

U.S. DISTRICT COURT
D.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

KATIE RELF, individually, and)
on behalf of all persons)
similarly situated;)
P.O. Box 2087)
Montgomery, Alabama 36103)

MINNIE RELF, individually, and)
on behalf of all persons)
similarly situated; and)
P.O. Box 2087)
Montgomery, Alabama 36103)

MARY ALICE RELF, individually)
and on behalf of all persons)
similarly situated; each by)
and through their father and)
next friend, Lonnie Relf.)
P.O. Box 2087)
Montgomery, Alabama 36103)

Plaintiffs)

vs.)

CASPAR WEINBERGER, individually)
and as Secretary of the)
Department of Health, Education,)
and Welfare, his agents,)
successors, and assigns;)
400 Maryland Avenue, S.W.)
Washington, D.C.)

ALVIN J. ARNETT, individually)
and as Acting Director of the)
Office of Economic Opportunity,)
his agents, successors, and)
assigns;)
1200 19th Street, N.W.)
Washington, D.C.)

Defendants.)

GESELL, J.

FILED JUL 31 1973
JAMES F. DAVY
CLERK

1557-73

CIVIL ACTION
NO.

1557-73

CLASS ACTION

JOSEPH J. LEVIN, JR.
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119 S. McDonough Street
Montgomery, Alabama

Fredrick D. Palmer
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Washington, D. C. 20006

C O M P L A I N T

I. JURISDICTION

Plaintiffs' claims arise under the First, Fifth, and Ninth, Amendments to the United States Constitution. Jurisdiction is claimed under 28 U.S.C. §1331. The matter in controversy exceeds Ten Thousand Dollars (\$10,000), exclusive of interest and costs.

II. CLASS ACTIONS

A. Birth Control Measures

Plaintiffs Katie, Minnie Lee, and Mary Alice Relf bring this action on behalf of themselves and all persons in the United States similarly situated.

More specifically, plaintiffs seek to represent those (poor persons) who, either because of minority or some other disability are unable knowingly and intelligently to understand the consequences of being administered birth control measures, and who have in the past or may be in the future subjected to birth control measures under the auspices of family planning services or other social welfare agencies funded or in any way supported or directed by the Office of Economic Opportunity (O.E.O.) or the Department of Health, Education and Welfare (H.E.W.)

The prerequisites of Rule 23, FRCP, have been satisfied. There are common questions of law and fact affecting the rights of such persons to be free from being subjected, without adequate safeguards, to the unknowing effects of birth control measures. Such measures have been imposed upon class members by the agents of Defendants Weinberger and Arnett at the direction of said defendants, their predecessors in office and their agents, servants and employees.

The members of plaintiffs' class are so numerous as to make it impracticable to bring them all before this Court. The claims of plaintiffs are typical of claims of the class, as is the relief requested against the defendants, and the plaintiffs will fairly and adequately represent the claims of the class.

Furthermore the defendants have acted on grounds applicable to the class as a whole; therefore, classwide relief is proper.

The very subject matter and nature of this case - administration of birth control measures to minors and persons incapable of knowledgeable consent to the use of these measures - require a speedy and firm adjudication of all issues as opposed to potential piecemeal litigation of the issues in a wide variety of forums. Moreover, given the very delicate nature of the issues it is quite probable that many plaintiffs would not step forward to vindicate their rights in their own individual suits.

B. Experimental Drugs

Plaintiffs Katie, Minnie Lee, and Mary Alice Relf bring this aspect of their action on behalf of themselves and all persons in the United States similarly situated.

More specifically, plaintiffs seek to represent those poor persons who are beneficiaries of O.E.O. and H.E.W. programs and who are now or may be in the future subjected to experimental drugs by such programs. Experimental drugs may be defined as those drugs whose medical and psychological effects on humans are either totally unknown or unknown to such a degree that their use has a potential for harm.

