

# Exhibit A

## The News Tribune



# Tacoma boxer trapped in state mental-health bureaucracy

By Sean Robinson

Staff writer November 23, 2014



Jonte Willis sits in jail waiting to receive court-ordered mental health treatment since being locked up July 23. SEAN ROBINSON — Staff writer

Seven years ago, Jonte “Rock Steady” Willis missed making the U.S. Olympic boxing team by two digits on a tiebreaking punch-count scorecard.

Seven years later, the one-time U.S. amateur super heavyweight champion sits in the Pierce County Jail, waiting for admission to Western State Hospital and mental-health treatment theoretically guaranteed by law.

He’s been locked up since July 23 on a no-bail hold. He gets no treatment — no medication, no therapy, no counseling, no help. Legal and bureaucratic barriers hinder it. Judy Snow, the jail’s mental health manager, calls them “cinder blocks.”

A further consequence: Due to his mental status, Willis was held in solitary confinement until a few weeks ago — 23 hours a day in a single cell, alone with his racing thoughts.

“I’ve been in isolation for three months with no write up, no freedom,” Willis said in a recent jailhouse interview. “It’s mind-boggling. Yeah, I need help.”

Willis is one of 24 jail inmates who have faced lengthy delays in court-ordered mental health treatment since the summer — all of them locked out of the overcrowded state hospital in Lakewood, all of them forced to sit in jail without treatment while they wait 60 days on average.

Their plight has forced a confrontation between Pierce County Superior Court judges and the state.

Since July, judges have filed 21 contempt of court orders against the Department of Social and Health Services, which runs Western State. The orders come with fines that range from \$150 to \$500 a day.

The total bill from Pierce County stands at \$107,000 and climbing.

In response to the contempt orders, state leaders give the same answer, over and over: The hospital, ravaged by budget cuts, has no room and no money.

“The hospitals are filled to capacity and our wallet is empty,” said Jane Beyer, assistant secretary of the state’s Behavioral Health and Service Integration Administration.

Superior Court Judge Frank Cuthbertson has signed the bulk of the contempt orders. He’s tired of the state’s answers, tired of watching mentally ill inmates languish.

“I have been sanctioning the department because I believe as a constitutional matter those folks still have a right under the Sixth Amendment to a speedy, fair trial,” he said in a recent interview. “When a guy or a woman sits there from July to November with no treatment, they actually get worse.”

## NO RESTORATION

Willis, 31, has no prior criminal convictions. He's a cousin — more like a brother — of [Patrick Willis](#), All-Pro linebacker for the San Francisco 49ers.

He's the father of two young children — a son and a daughter — by two women. He dotes on them, according to their mothers. He's not a drug user and bristles at the idea. He's 5 feet 11, about 220 pounds, built like a boulder, sensitive to diet. He rolls his eyes at the quality of the food in jail.

He was arrested July 22 in Fife after a domestic dispute with Aimee Anderson, his girlfriend and mother of his 2-year-old son. In the grip of delusion, Willis choked her without warning, court records state.

“I was making dinner and chasing a fly down,” Anderson said in a recent interview. “And suddenly he started choking me. I smacked him in the head with the flyswatter, and he snapped out of it.”

The incident followed a spiral of increasingly bizarre behavior. Willis lost three punishing fights in four months earlier this year and took multiple blows to the head.

Anderson just wanted him to get help. Instead, Willis has spent four months in jail with no treatment at all.

She was reluctant to call police in July. Now she regrets picking up the phone.

“If I'd have known he was gonna be sitting in a jail cell all this time, no, I wouldn't have,” she said.

Willis, like other inmates, is waiting for competency restoration, a legal process tied to his ability to stand trial.

Competency keys the legal process. By law, an incompetent individual cannot receive a fair trial. Restoration, provided by mental health experts, must come first.

Without it, the train stalls: no plea bargains, no negotiation, no progress. All such steps are off the table until the inmate legally understands the steps.

“I can't do anything,” said Dino Sepe, Willis' public defender. “I can't plead him. I can't make a deal because he's not competent.

“I've never been more frustrated in all my years of doing this. We're dealing with human beings. We're dealing with people who are mentally ill, people who need help — and they aren't getting it.”

Competency restoration requires treatment. Treatment, including potential medication and therapy, requires a diagnosis by a mental health professional. Willis has been provisionally diagnosed with a psychotic disorder tied to traumatic brain injury, court records state. He was ordered to Western State for restoration on Aug. 27.

Restoration can't take place at the jail — the state hospitals must do it.

"In jail, they cannot be restored to competency," said Snow, the jail mental health manager. "That requires a therapeutic environment — the jail is not a therapeutic environment."

That's the paradox for Willis and other inmates. When state hospital beds are full, the only alternative is waiting — sometimes longer than the likely sentence for the underlying offense. In Pierce County and around the state, the spectacle is more and more common.

"It's pathetic," said Snow. "What (DSHS is) attempting to do is shift responsibility and costs to counties. The jail is not a therapeutic environment. It's not going to happen in a jail."

