

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 WILLIAM BURKETT

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, William Burkett, 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 William Burkett.
2. My birthdate is [REDACTED] 1950. I am currently 70 years old.
3. My DOC # is 736299.
4. I am over the age of 18 and am competent to testify as to the contents of this declaration.
5. My ERD is March 10, 2029. I have been in DOC custody for 25 years.
6. I am currently at Stafford Creek Corrections Center (SCCC) in Aberdeen, Washington. I have been at this facility since 2015.
7. I am in H-6 Unit, A Tier, Cell 34-L.
8. I am in a cell for people who are disabled because I need a wheelchair to get around. I am in a two-man cell, like all of the other cells in my unit, with the person who is my wheelchair pusher. My unit is not a wet cell. Neither are any of the other cells in my unit.
9. There are approximately 228 prisoners in my unit.
10. There is only one handicap shower in my unit that I can use. About 30 other prisoners use this shower over the course of a day. It

is cleaned three times per day with hepastat. There have been no changes in cleaning protocol for the showers since the COVID-19 pandemic.

11. There are 4 bathrooms in my unit, with 5 sinks in each bathroom, which are used by each of the over 200 prisoners each day. They are cleaned with hepastat each day. They may have increased use of hepastat since COVID-19.

12. In each bathroom, there are 2 toilets and 2 urinals. There is protocol that these be cleaned after every use. They can get pretty dirty over the course of the day between cleanings. Individuals can use hepastat to clean before and after use, but it is not required.

13. There is a big dayroom in my unit. There are approximately 20 tables in the dayroom, with 4 seats at every table, and the space between tables is about 3 feet. The space between individuals at each table is about 1 foot. The day room remains pretty crowded every day and evening. Most of the day room is full during the day and evening with people sitting in close contact with each other.

14. There are common use items in the dayroom for use by all prisoners, including 2 microwaves per tier and 1 ice machine. They are cleaned every time the bathroom is cleaned. Otherwise, you are required to clean up after your own mess, but this does not always occur.

15. There are 7 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. There is no one specifically assigned to clean the phones – it is on individual prisoners to decide whether to clean them.

16. DOC has not provided prisoners with access to hand sanitizer due the COVID-19 outbreak, or any additional cleaning supplies. I asked for hand sanitizer and was denied. I was told there is soap in bathrooms to wash hands, and that I don't need hand sanitizer. I asked commissary if we could get it put on store, so we could buy it, and was told "no" because there is alcohol in it. There are also no masks at all available in the prison.

17. DOC has not had any formal conversations with prisoners about COVID-19 – no formal classes or in-person discussions. They have only taped up a few notices around the prison. But if you can't read, you would not know what is going on. The only other way you could figure out what is going on is by watching the news. There is nobody from DOC giving information verbally.

18. DOC is still transporting prisoners for non-critical visits with the doctor. For example, last week, I was scheduled to go out for a colonoscopy, which I refused because of fear of coronavirus.

19. DOC has stopped visitation and programming, but people are still working in the prison. No other steps have been taken to reduce social distancing. They have not shut down the yard or the gym.

20. 2 units go to the yard at any time, which amounts to about 300 prisoners at a time. I don't go out to the yard because it is too cold and damp out there and I am susceptible to pneumonia.

21. There have been no restrictions on access to the dining hall. I go to "B" dining hall. It seats about 300 people for lunch and dinner – about a unit and a half go through each feeding schedule. It is crowded in there. There are about 35-38 tables, with the capacity to sit up to 4 people at a table. Everyone is in close contact with one another – they are bumping into each other. Usually there are people waiting in line to get a place to sit. I am still going to the dining hall because that is the only way I can get food. But I am worried about going to dining hall because I have to be in close proximity to other people who may be infected.

22. I am a 70-year old disabled veteran. I am at a heightened risk of harm for exposure to coronavirus due to my age and extensive medical history. I have several serious medical conditions: stage-4 liver disease; compensated cirrhosis; Type-2 diabetes; COPD and asthma; stomach issues, including the removal of my gall bladder; arrhythmia, and

arthritis. I have also broken my back twice – once in a hang-gliding accident in 1974; a year later, I fell at work and reinjured the same area.

23. I also have metal implants in my right foot and right arm. Metal implants in my foot are due to a fall resulting from high blood pressure. My right arm has implants due to an ulnar bone shortening.

24. In 2013 or 2014, half of my colon was removed due to excess polyps.

25. I recently contracted pneumonia on two occasions: once in November 2019, which required transport to the hospital, and again in January of 2020.

26. I currently take 24-medications related to high blood pressure, diabetes, arrhythmia, COPD, colon-related issues, and my other medical conditions.

27. While I am in the unit, I can walk a little bit, but it causes pain. As a result, I am almost exclusively limited to getting around in a wheelchair.

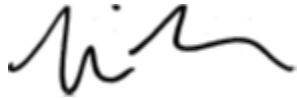
28. My last major infraction was in 2008.

29. I am in constant fear about the impact that COVID-19 would have on me should I be exposed to it in prison. There have been no efforts to reduce social distancing among the prison population and I worry that once it gets into Stafford Creek, I will face harm or even death.

30. 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 20th day of March 2020, in Aberdeen, 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.

A handwritten signature in black ink, appearing to read "Nick Allen", written over a horizontal line.

William Burkett 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 - 7:18 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 98317-8
Appellate Court Case Title: Shyanne Colvin et al. v. Jay Inslee et al.

The following documents have been uploaded:

- 983178_Other_20200324191657SC486843_3998.pdf
This File Contains:
Other - Declaration
The Original File Name was 20 0319 Burkett Decl - FINAL_Redacted.pdf

A copy of the uploaded files will be sent to:

- Jeff.Even@atg.wa.gov
- janet.chung@columbialegal.org
- jeffe@atg.wa.gov
- nick.straley@columbialegal.org
- 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

Note: The Filing Id is 20200324191657SC486843