The prerequisites of Rule 23, FRCP, have been satisfied. There are common questions of law and fact affecting the rights of such persons to be free from being subjected to the danger of such drugs, the danger having been imposed on the class of poor people (O.E.O. and H.E.W. poverty program beneficiaries) by defendants Weinberger and Arnett and their agents.

The members of plaintiffs' class are so numerous as to make it impracticable to bring them all before this Court. The claims of plaintiffs are typical of claims of the class, as is the relief requested against the defendants, and the plaintiffs will adequately represent the interests of the members of the class.

Furthermore the defendants have acted on grounds applicable to the class as a whole; therefore, class-wide relief is proper.

As was true of the issues as to Class A above, the very subject matter and nature of this claim - administration of experimental drugs to poor persons - require a speedy and firm adjudication of all issues as opposed

to potential piecemeal litigation of the issues in a wide variety of forums. Moreover, given the economic status of the class members and their dependency upon governmental benefit programs, it is quite probable that many plaintiffs would not step forward to vindicate their rights in their own individual suits.

As to cause of action V.C., infra, a sub-class of poor black persons may be created if it is demonstrated that the vast majority of persons, who have been subjected to experimental drugs under the guidance and direction of H.E.W. and O.E.O. services, are black persons.

III. Parties

A. Plaintiffs:

1. KATIE RELF is 17 years of age, a United States citizen, a resident of the Smiley Court public housing project in Montgomery, Alabama, and a black person.

2. MINNIE LEE RELF is 14 years of age, a United States citizen, a resident of Smiley Court, Montgomery, Alabama, and a black person.

3. MARY ALICE RELF is 12 years of age, a United States citizen, a resident of Smiley Court, Montgomery, Alabama, and a black person.

4. LONNIE RELF is over the age of 21 years, a United States citizen, a resident of Smiley Court, Montgomery, Alabama, and a black person. Mr. Relf is the father of Mary Alice, Minnie Lee, and Katie Relf.

B. Defendants:

1. CASPAR WEINBERGER is the Secretary of the Department of Health, Education and Welfare. As such he has the ultimate responsibility and authority for all activities of H.E.W. H.E.W. has, as one of its areas of responsibility, overall authority in directing health affairs for the United States Government.

2. ALVIN J. ARNETT is the Acting Director of the Office of Economic Opportunity. As such he has the ultimate responsibility and authority for all activities of O.E.O. It has ultimate federal responsibility for the funding and support of O.E.O. Community Action Agencies, and the Family Planning Services established under said agencies.

3. Each of the defendants named hereinabove is sued not only in his official capacity, but also in his individual capacity as more fully set out infra.

Further, plaintiffs add as party defendants the agents,
servants, and assigns of the above named defendants.

IV. FACTS

1. On June 14, 1973, Mary Alice Relf, age 12, and Minnie Relf, age 14, were surgically sterilized in a Montgomery, Alabama, hospital.

2. These tubal sterilizations took place under the direction of the Family Planning Clinic of the Montgomery Community Action Committee, a project funded and controlled by O.E.O. through the actions of defendant Arnett and his predecessors in office.

3. In addition to Minnie and Mary Alice, the Relfs have one other daughter, Katie, who is 17 years of age. When Community Action moved the Relfs to a public housing project in 1971, the Family Planning Service began the unsolicited administration of experimental birth control injections to Katie. No parental permission was sought or given. Indeed, the agency sought out the Relf children as good experimental subjects for their family planning program. The F.D.A. approved this experimental drug for use by the Family Planning Service of the Montgomery Community Action Committee.

4. At a later date, the clinic began the unsolicited administration of the same shots to the two younger Relf girls.

5. In March, 1973, Katie Relf was taken to the Family Planning Clinic for insertion of an "I.U.D." (a contraceptive "intra-uterine device"). Once again, her parents were not asked if they had any objection. Katie, who was under the age of consent, submitted to the directions of the clinic staff that she accept implantation of the device.