Asked about cost-shifting, Beyer said the state "will not engage in a blame game with the counties on this. We share these clients, and we fully share the desire to serve them."

## TAKING A BEATING

On Jan. 10, Willis took on Lateef Kayode, an up-and-coming contender, in a bout at the Emerald Queen Casino. Broadcast footage from ESPN [survives online](#). Willis held his own for five rounds — then came the sixth.

The crusher took about four seconds:

"... Lateef has utterly dominated this fight ... and Lateef Kayode going to work! With that left and that right ... his opponent turned his back to him and it's a knockout — a technical knockout in round 6!"

— fight commentary

Willis, tagged with a wild left hook, had stumbled backward. Kayode rushed and landed a clubbing right from the northeast. Willis ducked down at an angle. His chin slammed straight into a crunching left hook from the southwest.

He staggered back like a zombie and covered — barely, before slumping and turning his head away from a rain of blows to the left side of his skull. The ref saved him, along with his long-time manager, Bill McDonald.

"I've traveled the world with him, from Russia to Montreal," McDonald said in a recent interview. "Jonte's a gem of a human being, a really great person. He's going through some delusional issues right now, which he's still suffering from, and he needs treatment."

## A STATEWIDE PROBLEM

The backlog of inmates awaiting restoration is a statewide problem.

State records say the number of court-ordered competency restorations spiked by 82 percent between 2001 and 2012, even as recession-fueled budget cuts reduced funding and treatment beds at the state's two mental hospitals. The number of restoration referrals has reached almost 3,000 per year, said Beyer, the DSHS leader.

At Western State, 270 beds are available for restoration in felony criminal cases, according to state records. Roughly 160 of them are filled already, occupied by long-term patients found not guilty by reason of insanity for various criminal offenses.

That leaves about 110 beds at the state hospital for inmates such as Willis, and that means a long line. According to statements filed by DSHS in Willis's case, 115 inmates from the west side of the state are waiting for entry to Western State.

The backlog infects Thurston, King, and Snohomish counties, as well as Pierce. Some judges frustrated by delays have filed contempt orders similar to those emanating from Pierce County. Others have dismissed criminal cases outright, something Cuthbertson can't bring himself to do.

The problem, first reported in October by The Associated Press, is also the centerpiece of a [federal lawsuit](#) that challenges the state's actions on constitutional grounds.

The multiple legal actions echo a similar battle that started last year over the practice of psychiatric boarding — parking mental patients in hospital emergency rooms as they wait for court-ordered treatment.

The boarding issue sparked a state Supreme Court decision that found overcrowding at state hospitals is no excuse for denying treatment.

State leaders are trying to address that problem even as the battle over jail inmates promises to add more fuel to the legal fire.

The boarding issue was tied to civil mental-health beds, designated for people with mental illness facing involuntary commitment. Western State has 557 such beds.

Jail inmates such as Willis — people with mental illness accused of criminal acts — fall into a different category. Their designated beds are classified as forensic, which requires stiffer security. The state has fewer beds for that purpose.

Money is the issue, Beyer said. Court orders don't fund mental health beds or expand state hospital wards. That takes revenue, and state lawmakers are the only people with the power to provide it.

DSHS has asked the Legislature to consider adding 30 forensic beds in next year's state budget; whether lawmakers follow through is an open question.

"No money is currently available to fix the problems," Beyer said. "No state government agency can spend money it does not have."

#### A BLOW TO THE NECK

Willis's original trainer was Tom Mustin, a local legend in boxing circles, and a former News Tribune employee who coached Team USA, the training ground for Olympic boxing hopefuls.

Willis rose quickly through the amateur ranks; in 2006, at 23, he won the U.S. amateur heavyweight championship. He won the Tacoma Golden Gloves Championship in 2007 and barely missed the Olympic team later that year, losing unexpectedly on a tiebreaker.

After that, he turned professional, with middling success.

"He's gone up against some of the best fighters in the world and acquitted himself very well," said McDonald, his manager. "He's given top contenders the best fights of their lives. I love the kid. I've got a kinship with him."

More recently, Willis' career veered down. After his January fight against Kayode, he fought in Louisiana in March and lost a split decision — his fifth straight defeat.

A month later, on April 12, Willis fought journeyman heavyweight Dwayne "Big Ticket" McRae in Baltimore, Maryland. The fight lasted one round: McRae broke Willis's nose and, after the bell, landed a vicious shot to the back of his neck.

"Technically, it was an illegal blow," McDonald said. "Hard enough where Jonte went through some hysteria, I guess would be the word. He couldn't see — said he was in a lot of pain."

Willis couldn't continue when the bell rang for the second round. McDonald said he was sent to a local hospital, where he was tested for possible brain injuries. Reportedly, the tests were negative, but McDonald knew it was the end of Willis' boxing career.

"I told him, buddy, it's time to pack it in — I'm not gonna watch you take unnecessary blows," McDonald said. "He agreed with me. It was right about that time that this kind of delusional behavior started."

