

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

A.B., by and through her next friend Cassie Cordell Trueblood; D.D., by and through his next friend Andrea Crumpler; K.R. by and through his next friend Marilyn Roberts; Q.M. by and through his next friend Kathryn McCormick; all others similarly situated; and Disability Rights Washington;

Plaintiffs,

vs.

Washington State Department of Social and Health Services; Kevin Quigley, in his official capacity as Secretary of the Department of Social and Health Services; Western State Hospital; Ron Adler in his official capacity as Chief Executive Officer of Western State Hospital; Eastern State Hospital; and Dorothy Sawyer in her official capacity as Chief Executive Officer of Eastern State Hospital,

Defendants.

No. 14-cv-01178-MJP

DECLARATION OF DAVID CARLSON IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

CLASS ACTION

I, David Carlson, declare as follows:

1. I am over the age of eighteen, competent to testify about the matters stated herein, and make this declaration based on my own personal knowledge.

2. Disability Rights Washington ("DRW") has been advocating for the reduction in the amount of time people with mental disabilities wait for competency evaluation and

1 restorations services at both Eastern and Western State Hospitals for many years. DRW has met
2 with administrators from each facility on a frequent and regular basis for more than a decade to
3 resolve issue without litigation and this topic is almost always on agenda.

4 3. Recently the wait times have increased, and DRW learned that the Snohomish
5 County Public Defender Association (“SCPDA”) brought a federal lawsuit to address the
6 problem. That case is the instant case prior to the substitution of Plaintiffs’ counsel and second
7 amended complaint filed herein. I learned this case was filed by SCPDA a couple days before the
8 initial Temporary Restraining Order (TRO) hearing in this case on August 7, 2014, and I
9 assigned DRW attorney Emily Cooper to attend the TRO hearing to learn more about what was
10 happening in the case.

11 4. On Friday, August 8, 2014, I reviewed the filings and scheduled a meeting with
12 leadership from SCPDA, Carney Gillespie Isitt PLLP, the American Civil Liberty Union of
13 Washington, and the Public Defender Association for Wednesday, August 13, 2014, the earliest
14 practicable point for the various organizations, in an effort to join the litigation both as a plaintiff
15 and as class counsel.

16 5. At that meeting, SCPDA agreed to withdraw as Plaintiffs’ counsel and hand the
17 case off to DRW and its co-counsel, all of which have the necessary experience with complex
18 civil litigation.

19 6. On the same day, immediately after that meeting, I contacted the Attorney
20 General’s office to let them know we would be taking over the case and substituting counsel.
21 Court granted the request to substitute counsel on September 3, 2014.

22 7. Proposed class counsel filed a Second Amended Complaint on September 10,
23 2014 and was accepted by the Court on September 12, 2014.

1 8. Between the time DRW and its co-counsel learned of this case and filed the
2 Second Amended Complaint, they spent significant time and resources compiling the necessary
3 facts and conducting necessary legal research to properly amend the complaint. This included
4 physically traveling to several county jails across the state and corresponding with people with
5 disabilities, their family members, and counsel, and officials from numerous other jails around
6 the state.

7 9. During this time, DRW and co-counsel also worked in good faith with the
8 Attorney General's Office to see if alternative dispute resolution would be useful in remedying
9 the harm experienced by putative class members. After the most recent meeting with the
10 Attorney General's Office on Wednesday, September 24, 2014, proposed class counsel
11 determined a short term solution to the harm experienced by putative class members could not be
12 secured. Counsel, therefore collected current facts from the named plaintiffs and from officials
13 around the state to assess what steps were necessary to protect the interests of the proposed class.

14 10. On Tuesday September 30, 2014, after collecting the necessary factual
15 information and conducting necessary legal research, co-counsel met to discuss options and
16 decide that due to the extreme harm experienced by putative class members, it was necessary to
17 move for a TRO as soon as possible.

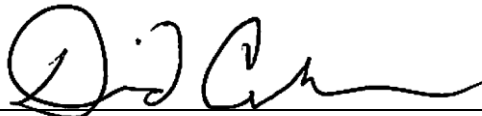
18 11. After that call with co-counsel, I immediately contacted the Attorney General's
19 Office to let them know that instead of filing a Motion for Preliminary Injunction as I had
20 previously indicated at our September 24, 2014 meeting was likely, we would instead be filing a
21 TRO.

22 12. Proposed class counsel have developed the facts and legal analysis in this case
23 incredibly quickly given the unusual events in which we found ourselves substituting in as

1 counsel to litigate this case after it was brought by criminal defense counsel. We have worked
2 diligently to explore with the state less imposing, more collaborative approaches to identifying
3 immediate solutions to the harm being suffered by our clients. Once we realized that the Court's
4 affirmative intervention is required to get immediate relief for Plaintiffs and putative class
5 members suffering irreparable harm, proposed class counsel have prepared the necessary filings
6 to present this urgent plea to the Court.

7 I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true
8 and correct.

9 Dated this 3rd day of October, 2014.

10 
11 _____
David R. Carlson

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

- John K McIlhenny (JohnM5@atg.wa.gov)
- Nicholas A Williamson (NicholasW1@atg.wa.gov)
- Sarah Jane Coats (sarahc@atg.wa.gov)
- Amber Lea Leaders (amberl1@atg.wa.gov)

DATED: October 3, 2014, at Seattle, Washington.

/s/Mona Rennie

Legal Assistant
Disability Rights Washington