6. On June 13, 1973, a family planning nurse from O.E.O.'s Montgomery Community Action Committee picked up Mrs. Relf and the younger girls and transported them to a doctor's office. Mrs. Relf was told

the girls were being taken for some shots. She thought the shots were the same as those all three children had been receiving for some time.

7. Neither Mrs. Relf nor the girls spoke with anyone at the doctor's office. From the doctor's office the children and their mother were transported to the hospital where the girls were assigned a room.

8. It was at this time that Mrs. Relf, who neither reads nor writes, put her mark on what was later learned to be an authorization for surgical sterilization. There was no informed consent to the surgery by Mrs. Relf. Mrs. Relf was then escorted home.

9. Minnie and Mary Alice were left by themselves in a ward. A nurse required Minnie to sign a false document stating that she was over twenty-one years old and gave consent to the operation. Minnie did not understand what the document meant or authorized. So far, neither child had even seen the physician who was to perform the operation nor had either child been explained what was going to happen to her.

10. Sometime prior to the operation, Minnie got out of bed, borrowed some change from another patient in the ward, and telephoned a neighbor's house to speak with her mother. (The Relfs do not have a telephone.) Minnie asked her mother to bring her sister and her home, but her mother had to tell her that she had no transportation to get the girls from the hospital.

11. It was the next morning that both children were placed under a general anesthetic and surgically sterilized. At no point prior to the operation did the children or their mother see or talk with the doctor who performed the operation or any other physician. At no time prior to the operation did any

physician discuss with the girls or their parents the nature or consequences of the surgery to which Minnie and Mary Alice were about to be subjected. The girls were released from the hospital after three days.

12. On the afternoon of the day Minnie and Mary Alice were taken to the hospital, the same O.E.O. family planning nurse returned to the Relf home and attempted to take Katie to the hospital to undergo sterilization. Katie locked herself in her room and refused to go.

13. Community Action Programs (CAP) were initiated pursuant to a 1964 Act of Congress, 42 U.S.C. §§ 2781-2837. Each local agency functions in general as does every other CAP unit throughout the United States following directives and guidelines originating with the Office of Economic Opportunity. All of the local programs owe their existence wholly to the Congressional legislation establishing them, and which provides for their funding by the government. See 42 U.S.C. § 2808. The Act also provides for the establishment of a comprehensive health services program to provide, among other services, a family planning project. 42 U.S.C. § 2809 (a) (4) (A) (i).

14. CAP's beneficiaries are intended to be the economically deprived persons of the community and the Act's avowed purpose is

to stimulate a better focusing of all available local, state, private and federal resources upon the goal of enabling low-income families, and low-income individuals of all ages . . . to attain the skills, knowledge and motivations and secure the opportunities needed for them to become fully self-sufficient.

42 U.S.C. § 2781(a).

15. Funding for the activities of the Montgomery Family Planning Clinic (a subdivision of the Montgomery Community Action Committee) in dealing with the Relf family came from the O.E.O. under the control of defendant Arnett. However, a new proposal has been approved by H.E.W. under the direction of defendant Weinberger which will begin in the very near future, to fund all activities of the Montgomery Family Planning Clinic. This proposal shows sterilization as a specific budget item.

16. Prior to May 18, 1971, sterilization was a forbidden surgical procedure in any project receiving O.E.O. funds. However, on that date, an amendment to CA Memo 37-A was filed by Wesley L. Hjernevik, Deputy Director of the Office of Economic Opportunity (O.E.O.). That amendment permitted the use of grant funds for surgical procedures intended to result in sterilization. (Exhibit A).

17. Dr. George Contis, then Director of the Family Planning Program, Office of Health Affairs, O.E.O., on June 28, 1971, caused to be distributed to all O.E.O. Community Action Agencies a memorandum advising each local director that

. . . we are developing a set of guidelines and clinical standards for the provision of sterilization services to O.E.O. patients which will incorporate the necessary safeguards. Please do not begin providing sterilization services until you receive these guidelines. (Exhibit B).

