

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY SUSAN L. CARLSON
CLERK

No. _____

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

DECLARATION OF FRANCIS COTA

Nicholas Allen, WSBA #42990
Nicholas B. Straley, WSBA #25963
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Attorneys for Petitioners

I, Francis Cota, declare under penalty of perjury under the laws of the United States of America, that the following statements are true and correct to my best knowledge and belief:

1. My name is Francis Donald Cota.
2. My birthdate is [REDACTED]/1955. I am currently 65 years old.
3. My DOC # is 817477.
4. I am over the age of 18 and am competent to testify as to the contents of this declaration.
5. My ERD is 2065. I have been in DOC custody for 20 years.
6. I am currently at Airway Heights Corrections Center (AHCC), in Airway Heights, Washington. I have been at this facility since 2006.
7. I recently applied for Emergency Medical Placement (EMP) for release from DOC.
8. I am in NA-1 Unit at Airway Heights.
9. I am in a 2-man handicapped cell, and sleep on the bottom bunk. My cellmate and I are only a few feet apart from each other at all times when we are both in the cell, which amounts to about 22 hours per day. All the cells in NA-1 are 2-man cells. I am in a wet cell, with access to a sink and toilet. I am responsible for cleaning the sink and toilet in my

cell with soap, water, and Hepastat disinfectant. I am not allowed to have bleach to clean my unit.

10. There are approximately 128 prisoners in my unit.

11. There are 12 showers – 6 on each side of the unit – which are shared by all prisoners. The showers are usually cleaned once per day. Due to COVID-19, there may have been some additional cleaning of the showers.

12. There is a big dayroom in my unit. There are 28 tables in the dayroom, with 5 seats at every table. There are also 4 handicapped tables, with accessibility for four people to sit there. The day room remains pretty crowded every day. Most of the day room is full during the day with people sitting in close contact -- within 1 or 2 feet -- of each other. I am worried about being in the dayroom because of the lack of hygiene and cleaning protocols. It is also the flu season, so there are a lot of people coughing and sneezing in the unit who are in close contact with one another.

13. There is also an ice machine in the unit, which is touch operated, with access to water too. It gets wiped down about 2-3 times per day. There is also a microwave on each side of the unit, which is shared by all of the prisoners. It is only cleaned about once or twice per day, but definitely not each use.

14. There are 8 phones in this unit, for use by all of the prisoners. They are not cleaned after every use and there have been no efforts to increase cleaning of the phones due to COVID-19.

15. DOC has not provided prisoners with access to hand sanitizer in light of the COVID-19 outbreak, or any additional cleaning supplies. They leave hepastat out for people to wipe down areas, but that is it. Because I am in a wet cell, I have to buy my own soap to wash my hands in this unit. Prisoners who cannot afford soap go without soap in this unit except for the opportunity to get soap once a month if they meet indigence guidelines. There are no common areas where soap and water are provided.

16. We are provided with 3 towels and wash cloths to dry our hands. You can turn in the hand towels any time, Monday through Thursday for washing, but it up to the individual to put these items in laundry, and not everybody puts these items in laundry on a regular basis.

17. DOC has not talked much about COVID-19 to prisoners. There have been no formal discussions with prisoners to explain how we can protect ourselves from COVID-19. The only steps they have taken to address COVID-19 is to shut down libraries and schools and stop visitation for the last two weeks. They have not shut down the gym or the yard, however.

18. The yard and gym are still open to everyone. DOC has not restricted access to these areas at all. About 210 people at a time are allowed to go to these areas – 2 units at a time. People in these areas are in close contact with each other. I have avoided going to these areas because of concerns about my health.

19. There have been no restrictions on access to the dining hall. I go to “C” dining hall, which is a little bit smaller than the other dining halls. It seats about 200 people for lunch and dinner. It is packed in there. Sometimes people have to wait for a place to sit down. There are about 40 tables, with the capacity to sit 5 people to a table. Everyone is in close contact with one another – they are elbow-to-elbow and less than one foot apart. I am still going to the dining hall. I have to go for dinner, because that is the only way I can get a breakfast “boat”. I am worried about being in the dining hall because it is dirty and there is a lack of general hygiene. For instance, they use the same dirty rag to wipe off the tables after people are done eating.

20. I’m not sure how they are going to feed folks in the prison once COVID-19 enters the facility because the whole facility will be on lockdown and DOC will have to bring boats around to every cell, particularly elderly prisoners, like myself who are at an increased risk of harm.

Medical History

21. I am 65 years old, so I am at a heightened risk of harm for exposure to coronavirus. I also have serious heart problems. Starting in 2017 or 2018, I learned that my heart was 100% blocked on the right side and 80% blocked on the left side. As a result, I had heart surgery, where the blockages were opened, and 3 regular stents were put in the left side of my heart and 1 medicine stent was put on the right side.

22. I now must go back to an outside cardiologist in 2 months to get 3-5 stents put in place on the right side to replace the medicine stent. Additionally, the cardiologist increased my nitro from 30 mg to 100 mg per day.

23. In addition to my heart problems, I have serious back problems due to degenerative disk disease, four bulging disks, and arthritis that is pushing my vertebrae apart. As a result, I am can only get around through use of wheelchair.

24. My last major infraction was about 10 years ago. I have only received 2 in my 20 years in prison.

25. Due to my medical condition, in the last few weeks, my provider made a request to DOC for Extraordinary Medical Placement (EMP). This would reduce the costs of care that DOC expends caring for my many medical conditions.

26. If released, I could immediately have a stable place to live with my fiancé on the Washington Coast.

27. It is going to be a real mess once COVID-19 makes it into the prison, and I fear a significant risk of harm to my own life.

28. Columbia Legal Services has permission to move forward with litigation against DOC on my behalf to try and help the situation here given this dangerous public health crisis.

DATED this 19th day of March 2020, in Airway Heights,
Washington.

I am unable to sign this document as it was prepared in Washington, but I have had it read to me over the telephone and authorize Nick Allen to sign it on my behalf.



Francis Cota by Nicholas B. Allen, WSBA #42990

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANTS

I, Nicholas B. Allen, declare under penalty of perjury under the laws of the State of Washington:

1. I am counsel for the petitioners in this action.
2. Due to shortened time and limitations on access to the declarants due to the current public health emergency, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.

3. I personally spoke with following declarants over the telephone on the dates and times stated herein. I drafted each declarant's declaration while on the telephone with them. At the conclusion of the call, I read each declarant's declaration to them, and each declarant stated to me that they believed the contents to their declaration to be true and correct, and authorized me to sign the declaration on their behalf.

<u>Declarant</u>	<u>Date</u>
Leondis Berry	March 19, 2020
William Burkett	March 20, 2020
Francis Cota	March 29, 2020

DATED this 22nd day of March, 2020 at Seattle, Washington.



Nicholas B. Allen, WSBA #42990

COLUMBIA LEGAL SERVICES, INSTITUTIONS PROJECT

March 24, 2020 - 7:16 PM

Transmittal Information

Filed with Court: Supreme Court
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Appellate Court Case Title: Shyanne Colvin et al. v. Jay Inslee et al.

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Comments:

Declaration in Support of Petition for Mandamus

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Filing on Behalf of: Nicholas Brian Allen - Email: nick.allen@columbialegal.org (Alternate Email: nick.allen@columbialegal.org)

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