectfully demands judgment against Defendant Robert E. Curry for compensatory damages, special damages, consequential damages and incidental damages, in an amount to be determined at the trial of this cause, and for such other and further relief as the Court deems just and proper.

COUNT VIII
(EQUITABLE ESTOPPEL BARS DEFENDANTS' DEFENSES)

53. Plaintiffs reallege paragraphs 1 through 52 as if fully stated herein.

54. Defendants are equitably estopped from asserting defenses, including the statute of limitations, because of their odious and ignominious conduct as previously alleged, as well as the following conduct:

- A) Defendants actively concealed facts concerning the aforesaid abuses and have apparently destroyed or altered records relating to injuries suffered by the Plaintiffs including, but not limited to, deaths of boys;
- B) Defendants threatened the Plaintiffs with physical harm to include death if they ever spoke of the beatings, assaults, and other abuses previously alleged;
- C) Plaintiffs or some members of the class on whose behalf Plaintiffs bring this suit had repressed memories regarding the abuse and torture to which they were subjected.
- D) Defendants' concealment and/or destruction and altering of records has prevented Plaintiffs from obtaining vital information bearing on their claims, including burial places of boys that were killed, medical records of boys who were beaten and abused, and other records relating to the aforesaid conduct by Defendants;
- E) Defendants' concealment and/or destruction and altering of records relating to Defendant Robert Curry has prevented Plaintiffs from obtaining vital information bearing on their claims, and the claims of other members of the class, including records relating to the aforesaid conduct by Defendant Curry.
- E) The sexual assaults and physical and mental abuses on boys, which conduct falls below all standards of civilized conduct and decency, and violates all standards of civilized conduct;
- F) Defendants' failure to report the aforesaid conduct, including sexual assaults and brutal, violent beatings of boys as young as ten years of age, all of which should have been reported to appropriate authorities;
- G) Defendants should not be permitted to profit from their own horrendous and despicable misconduct by asserting the statute of limitations.

55. Defendants should be equitably estopped from asserting the statute of limitations for the reasons stated.

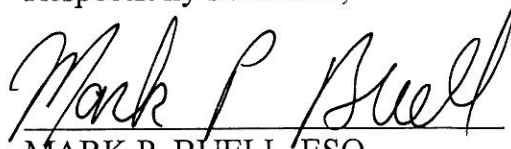
WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of members of the class represented herein, respectfully demand judgment against Defendants and further request this Court to equitably estop Defendants from asserting the statute of limitations or

any similar defense, and demand damages and such other and further relief as this Courts deems just and proper.

JURY TRIAL REQUEST

Plaintiffs, by and through their counsel, and on their behalf and on behalf of all members of the class represented herein, demand trial by jury with regard to all issues in the above-referenced cause.

Respectfully submitted,




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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Amended Complaint was furnished by U.S. Mail to: Secretary of Agriculture, Florida Department of Agriculture, PL 10, The Capitol, Tallahassee, Florida, 32399; Secretary, c/o General Counsel, Florida Department of Children & Family Services, 1323 Winewood Blvd., Tallahassee, Florida, 32399; Secretary of Juvenile Justice, Florida Department of Juvenile Justice, 2737 Centerview Drive, Room 1226, Tallahassee, Florida, 32399; and Secretary of Corrections, c/o General Counsel, Florida Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida, 32399, this 7th day of January, 2009.



Attorney