The same memorandum noted that more than 80% of the projects (family planning programs) wished to provide sterilization services.

18. On November 5, 1971, a memorandum from Contis stated that there would be a delay in furnishing

the sterilization guidelines. No request not to sterilize was included. (Exhibit C).

19. The guidelines were prepared by Warren M. Hern, M.D., Chief, Program Development and Evaluation Branch, Family Planning Division, O.E.O. The text of the guidelines was completed by January 10, 1972, and a memorandum was prepared by Mr. Hjernevik to accompany the guidelines (Exhibit D). The guidelines themselves are replete with references to the sterilization operation being a procedure to be employed only with the informed, written consent of the patient; it was to be an intelligent, knowing decision. The guidelines make abundantly clear that the individual affected must give knowing, intelligent approval in order to be subjected to the sterilization process.

20. Twenty-five thousand (25,000) copies of the sterilization guidelines were printed and stored in a warehouse in Washington, D. C., in February, 1972. Dr. Hern began to try to determine why the guidelines had not yet been distributed to the Community Action Agencies. An example of Dr. Hern's efforts may be noted in a memorandum addressed to Dr. Leon Cooper, Director, Office of Health Affairs, O.E.O., on March 30, 1972. In that memorandum (Exhibit E) Dr. Hern warned,

Thus, the delay in the issuance of the guidelines places the agency in a potentially dangerous situation: our CAP's are legally permitted to provide a sensitive service and apparently are doing so; yet the guidelines to ensure that this service is properly administered and supervised are withheld.

21. Dr. Hern also attached 35 letters from O.E.O. funded family planning projects inquiring about distribution of the guidelines. As an example, plaintiffs attach hereto (Exhibit F).

22. Dr. Cooper, responding to this memorandum and other inquiries by Dr. Hern, sent a confidential undated memo to Hern which was received on May 2, 1972 (Exhibit G). This memo warned Hern that further discussion by Hern of the guidelines might lead to disciplinary action.

23. Hern responded by memorandum on May 8, 1972, in which he once again expressed his concern about the suppression of the sterilization guidelines (Exhibit H). Copies of this correspondence and that of March 30, 1972, were directed to Contis, Hjernevik and Phillip Sanchez, then Director of O.E.O.

24. In June, 1972, Dr. Hern resigned his office due to his inability to cause his superiors to distribute the sterilization guidelines (Exhibit I).

25. Plaintiffs are informed and believe that a large number of O.E.O. Family Planning Clinics are being and have been shifted to the control of defendant Weinberger. Plaintiffs further believe that there are hundreds of federally funded family planning services which offer sterilization and other birth control measures as a part of the full family planning service. In 1971 there were approximately 500 O.E.O. Community Action Agencies offering family planning services. Of those 500, 80% desired to perform sterilization (Exhibit B).

26. Further, Dr. Louis Hellman, Deputy Assistant Secretary for Population Affairs, H.E.W., in testifying before the Senate Subcommittee on Health, July 10, 1973, stated that the National Reporting System showed 24,714 sterilizations in 1972, of which 16,037 were performed on women. These figures were drawn from H.E.W., O.E.O. and private sector patients. Clearly, there is an immense amount of sterilization going on.

27. As of this date defendants Weinberger and Arnett have failed to promulgate constitutionally acceptable guidelines by which federally funded and directed agencies can determine who should or should not be sterilized. Further, there are no constitutionally acceptable guidelines to determine what persons are capable of giving knowledgeable, informed consent to the administration upon them of any birth control measures. Thus, minors and others who are unable, for whatever reason, to understand the consequences and effect of birth control measures administered to them, are left unprotected.

