

FILED
SUPREME COURT
STATE OF WASHINGTON
3/25/2020 8:00 AM
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 TERRY KILL

Nicholas Allen, WSBA #42990
Nicholas B. Straley, WSBA #25963
Janet S. Chung, WSBA #28535
Columbia Legal Services
101 Yesler Way, Suite 300
Seattle, WA 98104
Telephone: (206) 464-1122
Attorneys for Petitioners

I, Terry Kill, declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to the best of my knowledge:

1. I am 52 years old.
2. My birthday is [REDACTED], 1967.
3. I am over the age of 18 and competent to testify as to the contents of this declaration.

Background

4. I am currently in detention at the Monroe Correctional Complex in the Minimum Security Unit.
5. My DOC number is #936030.
6. I have been at this facility since February 25, 2018. I was at the Penitentiary in Walla Walla before that. I entered DOC in the summer of 2017.
7. I'm on track for the graduated reentry program. I've been approved for graduated reentry and for work release. My next review date is in June. I should be going to work release under the graduated reentry program after that review.
8. My ERD is June 10, 2021.

9. I am currently in a dormitory setting. In my unit, there are two dormitory style tiers and two room style tiers. The room style tiers have about eighteen two-man cells.

10. There are twelve cubicles in my tier. There's another tier with an additional twelve cubicles. Most of the cubicles have three beds in them, others have two beds. The cubicles are about six and a half feet by six and a half feet. The bunks are only a few feet apart and there are three bunks in that space; one bunkbed and a single.

11. There's another unit with cubicles that has four men per cubicle and there more men sharing the same space over there.

12. The walls of the cubicles do not go all the way to the ceiling and so you can look over into the next cubicle if you stand on the bed.

13. There are no doors on any of the cubicles. There are no showers, sinks or toilets in any of the cubicles.

14. We all share the same air. There are guys coughing and sneezing and not covering their mouths in our dorm all day and night.

15. There are two dayrooms where the people in here congregate. We are out most of the day and hanging out in these rooms.

16. They seem to be putting in place some stuff to keep people separated. I don't know how successful it has been.

17. There is one communal bathroom for the roughly thirty guys on my tier. Each of the other tiers have the same bathroom layout. But other tiers may have up to forty guys using the same bathroom.

18. There are four sinks in each bathroom, two toilet stalls and two urinals, and four showers, but only two of them are used. All of these are in close proximity to one another.

19. There is hand sanitizer on the unit. There are two of them. And bleach is made available to us.

20. The bathrooms are cleaned based on the abilities of the janitor to clean them and so the quality of cleaning varies depending on the person that is doing it.

21. There is a microwave that we share. I'm not sure how often it gets cleaned.

22. We also have an ice machine that we all access all of the time. There's an ice chest which is filled with ice from the ice maker. The ice chest is used by every inmate on the unit. They are supposed to use a glove and ice scoop to scoop the ice, but generally they don't put on gloves and sometimes guys just scoop the ice out with the cup that they have been drinking from.

23. We can clean around the unit, but not everyone is consistent with doing the cleaning and it is not done correctly by everyone.

24. DOC has told us if we have a fever, shortness of breath or feel sick we are supposed to report it to medical staff.

25. But guys in prison may not take the coronavirus thing seriously. Guys will cough in other people's face. I don't have a lot of faith that the population is going to take it seriously.

26. I work in the kitchen. They started slowing down the serving process in the last day or so. But people are still sitting three or four at a table.

27. They are not filling up the dining rooms anymore. But they are keeping between forty and eighty inmates in the dining rooms at the same time on a rotating basis during meals. They are limiting the numbers from around two hundred and forty people who used to eat meals at the same time.

28. They are starting to clean the tables more often.

29. All the inmates who work in the kitchen are supposed to wash their hands and put on gloves before they start work.

30. I do various things in the kitchen. I serve food and I clean the dining hall.

31. They just put in some requirements for sanitation and washing hands.

32. We're continuing to follow normal procedures for washing dishes. But we are trying to keep the door handles clean with bleach.

33. I don't think we're safe, especially in the dormitory and in the way in which the meals are being run. I think people will end up getting sick if coronavirus ends up in this facility.