#### THEY AND THEM

The behavior manifested as a kind of conspiracy theory. After the fight against McRae, Willis began to obsess, according to statements in court records and the people closest to him.

He stopped sleeping, stayed up all night, and read online essays about the Illuminati. He paced and cried. He spoke of parallels between his life and movie scripts. He talked of renaming himself, of another person taking over his body.

He talked about They and Them — They had hindered his career, halted his victories. In his jailhouse interview, he said he knew information “that would make the pope tell a lie.”

His behavior began to worry Anderson, his girlfriend, as well as Areta Stacy, the mother of Willis’ 2-year-old daughter. Willis and Anderson lived together in Fife; Stacy brought his daughter over for regular visits.

Both women noticed Willis’ increasingly strange behavior.

“It just kept getting worse, Stacy said. “We kind of kept looking past it and looking past it and everything just kept progressing.”

He’d always been a neat freak, the women say, but nothing approached the level of mental illness. Though he was a boxer, he’d never been violent; his children would climb all over him as he smiled.

On July 18, he fell apart. He hadn’t been sleeping, Anderson recalls. He’d called himself the son of God and the T-9000, court records state. He’d sprinkled dirt on the children — to protect them, he said.

Anderson picked up a bottle of liquor that day. She and Willis drank a little. Willis focused on the label of the bottle. He saw evil messages; how could she not see them? How could she not know that They left the messages?

Anderson pleaded ignorance, as she remembers it. She didn’t know what he was talking about. She spotted a fly and tried to swat it. In an instant, Willis lunged, grabbed her by the throat and squeezed. She slapped him with the flyswatter and saw stars as her consciousness faded. Willis released her.

He remembers the moment when the other person took over his body. In his jailhouse interview, he spoke of fighting the impulse with all his strength when he realized what he was doing.

The marks on Anderson’s throat were still visible when Stacy visited four days later. Anderson told her what had happened. Stacy said it was time to call police.

“Areta looked at me and said, ‘He needs help now,’ ” Anderson said.

When police arrived, Willis was lying on the floor of the apartment, flexing his muscles. He said he would “burn the world,” according to court records.



## BACK OF THE LINE

After his arrest, he stood at the back of a line. Other inmates were sitting in jail, too, waiting for admission to Western State. All had mental health issues. All were waiting for competency restoration.

One was an 18-year-old boy caught shoplifting costume jewelry at Macy's. He waited 32 days before the state hospital admitted him.

Another was a 27-year-old man caught taking chips and cheese from a convenience store. He waited 45 days. A Marine with PTSD who'd been arrested after trying to order a free meal at Hooters waited 48 days.

A convicted arsonist, 56, had been arrested after tossing a Molotov cocktail into a neighbor's house while shouting, "You don't understand!" He waited 56 days. A 48-year-old woman with a master's degree in forensic therapy, charged with third-degree assault, waited 74 days.

Then there's Willis. Of the 21 inmates tied to recent contempt orders, no one has waited longer. He was ordered to Western State on Aug. 27. As of Friday, he was still sitting in jail — 86 days.

McDonald, his fight manager, keeps in touch with Willis.

"Whatever happened to due process?" he asked. "It's a travesty of justice, what's happened to him. It's cruel and unusual."

Until Oct. 27, Willis was held in solitary confinement. Deemed too dangerous to mingle with the general jail population, he spent 23 hours a day in isolation.

He says he hasn't been diagnosed. He says he hasn't been offered any medication. Court records, including his forensic psychological evaluation, say otherwise. They state he's suffered a traumatic brain injury, that he denies any mental illness and refuses to take medication.

Would he be willing to take medication? He gives an athlete's answer.

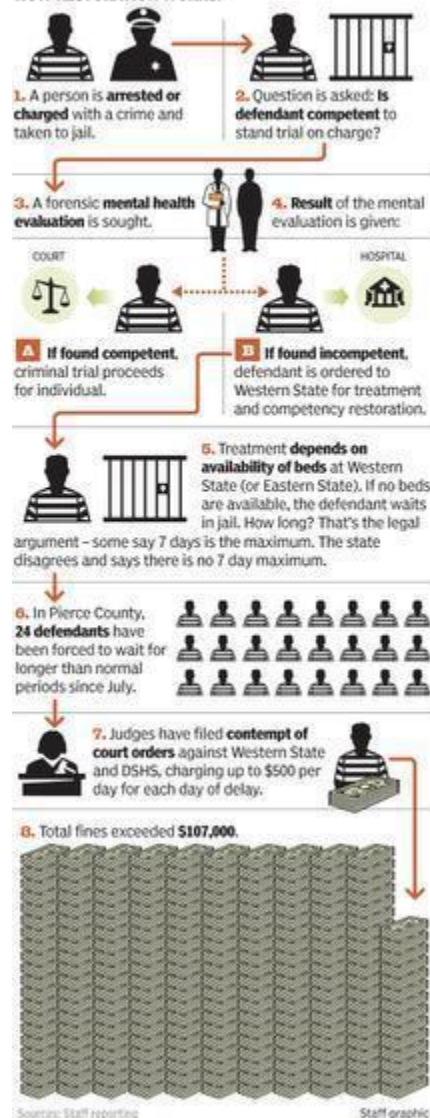
"It would depend on my diagnosis," he said. "I'm not just gonna take any medications, not knowing what they are, what the side effects are."