28. Plaintiffs are also informed and believe that O.E.O. - and H.E.W. - funded and controlled services have and are presently administering experimental drugs to low-income persons who are purported beneficiaries of a variety of said services. Experimental drugs (termed "investigational drugs" by the F.D.A.) may be defined as those drugs whose medical and psychological effects on humans are either totally unknown or unknown to such a degree that their use has a potential for harm. Such a drug was Depo-provera, the drug administered to the Relf children in order to prevent pregnancy.

29. The F.D.A. permits the use of investigational drugs by persons interested in bona fide application of such drugs as medical treatment. The user must certify that he will secure the "informed consent" of the drug recipient.

30. Defendants Weinberger and Arnett have provided no guidelines or regulations or any control system of any kind to insure that their agents in local family planning units will obey the certification requirements set out in paragraph 29. Having allowed experimental drugs to be used by their agents, defendants

Weinberger and Arnett have incurred the duty to ensure that the drugs are administered according to law.

31. By permitting investigational drugs to be used on a massive scale by poverty projects under O.E.O. and H.E.W., the defendants caused the drugs to be used experimentally upon poor persons as a class.

V. BASES UPON WHICH RELIEF
SHOULD BE GRANTED

All of the foregoing allegations are reincorporated into the following causes of action and made a part of each.

A. COUNT ONE: RIGHT TO PRIVACY AND PROCREATE INFRINGED

21 1. The right to privacy and the right to procreate are fundamental rights of constitutional magnitude which the government may infringe only upon a showing of a compelling interest. Roe v. Wade, _____ U.S. _____, 41 U.S.L.W. 4213 (U.S. 1973); Griswold v. Connecticut, 381 U.S. 479, 486 (1965); Skinner v. Oklahoma, 316 U.S. 535 (1942). The right is closely tied to the fundamental right to create a family unit through marriage, to choose privately and personally when and whether to have children, and to raise and educate the offspring of the union. Loving v. Virginia, 388 U.S. 1 (1967); Eisenstadt v. Baird, 405 U.S. 438 (1972); Pierce v. Society of Sisters, 268 U.S. 510 (1922); Myer v. Nebraska, 262 U.S. 390 (1923).

2. Defendants Weinberger and Arnett have used federal funds and the powers devolved upon them to bring about the use of birth control measures, including sterilization, on the plaintiffs (in the case of O.E.O.) and the class they represent (in the case of O.E.O. and H.E.W.). For such an infringement no compelling governmental interest can be shown to exist.

3. Defendants Arnett and Weinberger and their predecessors in office have acted to deny plaintiffs and the class they represent the right to procreate by failing to establish any guidelines for birth control programs conducted with federal funds, under federal auspices or by failing to distribute such guidelines once formulated.

B. COUNT TWO: DENIAL OF DUE PROCESS

1. The fundamental rights mentioned in paragraph one are irreparably infringed when a surgical operation is undertaken which is intended to sterilize the "beneficiary" permanently, especially when the "beneficiary" is a minor or one incapable of an intelligent, knowledgeable decision who has not been or cannot be given an opportunity to decide such a fundamental issue.

2. Upon information and belief, neither the relevant federal regulations nor any O.E.O. directives provide any hearing procedure or alternative safeguard which would ensure that family planning agencies operating with federal funds or under federal authority will not abuse the determination as to who should or should not be sterilized and as to who should or should not be subjected to birth control measures of whatever description.

3. Furthermore, upon information and belief, no hearing or similar safeguard exists to determine whether a guardian's consent is valid or informed when a minor or one incapable of intelligent consent is taken to be administered birth control measures under the auspices of said federally supported family planning programs.

4. The infliction of any birth control measure without proper safeguards denies the plaintiffs' fifth amendment guarantee that life and liberty may not be infringed without due process of law.

5. The failure of defendants Weinberger and Arnett and their predecessors in office to place sufficient safeguards upon the birth control programs which they have set in motion, has denied the plaintiffs' the right to procreate.