34. I'm worried that the open-air dormitory living is a breeding ground for germs like COVID.

35. The continual close contact will cause problems when COVID gets in.

36. There are a bunch of guys who are older than me and I'm really concerned for them. My cubicle mate is sixty. Another of my friends is in his late 60s.

37. I'm worried about the kitchen. There are about twenty-five guys working in the kitchen. A bunch of them stand on either side of line that the trays go down to get food put on them. The tray goes down the line between two sets of people who are serving food. There are also a bunch of guys in the dishwashing area. Altogether, there are about fifteen to nineteen people working in close proximity to each other for hours in the back of the kitchen.

38. As the dining hall fills up, people are not sitting six feet apart. They are still sitting three or four to a table.

39. They come together to the meal line from their units and then they get in line to wait for their trays. There are fifteen to thirty guys deep at all times waiting for their trays.

40. Approximately three hundred and fifty guys go through the line at every meal.

41. This happens twice a day, once at lunch and again at dinner.

42. They've told us about social distancing and keeping distance from each other.

43. They are trying to enforce this rule, but guys are still congregating together.

44. I have not heard about any of the population being tested for coronavirus or having their temperatures being taken regularly. They are stopping staff when they come in and taking their temperatures before they come inside.

Who I Am

45. I am married to Twyla Kill. She lives in Gold Bar, Washington. I would be able to move in immediately with her upon my release.

46. We are buying the house she lives in through a private loan with the current owner.

47. I'd agree to be on any kind of monitoring system that they want upon my release.

48. My wife is permanently and totally disabled because of a lower lumbar injury to her spine. She also suffers from a knee contracture. This means that she can't stretch her leg out fully. These disabilities cause her a lot of pain and severely affect her mobility. She has to often use a walker and has difficulty driving for long distances and is significantly limited in taking care of herself.

49. This caused her to fall yesterday in the front yard. She fell and broke her hand.

50. She's on L & I for her disabilities.

51. Just this year in January she had a pulmonary episode that compromised her lung. She needed to have arteries in her right lung cauterized.

52. This has compromised her breathing and makes her at risk of something bad happening if she gets COVID.

53. She is home by herself now. And she has no one home with her. Her roommate was exposed to COVID and is now living elsewhere to not infect her.

54. Now with the coronavirus epidemic and people being told to stay in their homes she is not able to get the help that she needs like she gets during normal times.

55. She needs my help to do regular things around the house, because she has no one else right now.

56. I've done extensive programming during the little more than a year and a half since I've been in prison. I've completed a construction trades apprenticeship program. I'm in NA and AA. I worked in the Sustainable Practices Lab in Walla Walla when I was there. I also completed the Green Planet Academy at Walla Walla. I received certificates for these efforts. I'm in International Toastmasters. I've done Parenting Inside and Out, a nationally recognized parenting class. I've completed Communication Breakdown. I also did Reformers Unanimous, a Christian based drug and alcohol rehabilitation program at Walla Walla.

57. I've worked for Roads and Grounds outside the gate here at Monroe Correctional Center. I've also worked in the kitchen and as a painter.

58. I tried to get into chemical dependency, but they don't have room because there are too many DOSA inmates.

59. 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 22nd day of March 2020 in Monroe, Washington.

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

A handwritten signature in black ink, appearing to read 'NBS' with a checkmark-like flourish at the end.

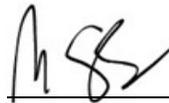
Terry Kill, by Nicholas B. Straley, WSBA #25963

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANT

I, Nicholas B. Straley, 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 a physical signature from the declarant.
3. I personally spoke with Terry Kill over the telephone on March 22, 2020. I drafted Mr. Kill's declaration while on the telephone with him. At the conclusion of the call, I read Mr. Kill's declaration to him, and Mr. Kill stated to me that he believed the contents of his declaration to be true and correct, and authorized me to sign the declaration on his behalf.

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



Nicholas B. Straley, WSBA #25963

COLUMBIA LEGAL SERVICES, INSTITUTIONS PROJECT

March 24, 2020 - 7:07 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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- tim.lang@atg.wa.gov

Comments:

Declaration in Support of Petition for Mandamus

Sender Name: Maureen Janega - Email: maureen.janega@columbialegal.org

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

Address:
Columbia Legal Services, Institutions Project
101 Yesler Way, Suite 300
Seattle, WA, 98104
Phone: (206) 287-9662

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