Could he be forced to take medication against his will? The bureaucratic walls won't allow it — yet. He'd have to go to Western State first, and then a formal hearing would have to take place. But the hospital doors are still closed.

## The waiting line

Pierce County jail inmates with mental health issues are stuck in a backlog, waiting for competency restoration and treatment at Western State Hospital. Because of increasing delays, judges have filed contempt of court orders against the state.

### HOW RESTORATION WORKS:



Willis' diagnosis of traumatic brain injury presents another problem; medication alone might not help him. Snow, citing privacy laws, said she could not comment on Willis' treatment specifically. But she offered a general statement.

"Suppose inmates have traumatic brain injuries," she said. "No psychotropic medications are going to restore them to competency."

#### FOLLOWING THE PATTERN

The records of contempt of court orders tied to Willis and other inmates follow the same pattern:

A) Defense attorneys, angered by lengthy delays, file motions seeking sanctions against Western State.

B) The state replies, saying the orders are legally flawed.

C) Judges, such as Cuthbertson, push ahead with contempt orders and fines.

Willis' case rides the same track.

Court records state he was ordered to Western State on Aug. 27. Five weeks passed. On Oct. 3, his attorney, Dino Sepe, asked Snow via email when Western State's doors would open. Sepe didn't want to seek a contempt order, but he saw no alternative.

"Mr. Willis is still in 3 South of the jail and deteriorating mentally by the day," the attorney said. "When is he going to WSH?"

Snow replied briefly.

"I just heard back from WSH. He will not be going out until the last part of November or first part of December," she wrote. "It's pitiful."

Sepe filed his motion for contempt six days later. Dr. Brian Waiblinger, the hospital's medical director, filed a declaration in response. He described the capacity problems at the hospital, the wait lists and the delays. He said those factors were out of the hospital's control.

He said he'd developed a formula to address the delays.

"As the waitlist numbers surged earlier in 2014, we reinstituted the use of my prioritization algorithm for the admissions waitlist," Waiblinger wrote. "This algorithm has reduced the wait times for the inpatient competency evaluation cases."

Cuthbertson sided with Sepe and signed the contempt order on Oct. 21, with fines of \$500 per day.

"Money for contempt is payable to Pierce County Jail," the order states.

More than a month later, Willis is still waiting for entry to the state hospital. The fines from the contempt order exceed \$15,000. Sepe can't get the state's argument out of his mind.

"I know these people are doing their job," he said. "They come in with these numbers and charts and various things — and I'm saying hey, it's not about numbers. It's not about charts. It's not about algorithms. That word makes me crazy.

"This is about people who need help."

'THEY'RE STILL CITIZENS'

Cuthbertson says his contempt orders are intended to send a message: The state's practices can't continue.

"I'm trying to compel the state to fulfill its responsibility to its citizens," he said. "They may be accused of criminal conduct, but they're still citizens, and they still maintain certain rights, and we can't let the state just trample on them.

"This stuff also implicates the Eighth Amendment. This is cruel and unusual in my view. To have a person who's chronically psychotic, who's locked away in a box just to get worse — it really is improper — it's inhumane."

During his interview, Willis spoke of supernatural forces. He said he knows it sounds weird, but he has proof. He has conducted Internet research. They — They are doing it to him: A deaf woman cast a spell. The secret messages hidden on the bottle of cheap liquor, the movies, the parallels; it's all part of it.

Whether it's a supernatural plot or a benign conspiracy, the results are the same. Willis waits.

He wants to send a message to Tom Mustin, his old trainer, who watched seven years ago as Willis missed a chance at Olympic glory.

"Tell him it wasn't his fault," Willis said. "And it wasn't my fault — They were never gonna let me win."

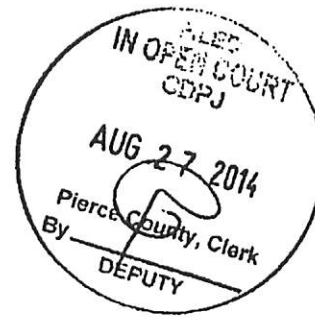
Sean Robinson: 253-597-8486 [sean.robinson@thenewstribune.com](mailto:sean.robinson@thenewstribune.com) [@seanrobinsonTNT](https://twitter.com/seanrobinsonTNT)

Read more here: [http://www.thenewstribune.com/2014/11/23/3499126\\_tacoma-boxer-trapped-in-state.html?rh=1#storylink=cpy](http://www.thenewstribune.com/2014/11/23/3499126_tacoma-boxer-trapped-in-state.html?rh=1#storylink=cpy)

# Exhibit C



14-1-02893-0 43192527 ORCMT 08-28-14



## SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 14-1-02893-0

vs.