C. COUNT THREE: DENIAL OF EQUAL PROTECTION - DRUG
EXPERIMENTATION

1. Each of the named plaintiffs was subjected to experimental birth control injections. Plaintiffs are informed and believe that the drug involved in these injections is known by the name, Depo-provera. This drug was highly experimental and the long range effects of the drug on humans were and remain totally unknown.

2. Upon information and belief, plaintiffs allege that defendant Arnett and his predecessors in office at O.E.O. caused the named plaintiffs and the class they represent to be subjected to said injections as part of an experiment to determine the effect of the drug, Depo-provera, on human beings.

3. Plaintiffs have been informed and believe that defendant Weinberger and his predecessors in office at H.E.W. caused members of plaintiffs' class to be subjected to said injections as part of an experiment to determine the effects of the drug, Depo-provera, on human beings.

4. The named plaintiffs contend that no one ever explained to them or either of their parents the nature of Depo-provera or the fact that it was an untested, experimental drug.

5. Upon information and belief, plaintiffs allege that defendants Arnett and Weinberger, their predecessors in office and the agents, servants or employees of each have in the past and continue presently to cause to be administered to a class of poor people who are recipients of H.E.W. and O.E.O. funded or supported services, experimental drugs, the physical and psychological effects of which are unknown to either the class or poor persons or the defendants.

6. In carrying out the federal government's policies regarding use of experimental drugs on poor people defendants Weinberger and Arnett and their predecessors in office have denied poor persons the protection of equal laws which is inherent in the Fifth Amendment to the United States Constitution.

7. Plaintiffs do not object to novel and useful drugs being given to poor persons, including plaintiffs, as a class. However, plaintiffs believe and contend that, in the context of a failure by H.E.W. and O.E.O. projects to obtain informed consents from the recipient, such poor recipients are being subjected to discriminatory invasion of their rights.

D. COUNT FOUR: DENIAL OF DUE PROCESS -
DRUG EXPERIMENTATION

1. The allegations of C. 1 - 5, supra, are hereby incorporated as if set out in full herein.

2. Defendants Arnett and Weinberger, their predecessors in office and their agents, servants and employees, have set into motion programs and services through funding and support, which have participated in having administered to low-income persons a variety of experimental drugs. The failure of said defendants to establish constitutionally acceptable guidelines for the use of these drugs and their failure concurrently to monitor and control said programs and services to insure informed consent to the administration of said drugs is a violation of the due process clause of the Fifth Amendment to the United States Constitution.

3. Plaintiffs allege that the action and inaction of the defendants as described above resulted in the use on the named plaintiffs and members of the class, without their informed consent, of the drug, Depo-provera.

And plaintiffs further contend that the use of experimental drugs by defendants on plaintiffs presently continues in the manner described in violation of the due process clause.

RELIEF

A. BIRTH CONTROL MEASURES

1. Plaintiffs ask the following as preliminary relief

(a) that the Court enjoin the defendants from disbursing funds which are used for funding or support of sterilization operations on members of plaintiffs' class until such time as the Court has had an opportunity either to establish constitutionally adequate standards for the administration of such operations or until the Court has had an opportunity to determine the constitutionality of ^{the regulations} ~~whatever~~ standards may be promulgated by the defendants on behalf of H.E.W. and O.E.O.

(b) that the Court require the defendants Weinberger and Arnett immediately to issue directives to any family planning service or welfare agency receiving H.E.W. or O.E.O. funding or support, which directives shall order an immediate cessation of sterilizations until such time as the Court has had an opportunity either to establish constitutionally adequate standards for sterilization or the Court has had an opportunity to determine the constitutionality of whatever standards may be promulgated by the defendants.

(c) that the Court enjoin the defendants from disbursing funds which are used for funding or support of the administration to members of plaintiffs' class of experimental birth control measures of whatever description, including, but not limited to, experimental drugs, "morning after" pills and other measures or devices which are not yet available for distribution to the general public; said injunction is to continue

until such time as guidelines and a monitoring program are established which will insure (1) that an informed consent is obtained and (2) that poor people as a class are not subjected to such drugs and devices in any manner different from non-poor persons.

