

HON. MARSHA PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

TRUEBLOOD, et. al.,)	
)	NO. 14-cv-01178-MJP
Plaintiffs,)	
)	
vs.)	DECLARATION OF BENJAMIN
)	GOLDSMITH IN SUPPORT OF
WASHINGTON STATE DEPARTMENT OF)	MOTION FOR TEMPORARY
SOCIAL AND HEALTH SERVICES;)	RESTRAINING ORDER
)	
Defendants.)	
)	
)	
)	
)	
)	
)	

I, BENJAMIN GOLDSMITH, declare as follows:

1. I am over the age of eighteen, have personal knowledge of the matters stated herein, and am competent to testify thereto.
2. I am the felony supervisor at The Defender Association Division, one of four public defense agencies within the King County Department of Public Defense.

1 3. Since 2009, I have supervised between 10-15 felony attorneys in their case
2 work by discussing case strategy, writing evaluations, setting policy, and ensuring our
3 policy and procedure standards are met.

4 4. Cases filed in King County Superior Court are either designated to the
5 downtown courthouse or the Maleng Regional Justice Center (MRJC).
6

7 5. It is my understanding that the Department of Adult and Juvenile
8 Detention's downtown facility is better equipped to detain mentally ill clients than the
9 MRJC. As a result, almost all felony charges filed against seriously mentally ill clients
10 are handled either by my division, or by one of the three other Seattle felony divisions
11 of the King County Department of Public Defense.
12

13 6. Recently, DSHS has started requesting that defense attorneys consent to
14 allowing DSHS to transfer their clients from Western State Hospital to Yakima for
15 receipt of competency services.
16

17 7. It is highly unlikely that any attorney in my division would consent to
18 such a transfer. The likely result of such a request is litigation in Superior Court.

19 8. My understanding is that individuals receiving services at the Yakima
20 facility will have limited access to space for private conversations.
21

22 9. I have represented numerous clients who have been evaluated for
23 competency. I also have extensive experience representing clients with mental illness.

24 10. Communicating with mentally ill clients often presents significant
25 challenges for attorneys. The challenges in communication, rendering advice, and
26

1 representing the rights of our clients are exponentially increased when communication
2 between attorney and client is not in person.

3 11. My understanding is that attorneys will be expected to communicate with
4 their clients via video conference in an area that is not confidential.
5

6 12. Moving clients from Western State Hospital to a facility in Yakima would
7 greatly reduce my attorneys' ability to communicate with their clients in part because it
8 is unclear whether the phone lines will be confidential or whether the calls would be
9 recorded and in part because in person visitations will be nearly impossible as my
10 attorneys' caseloads are high and travel to and from Yakima would require at least 4.5
11 to 5 hours per trip (not including time meeting with clients). Therefore assigning
12 clients to YCRC will greatly reduce the quality of their representation and effectively
13 undermine the client's right to effective assistance of counsel.
14

15 13. DSHS has sought to transfer individuals to Yakima after those
16 individuals have been admitted to WSH.
17

18 14. The clients who are transferred to WSH for restoration are individuals
19 who have already been found incompetent. They have already waited in jail for weeks
20 or months to get services.
21

22 15. When they arrive at the hospital, they have to get used to being in new
23 surroundings.
24

25 16. Moving to yet another facility in Yakima after a few days at WSH will
26 disrupt their mental health and possibly lead to further deterioration. I am concerned

1 that the disruption in the care will mean that it will take longer to restore my client and
2 therefore it will take longer to resolve their criminal cases.

3 17. In addition, I understand that defendants treated in the Yakima facility
4 will be evaluated via videoconference by an evaluator who is at WSH.
5

6 18. I have concerns about whether an evaluator will be able to accurately
7 evaluate the competency of an individual via videoconference.

8 19. I am not likely to trust such an evaluation and would likely litigate in
9 Superior Court to compel in-person examinations of our clients.
10

11 20. The plan to transfer individuals to Yakima is not one that I support. There
12 are significant challenges with communicating with clients confidentially, the quality
13 of any communication would be greatly reduced, moving mentally ill individuals
14 around will not improve their mental health, and I do not trust that these individuals
15 can be accurately evaluated via videoconference.
16

17 I declare under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is
18 true and accurate.

19 DATED this 16th day of August, 2016, at Seattle, Washington.
20

21 /s/ Benjamin Goldsmith

22 Benjamin Goldsmith
23 WSBA #35017
24
25
26

CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2016, 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:

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

DATED: March 17, 2016, at Seattle, Washington

/s/ La Rond Baker
La Rond Baker, WSBA No. 43610

Attorney for Plaintiffs