JONTE THOMAS WILLIS,

Defendant.

ORDER OF COMMITMENT TO  
WESTERN STATE HOSPITAL  
(COMPETENCY RESTORATION)

THIS MATTER coming on in open court upon the motion of the State, and there being reason to doubt the defendant's competency to understand the proceedings against defendant and assist in defendant's own defense, and the court having examined the report of Dr. Lorien Newsome, Western State Hospital, dated August 21, 2014, and the court being in all things duly advised, Now, Therefore, IT IS HEREBY

ORDERED that the defendant, JONTE THOMAS WILLIS, be committed to Western State Hospital for a period not to exceed:

☒ Ninety (90) days where the criminal charge is classified as a class A or class B violent felony,

☐ Forty-five (45) days for all other felonies

14-1-02893-0

1 The commitment will occur without further order of the court and the defendant will  
2 undergo evaluation and treatment to restore competency to proceed to trial, to include the  
3 administration of psychotropic medications, including antipsychotics, to the defendant as deemed  
4 medically appropriate by the staff of Western State Hospital, against the defendant's will if  
5 necessary, as the court finds that there is no less intrusive form of treatment which is likely to  
6 restore the defendant's competency to stand trial; IT IS FURTHER  
7  
8

9 ORDERED that the staff of Western State Hospital shall report to the undersigned court  
10 in the manner specified in RCW 10.77 as to a description of the nature of the examination and  
11 treatment, a diagnosis of mental condition, an opinion as to the defendant's capacity to  
12 understand the proceedings against defendant and to assist in defendant's own defense, and an  
13 opinion as to whether defendant's mind was so diseased or affected that defendant was unable to  
14 perceive the moral qualities of the act with which defendant is charged and was unable to tell  
15 right from wrong with reference to the particular acts charged. The staff is further required to  
16 give an opinion as to whether further examination, testing and treatment is required. The report  
17 is to be submitted in writing to this court within ten days of the expiration of the period of  
18 commitment unless further time is requested, and copies are to be sent to the Prosecuting  
19 Attorney, the Defense Counsel, and the Jail Physician; and, IT IS FURTHER  
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ORDERED that upon completion of said period of evaluation and treatment, or when defendant has regained competency, whichever occurs first, the defendant shall be returned to the custody of the Sheriff of Pierce County, to be held pending further proceedings herein.

DONE IN OPEN COURT this 27 day of August, 2014.

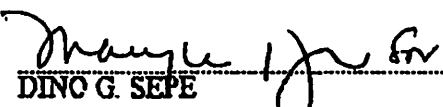
  
JUDGE/COMMISSIONER

Presented by:

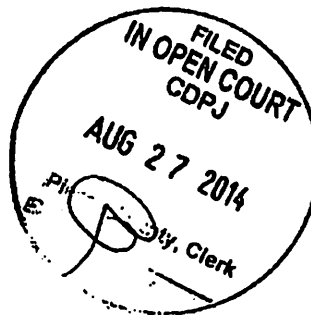
Frank E. Cuthbertson

  
SABRINA M AHRENS  
Deputy Prosecuting Attorney  
WSB# 32184

Approved as to Form:

  
DINO G. SEPE  
Attorney for Defendant  
WSB# 15879

mld





# Exhibit D



**Dino Sepe**

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**From:** Judy Snow  
**Sent:** Friday, October 03, 2014 10:23 AM  
**To:** Dino Sepe  
**Subject:** RE: Jonte Willis 14-1-02893-0

I just heard back from WSH, he will not be going out until the last part of November or first part of December. It's pitiful.



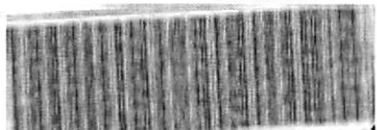
Judy Snow, LMHC; CCHP-MH  
PCDCC Mental Health Manager  
910 Tacoma Ave  
Tacoma, WA 98402  
Phone: 253-798-4290  
Fax: 253-798-6635

---

**From:** Dino Sepe  
**Sent:** Friday, October 03, 2014 9:35 AM  
**To:** Judy Snow  
**Subject:** Jonte Willis 14-1-02893-0

Mr. Willis, who is severely mentally ill, was declared incompetent to proceed to trial on August 27<sup>th</sup> 2014. The court signed a 90 day commitment order to WSH for restoration. 5 weeks later Mr. Willis is still in 3 South of the jail and deteriorating mentally by the day. When is he going to WSH? I have orders I am prepared to file against WSH requesting the Court to hold them in contempt of court. It has always been a last alternative for me to file such orders but I am prepared to do so if WSH does not take him in the next few days. Is there anything you can do to help resolve this situation? Thanks.....DINO

# Exhibit E



14-1-02893-0 43438758 MTSU



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff,

vs

JONTE THOMAS WILLIS,

Defendant.