(d) that the Court require defendants Weinberger and Arnett to issue directives to any agency or family planning service receiving H.E.W. funding or support, which shall order an immediate cessation of the use of experimental birth control measures or devices until such time as the guidelines and monitoring program specified in paragraph (c), supra, is put into effect.

(e) that the Court require the defendants to present to the Court within ninety (90) days a comprehensive set of administrative guidelines which shall insure that every consent to receive birth control drugs, devices, or operations shall be ^{or} and informed consent, shall be given by a person authorized to consent, and shall be made without threat or coercion. More specifically the guidelines should provide a means for determining who is competent to give consent, a means for separating from the birth control decision the other agency affairs which may carry an implied threat to the program beneficiary that consent is required, and a means for insuring that irreversible birth control measures are not practiced upon persons.

(f) that, failing the promulgation of adequate guidelines by the defendants, the Court order into effect

guidelines to protect the plaintiffs' due process rights.

2. Plaintiffs ask that a permanent injunction issue making final the appropriate provisions granted as preliminary relief.

3. Plaintiffs further ask that the defendants take all measures humanly and medically possible to remedy the sterilization of the named minor plaintiffs, including but not limited to intensive medical and psychological counseling and remedial surgery.

B. EXPERIMENTAL DRUGS

1. Plaintiffs ask as preliminary relief

(a) that the Court grant a preliminary injunction barring defendants from disbursing funds which are used for funding or support of any agency or group which administers or participates in administering experimental drugs to members of plaintiffs' class until such time as the Court has had an opportunity either to establish constitutionally adequate standards for the administration of such drugs or until the Court has had an opportunity to determine the constitutionality of whatever standards may be promulgated by the defendants on behalf of H.E.W. and O.E.O.

(b) that the Court require defendants Weinberger and Arnett to issue to any agency or group receiving H.E.W. or O.E.O. funding or support, said group or agency administering or participating in administering experimental drugs to poor persons, such directives as will mandate a cessation of the administration of experimental drugs until such time as the Court has had an oppor-

tunity either to establish constitutionally adequate standards for the administration of such drugs or the Court has had an opportunity to determine the constitutionality of whatever standards may be promulgated by H.E.W. or O.E.O.

(c) that the Court require the defendants to submit to the Court, at least within one hundred twenty (120) days, a detailed set of guidelines which shall insure that an informed consent is obtained from each person who receives experimental drugs or devices through an H.E.W. - funded or O.E.O. - funded program, that the drugs are prescribed on an individual basis no different from the manner in which such drugs are used for non-poor persons, that no threat or coercion is inherent in the program structure which would indicate to the patient that consent is required.

2. The plaintiffs ask that a permanent injunction be entered making final the appropriate provisions included as preliminary relief.

C. GENERAL RELIEF

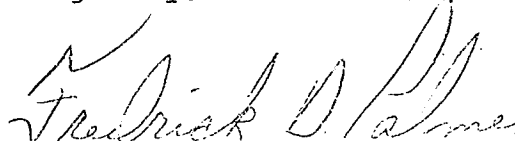
Plaintiffs pray for such other, further and different relief as the Court may deem appropriate under the circumstances, and the plaintiffs pray for general relief.

Respectfully submitted,



JOSEPH J. LEVIN, JR.
MORRIS S. DEES, JR.

