

THE HON. MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

A.B., by and through her next friend CASSIE
CORDELL TRUEBLOOD, *et al.*,

Plaintiffs,

v.

WASHINGTON STATE DEPARTMENT OF
SOCIAL AND HEALTH SERVICES, *et al.*,

Defendants.

No. 14-cv-01178-MJP

DECLARATION OF EMILY COOPER
IN SUPPORT OF PLAINTIFFS'
MOTION FOR SUMMARY
JUDGMENT

I, Emily Cooper, declare as follows:

1. I am over the age of eighteen, am counsel for Plaintiffs, have personal knowledge of the matters stated herein, and am competent to testify thereto.

2. On June 23, 2014, Plaintiff K.R. was charged with one count of Assault in the Third Degree and one count of Resisting Arrest and booked into Thurston County Jail. Attached as Exhibit A is a true and accurate copy of K.R.'s motion/declaration for an order to show cause dated August 27, 2014.

3. On July 3, 2014, an agreed order for a pretrial mental health evaluation was entered and filed with the court. *Id.* at 3.

1 4. On July 23, 2014, K.R. received a mental health evaluation in jail. *Id.* at 4. On July
2 29, 2014, K.R.'s defense attorney received a copy of the evaluation finding K.R. was incompetent.
3 *Id.*

4 5. On July 30, 2014, the court ordered that K.R.'s criminal proceedings be stayed and
5 K.R. be sent to Western State Hospital ("WSH") for a forty-five day restoration. Attached as
6 Exhibit B is a true and accurate copy of K.R.'s court order for restoration services.

7 6. On August 21, 2014, WSH responded to K.R.'s defense attorney's inquiries
8 regarding the status of K.R.'s admission for restoration. Attached as Exhibit C is a true and
9 accurate copy of the email exchange between K.R.'s attorney and WSH. According to the WSH
10 email, WSH had received the court order for competency on June 30, 2014. Ex. C. WSH also
11 stated "it is taking about 60+ days before admission." *Id.*

12 7. As noted in the motion to show cause, K.R. has an offender score of zero
13 demonstrating that he does not have a prior felony record. Ex. A, p. 5. If he is convicted of his
14 charge, the standard range for jail time is one to three months. *Id.*

15 8. The hearing on the motion to show cause was held on September 10, 2014. Attached
16 as Exhibit D is a true and accurate copy of the verbatim report of proceedings. The court stated,
17 "There are questions in my mind about resolving this whole matter by a determination that Mr.
18 Roberts has spent almost the maximum time under the standard range in this case, and that's almost
19 90 days..." *Id.* at 7.

20 9. The court went on to state that it did not hold WSH in contempt because of the lack
21 of clarity regarding the enforceability of the aspirational targets set forth in Wash. Rev. Code §§
22 10.77.220 and 10.77.068. *Id.* at 8.

1 10. The court also noted concerns regarding the inherent individual approach in state
2 court proceedings to address a statewide issue and stated that the above-captioned federal action
3 “appears to be a much more structured possibility as far as a global solution.” *Id.* at 11.

4 11. On September 26, 2014, after waiting twenty days in Thurston County Jail for
5 competency evaluation and fifty-six days for competency restoration, I received a call from K.R.’s
6 mother and next friend informing me that K.R. had been released from Thurston County Jail on
7 personal recognizance.

8 12. On October 3, 2014, K.R. was admitted to WSH for competency evaluation.
9 Attached as Exhibit E is a true and accurate copy of a WSH email exchange confirming admission.

10 13. I have also reviewed the current waitlists at ESH and WSH.

11 14. According to the data provided by ESH, there are currently sixty individuals waiting
12 in jail for competency evaluation or restoration services. Attached as Exhibit F is a true and
13 accurate copy of the October 24, 2014 wait lists provided by ESH.

14 15. The majority of these pre-trial detainees are waiting in jail for competency
15 evaluation: forty-four of these individuals are waiting more than seven days, nineteen are waiting
16 more than thirty-five days, and three are waiting more than fifty-six days. *Id.*

17 16. According to the data provided by WSH, there are currently one hundred and forty-
18 four individuals waiting in jail for competency evaluation or restoration services. Attached as
19 Exhibit G is a true and accurate copy of the October 27, 2014 wait lists provided by WSH. One
20 hundred and one individuals are waiting more than seven days for these services. *Id.* Of those,
21 eighty-five have been found incompetent but are still incarcerated in city and county jails while
22 they wait for restoration services. *Id.* Of those found not competent, seventy-six are individuals
23 who have been charged with misdemeanors. *Id.*

19. Attached as Exhibit J is a true and accurate copy of the testimony of Dr. Brian Waiblinger at the March 27, 2014, hearing in *State v. C.W.* re Defendant's Motion to Transport.

I declare under penalty of perjury under the laws of the United States and the State of Washington that the foregoing is true and correct and that this declaration was executed on November 6, 2014, at Seattle, Washington.

DECLARATION OF EMILY COOPER IN SUPPORT
OF PLAINTIFFS' MOTION FOR SUMMARY
JUDGMENT - 4
C14-01178-MJP

Disability Rights Washington
315 5th Avenue South, Suite 850
Seattle, Washington 98104
(206) 324-1521 • Fax: (206) 957-0729

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 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: November 6, 2014 at Seattle, Washington.

/s/Mona Rennie

Legal Assistant, Disability Rights Washington