No. 14-1-02893-0

MOTION/DECLARATION FOR AN  
ORDER TO SHOW CAUSE  
RE: DISMISSAL/CONTEMPT

## 1. MOTION

The defendant, JONTE T. WILLIS, by and through his attorney Dino G. Sepe of the Department of Assigned Counsel, moves the Court for an order directing the DEPARTMENT OF SOCIAL AND HEALTH SERVICES, to appear at 1:30 pm on Tuesday, October 21, 2014, in Court Room 260 at the County City Building, 930 Tacoma Ave. S., Tacoma WA and show cause why an order should not be entered:

1.1 DISMISSING the above captioned case and FINDING CONTEMPT,

For failure to comply with:

Type of OrderDateCounty/State

Order for Commitment  
To Western State Hospital

August 27, 2014

Pierce County/WA

1.2 ESTABLISHING A JUDGMENT.

Establishing a judgment of \$200.00 for attorney's fees and costs.

1.3 GRANTING SANCTIONS.

Department of Assigned Counsel  
949 Market Street, Suite 334  
Tacoma, Washington 98402-3696  
Telephone: (253) 798-6062

**Exhibit E**

Granting sanctions for contempt, including a forfeiture for each day the contempt of court continues, and establishing conditions by which the contempt may be purged and granting any other relief as may be appropriate under RCW 7.21.

1.4 OTHER:

This motion is based upon the declaration which follows and the attached Memorandum of Points and Authorities.

DEPARTMENT OF ASSIGNED COUNSEL



DINO G. SEPE, WSBA# 15879  
Attorney for Defendant

II. DECLARATION

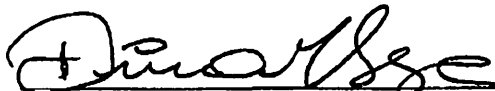
My name is Dino G. Sepe. I am the attorney for Jonte T. Willis and I am making this motion on his behalf.

The Superior Court, on August 27, 2014, entered an Order of Commitment to Western State Hospital (Competency Restoration).

As of today, October 8, 2014, the defendant has not been admitted to Western State Hospital and remains incarcerated at the Pierce County Jail where he is not receiving proper treatment. According to attached email from Jail Mental Health Coordinator Judy Snow, Mr. Willis is not expected to be taken to Western State until late November to early December, 2014.

I declare under penalty of perjury under the laws of the State of Washington that the statement above is true and correct.

Signed at Tacoma, Washington on October 8, 2014.



DINO G. SEPE, Attorney for Defendant  
WSBA#15879

**Dino Sepe**

---

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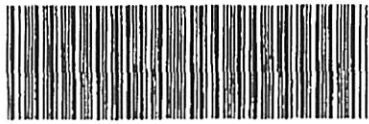


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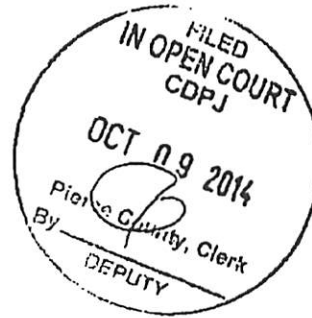
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14-1-02893-0 43436783 ORTSC 10-10-14



IN THE DISTRICT COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff,  
vs.

No. 14-1-02893-0

JONTE THOMAS WILLIS,

ORDER TO SHOW CAUSE

Defendant.

THIS MATTER having come before the Court upon the motion of the Defendant for an order to show cause directing the DEPARTMENT OF SOCIAL AND HEALTH SERVICES to appear and show cause why an order dismissing the above captioned case and an order of contempt should not be granted, and based on the pleadings, declarations and other papers filed in this action, with the Court being fully advised in the premises, NOW THEREFORE, it is hereby;

ORDERED that DEPARTMENT OF SOCIAL AND HEALTH SERVICES and its counsel shall appear at **1:30 PM on Tuesday, October 21, 2014**, in Court Room 260 at the County City Building, 930 Tacoma Ave. S., Tacoma, WA and show cause why an order of dismissal and contempt should not be granted.

DATED this 8<sup>th</sup> day of October, 2014.

  
JUDGE

Frank E. Cuthbertson

Presented by:



DINO G. SEPE, WSBA# 15879  
Attorney for Defendant





14-1-02893-0 43436778 MMATH 10-10-14



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff,

vs

JONTE THOMAS WILLIS,

Defendant.

No. 14-1-02893-0

MEMORANDUM OF POINTS AND  
AUTHORITIES

The Court should dismiss this case based on the Respondent's, DEPARTMENT OF SOCIAL AND HEALTH SERVICES (DSHS), violation of the defendant's due process rights, afforded JONTE THOMAS WILLIS through the 14th amendment of The United States Constitution and find DSHS in contempt of court. The Department of Social and Health Services has not complied with the Order of Commitment to Western State Hospital (Competency Restoration), signed by this Court on August 27, 2014, by failing to commit the defendant to Western State Hospital contrary to the Order of Commitment and the requirements of RCW 10.77.086.