Southern Poverty Law Center, Inc.
P.O. Box 548
Montgomery, Alabama 36103

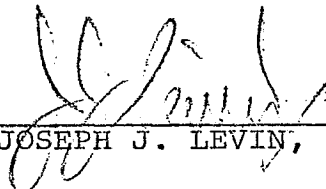


FREDRICK D. PALMER

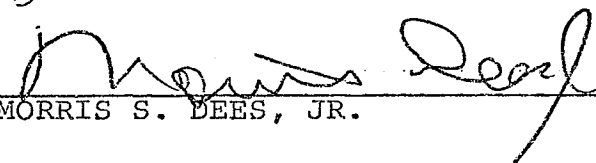
Duncan & Brown
1700 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

STATE OF ALABAMA)
MONTGOMERY COUNTY)

Before me, a Notary Public in and for the State of Alabama at Large, personally appeared Joseph J. Levin, Jr. and Morris S. Dees, Jr., who, being duly sworn, depose and say that they are the attorneys for the plaintiffs in the above styled case, and that each has investigated the facts as alleged in the foregoing complaint and that such allegations are true and correct to the best of their information, knowledge and belief.

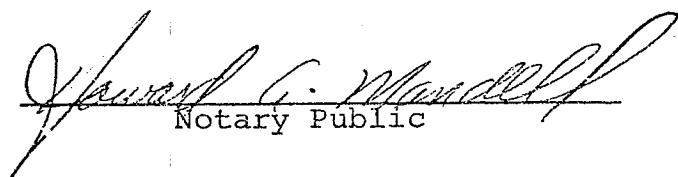


JOSEPH J. LEVIN, JR.



MORRIS S. DEES, JR.

SWORN TO AND SUBSCRIBED before me
this 28 day of July, 1973.



Notary Public

STATE OF ALABAMA)

MONTGOMERY COUNTY)

Before me, a Notary Public in and for the State of Alabama at Large personally appeared Lonnie Relf, who, being duly sworn, deposes and says he is the father and next friend of plaintiffs and that the foregoing complaint was read to him and was completely and thoroughly explained to him by his attorneys, and that he desires that such a complaint be filed in order to protect the interests of his children, Katie, Minnie and Mary Alice Relf, and that the facts alleged in said complaint are true and correct to the best of his information, knowledge and belief.

his mark
/_____
LONNIE RELF
Lonnie Relf

SWORN TO AND SUBSCRIBED before me
this 28th day of July, 1973.

Dobert Wilson Dwyer
Notary Public

OFFICE OF ECONOMIC
OPPORTUNITY
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D. C. 20543

OEO Instruction	6130-1
Subject	Date
Family Planning Activities	May 18, 1971
	Office of Primary Responsibility
	HA
Supersedes First Par. of Part A & Item 7, Exhibit IV, CA Memo 37-A	Distribution ER, 5-2, 10, 15, 15-11, 35-4, 45-1

APPLICABILITY:

All agencies or organizations receiving funds under Titles II and III-B of the Economic Opportunity Act of 1964, as amended.

1. PURPOSES:

This Instruction amends CA Memo 37-A to permit the use of grant funds for surgical procedures intended to result in sterilization.

2. POLICY:

A. The first paragraph of Part A of CA Memo 37-A is amended to read as follows:

Part A: Statement of Policy on Family Planning Applications

Family planning services, including contraceptive devices and drugs, may be made available to those individuals who meet eligibility criteria as set by the applicant agency, subject only to the limitations set forth in Section 1 below. Certain other limitations on costs to be paid for with Federal grant funds or local matching contributions remain in effect and are spelled out in the revised special conditions applicable to all OEO-assisted family planning activities. (See Exhibit IV, attached). These include prohibitions on the use of project funds for promotion of those activities through mass media and a limitation of \$20 per patient per year on the expenditure of project funds for contraceptive devices or drugs.

B. Item 7 of Exhibit IV of CA Memo 37-A is amended as follows:


1. Delete the following:

No project funds shall be expended for any surgical procedures intended to result in sterilization or to cause abortions.

2. Substitute the following:

No project funds shall be expended for any surgical procedures intended to cause abortions.

3. Effective Date: This Instruction is effective as of the date hereof.


WESLEY L. HJERNEVIK
Deputy Director

Ex. A