**DISMISSAL**

Under Washington's Commitment Statute, RCW 10.77, "Any person involuntarily detained, hospitalized, or committed pursuant to the provisions of this chapter shall have the right to adequate care and individualized treatment." RCW 10.77.210(1).

1 The 9<sup>th</sup> District Court of Appeals found that an Oregon State Hospital's delay in  
2 admitting criminal defendants for evaluations and treatment violated the defendant's substantive  
3 due process rights. See: Oregon Advocacy Center v. Mink, 322 F.3d 1101 (2003). The court  
4 found defendant's have a due process right to a "reasonably timely transport to a treatment  
5 facility". Id at 1119. The court of appeals upheld a seven day deadline, imposed by the state  
6 district court, for the Oregon State Hospital to admit defendants after a judicial finding of their  
7 incapacity to proceed to trial. The court noted harm suffered by defendant's waiting in jail to be  
8 evaluated and treated. Just a few of the harms noted by the court: jails can't medicate individuals  
9 involuntarily; jails are not equipped to treat people with mental illnesses; defendant's may  
10 decompensate which can make representing the defendant's in their criminal cases difficult;  
11 defendant's may be held past their time for speedy trial. Washington State courts have held that  
12 a dismissal under CrR 8.3(b) may be justified where the State's misconduct violates the  
13 defendant's right to due process. State v. Moen, 150 Wash.2d 221, 76 P.3d 721 (2003); citing  
14 State v. Starrish, 86 Wash.2d 200, 544 P.2d 1 (1975) However, material prejudice to the rights  
15 of the accused must be shown for a dismissal to be the proper remedy. State v. Blackwell, 120  
16 Wash.2d at 830, 845 P.2d 1017 (1993).

19 JONTE THOMAS WILLIS has been awaiting commitment to Western State Hospital for  
20 restoration since the Order for Commitment was signed on August 27, 2014. He should have  
21 been committed to Western State Hospital immediately after the order was signed. The state has  
22 violated the defendant's right to due process by not transporting the defendant to Western State  
23 Hospital. The state has acted arbitrarily in not transporting the defendant to Western State  
24 Hospital. This materially affects the defendant's right to a fair trial. The defendant is being held  
25 in a facility equipped to house and punish defendants. The jail is not equipped to evaluate or  
26  
27  
28



1 treat the defendant. This lack of treatment will materially affect the defendant's trial if any  
2 issues/witnesses are time sensitive. For example, if a witness is leaving the state and the  
3 defendant cannot tell the attorney because the defendant is psychotic, that would materially  
4 affect the defendant's trial. Even if the defendant is not psychotic, they are in a legal limbo  
5 between the restoration order and a finding by the court that he is restored to competency or the  
6 case being dismissed. During that time the defendant cannot make decisions about his case.  
7

8 The defendant's right to a speedy trial is also being denied. The time awaiting the court's  
9 finding of competency is excluded from the defendant's speedy trial time, CrR 3.3(e)(1). This  
10 denial of a speedy trial is obviously exacerbated by the state's failure to transport the defendant  
11 to Western State Hospital.

12 The defendant's case should be dismissed pursuant to CrR 8.3(b).

### 13 CONTEMPT


14 The Court should also find the Respondent, DEPARTMENT OF SOCIAL AND  
15 HEALTH SERVICES, in contempt of court for failure to comply with the Order of Commitment  
16 to Western State Hospital (Competency Restoration), signed by this Court on August 27, 2014,  
17 by failing to admit the defendant for restoration immediately to comply with the Order of the  
18 Court and RCW 10.77.086. RCW 10.77.086 sets forth time limits for DSHS to admit a  
19 defendant for restoration. For a defendant charged with a class C felony or a non-violent class B  
20 felony, 45 days is the maximum time (class A or violent is 90 days) allowed for the initial period  
21 of commitment for restoration. Section (2) of that statute states: "On or before expiration of the  
22 initial period of commitment under subsection (1) of this section the court shall conduct a  
23 hearing, at which it shall determine whether or not the defendant is incompetent." It is clear that  
24 WSH must admit a defendant for restoration immediately. If not, the court could not meet its  
25  
26  
27  
28

1 obligation in setting a hearing on or before the expiration of the commitment to make a finding  
2 as to competency.

3 The defendant should have been taken to WSH immediately after the order was signed to  
4 allow the court to be able make a finding as to competency within the 45 day limit (or 90 day).

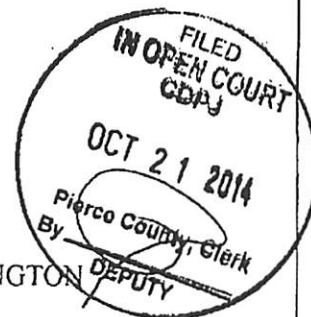
5 A party's ability to perform a court-ordered duty is presumed under the law. King vs.  
6 Dept of Social and Health Svcs. 110 Wn.2d 793, 804, 756 P.2d 1303 (1988). The defendant has  
7 established that a valid Court order exists and that DSHS has failed to comply with the Order of  
8 Commitment within the time ordered by this court. DSHS now has the burden to establish an  
9 inability to comply. State v. Mecca Twin Theater & Film Exch., Inc. 82 Wn.2d 87, 92, 507 P.2d  
10 1165 (1973). The U.S. Supreme Court concurs. A contemnor has the burden of production on  
11 ability to comply. United State v. Rylander. 460 U.S. 752, 757, 103 S.Ct. 1548, 1552-53, 75  
12 L.Ed. 2d. 521 (1983). The contemnor's evidence must be credible. King at 804.  
13

14 Mr. Willis has been incarcerated at the Pierce County jail since July 23, 2014. He has  
15 been awaiting commitment to Western State Hospital for restoration since the Order of  
16 Commitment to Western State Hospital (Competency Restoration) was signed on August 27,  
17 2014. He should have been admitted to Western State Hospital immediately. DSHS should be  
18 held in contempt and sanctioned for every day that Mr. Willis has been held at the Pierce County  
19 Jail since August 27, 2014. (the day the order was signed)  
20

21  
22  
23   
24 DINO G. SEPE, WSBA# 15879  
25 Attorney for Defendant  
26  
27  
28



14-1-02893-0 43500901 OR 10-22-14



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON, )  
)  
Plaintiff, ) NO. 14-1-02893-0  
vs. )  
)  
JONTE THOMAS WILLIS, ) ORDER  
)  
Defendant. )

THIS MATTER, having come before the Court upon the motion of defense counsel,  
that DSHS be found in contempt, the Court having considered all of the records and files  
before it,

HEREBY ORDERS that DSHS is found to be in contempt of the court's order dated  
August 27, 2014 and DSHS is ordered to pay \$ 500 per day, starting 10-21-14  
and continuing until the contempt is purged by admitting Mr. Willis to Western State  
Hospital. money for contempt is payable  
to Pierce County jail

SO ORDERED this 21<sup>st</sup> day of October, 2014.

The Honorable [Signature]  
Cuthbertson

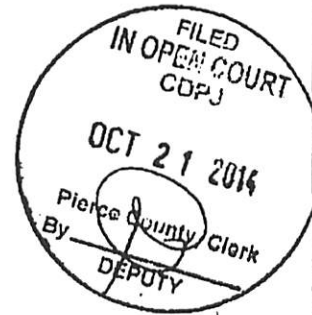
Prepared and Presented by:

[Signature]  
DINO SEPE, WSBA# 15879  
Attorney for Defendant

Approved for Entry by:

[Signature]  
39936, WSBA#  
Deputy Prosecuting Attorney  
AAE

# Exhibit F



## IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,

Cause No: 14-1-02893-0

Plaintiff

ORDER

vs.

(OR)

WILLIS, JONTE THOMAS,

Defendant

The Court, upon hearing arguments of counsel, grants the order upon Defendants motion to hold Western State Hospital and DSHS in contempt of court. The Court denies Defendant's motion to dismiss the case under CrR 8.3 for state mismanagement/misconduct and on Due process argument

DATED this 21 day of Oct. 2014.

JUDGE

Frank E. Cuthbertson

Attorney for Plaintiff/Petitioner  
WSBA#

Attorney for Defendant/Respondent  
WSBA# 15877

Not competent  
Defendant

# Exhibit G

**Dino Sepe**

---

**From:** Beesley, Eden (DSHS/WSH) [BEESLEM@dshs.wa.gov]  
**Sent:** Monday, December 01, 2014 12:24 PM  
**To:** Dino Sepe  
**Cc:** Sabrina Ahrens  
**Subject:** RE: Cause No. 14-1-02893-0

Mr. Sepe,

Your client, Mr. Jonte Willis was admitted to WSH on 11/26/14 for up to 90 days for competency restoration and evaluation regarding his competency to proceed to trial. To assure that your client is detained for no more time than is necessary for evaluation and treatment, we have two requests:

1. Western State Hospital and most courts start the restoration period as of the day of admission. Our calculation is that your client is due back to detention by 2/24/15. If this is not the court's intent, please fax us an order specifying the court's intended return date to the following fax number: 253.756.2538
2. Please consult with your client regarding whether you wish to be present for the forensic interviews. Please respond to this e-mail with whether you a) wish to be present in person, b) wish to be present by phone, or c) waive your presence at the interview.

An evaluator has not yet been assigned to the case. Evaluators are assigned either two weeks prior to the scheduled departure date, or when the defendant is referred for evaluation by the treatment team. Until that time, please contact either Barry Ward, PsyD, or Eden Beesley, PsyD with any questions you might have.

Thank you for your prompt attention to this matter,

**Eden M. Beesley, Psy.D.**  
Psychologist 3  
Western State Hospital  
Center for Forensic Services  
Phone: (253) 756-2660  
Email: [eden.beesley@dshs.wa.gov](mailto:eden.beesley@dshs.wa.gov)

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