

FILED
SUPREME COURT
STATE OF WASHINGTON
4/9/2020 8:16 AM
BY SUSAN L. CARLSON
CLERK

No. 98317-8

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.

**SUPPLEMENTAL DECLARATION OF PETITIONER 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. My birthday is October 1, 1967

2. I am over the age of 18 and competent to testify as to the contents of this declaration.

3. I am a petitioner in this matter.

4. I am currently in DOC custody at the Monroe Correctional Complex – Minimum Security Unit. I currently reside in A-Unit

5. **Initial Outbreak and Quarantine:** On Friday, April 3, 2020, DOC placed four people from B-Unit in quarantine in A-Unit. Doc put these four people on an empty tier. These residents used JPay and the phones on their first day, but they haven't come back out since then to my knowledge.

6. One inmate was pulled out of B-Unit and taken to the Inmate Services Building. They tested him and took him away. There were four other guys in pumpkin suits that were taken away.

7. On Sunday evening, April 5, 2020, somebody from B-Unit came over to A-unit an complaining of chest pains. He was sent back to B-Unit. DOC staff came in and tested him for COVID-19, and his test came

back positive. That night, both A-Unit and B-Unit were locked down and we received a memo that someone had tested positive for the virus.

8. DOC talked to tier reps about the positive test and they passed it on to prisoners. There has been a daily update, but we have not been getting updates on who is sick and who is not.

9. On Monday morning, April 6, 2020, A-Unit got to come off their tiers, and B-Unit stayed on quarantine that day. Then B-Unit started acting out in response – tearing signs off doors that said they were supposed to stay in quarantine, running around in the hallways, and not listening to staff. The correctional program manager (CPM) came in and calmed them down.

10. DOC eased up on the quarantine that same day. Inmates who were supposed to be in quarantine were out spraying door handles, etc. People were allowed out in breezeway which is a common area between the two units that separates A- Unit and B-Unit. But residents in both units have been using that area at the same time, as it is the only entry/exit that are being used to both units. So really, people from A and B Units have been in contact with each other since the quarantine started.

11. On Monday, April 6, 2020, B-Unit inmates came over into A-Unit to use the A-Unit communal ice chest, which is incredibly insane.

12. That night, B-Unit got to go to the gym, and then A-Unit went in right behind them. The people who don't care/don't think this is a big deal went into the gym and went back to A-Unit.

13. B-Unit is no longer under quarantine, but they are separated from the other units with their activities. However, people from B-Unit are still being allowed to come from B-Unit to A-Unit, which they shouldn't be. DOC has said this is not allowed, but they are not enforcing this. Also, DOC is sending people from A-Unit to both A and B-Units to clean up messes or grab laundry bags. The guards are requiring people to go over there despite prostrations from other residents.

14. I heard on that D unit was locked down, but I am not sure if they are still locked down or not, considering both B-Unit and D-Unit are supposed to be locked down. They pulled all inmates from D-Unit out of the kitchen and locked them down in the unit.

15. There are 119 people in B-Unit, and A-Unit has 50-52. We are living on top of each other. Having lots of people coughing and sneezing is creating a lot of irritability and frustration. Forcing everyone to stay contained in those conditions can result in violence.

16. **Social Distancing:** I have been avoiding a lot of areas at the prison. I quit working in the kitchen because of the social distancing

issue. I only go to the dayroom to check my kiosk and have to go to the phone 2-3 times per day.

17. I try to do my best to social distance but it is almost impossible. Phones are about 2 feet apart from each other with a ¼ piece of plexiglass as a partition. The phone mouthpiece is not easily sanitizable. I avoid the gym, try to go to bathrooms only when there are not a lot of people in there. They remain very close quarters.

18. Everyone still has access to the same shared spaces, like the breezeway, patio, gym, and the yard. They've been rotating yard and gym time between the units, but everyone is still using the same common spaces and engaging in the same activities, with many people all together.

19. They are still allowing handball games to take place in the gym, which can be 2-4 people playing at a time.

20. I have heard they are considering increasing the number of people in the dayroom from 10 to 15 people. With 10 people there is already not enough space to address social distancing, and 15 people at a time would be very dangerous.

21. In response to COVID-19, DOC bought board games for people in the unit, which actually increases the proximity between people and opportunities to spread the disease, as these games require two or

more people to play within close proximity of each other while talking, coughing, etc.

22. DOC has significantly dropped the dining room activity down. They first started by limiting the number of people in the chowhall at a time, but we were still required to sit together (I tried to sit at a table by myself, but they wouldn't let me.) Starting today (Wednesday, 4/8), they stopped having us eat in the chowhall. They now send us down to the chowhall 12 at a time and we pick up our meals and return with them to our living units.

23. Since the first positive test, I have been hyper aware and becoming more and more stressed. I only have one surgical mask that I cannot clean, and the attitude and morale around me is deteriorating. People are getting more agitated. I think they are getting ready to lock us all down and keep us in our units, which is going to create all kinds of problems. So now I am concerned about COVID, but also violence. That is creeping up around here.

24. **Sanitation:** DOC has been sending people over from A-Unit which is not on quarantine, to B-Unit which is supposed to be quarantined.

25. The cleaning practices practices within my unit remain poor, at best.

26. They implemented a new group of inmates to clean gym after every use. I am not sure how effective that will be given

27. We continue to receive Hepastat to clean. Hepastat is supposed to “set” before wiping it off a surface, but people are using Hepastat by just spraying and wiping immediately, which is not effective.

28. When bleach is used, there are leaving dried bleach on phones, toilet surfaces, and not wiping it down. Nothing is really being thoroughly cleaned.

29. **Health and Safety Measures:** I know that at least three people have been diagnosed with COVID-19, and I believe two other as well. DOC has been moving sick people from MSU and placing them into close observation cells in the Special Offenders Unit (SOU) or in isolation at the IMU Violators Unit. DOC says they’re taking care of them, but I’m concerned that they are not taking adequate care of the people who are ill or rounding on them as often as necessary, especially given how DOC has handled cross-contamination issues here in MSU.

30. I received a surgical mask on Monday, which I have been using. DOC has not distributed any masks, but I was able to get one from another inmate at work. Most of the 27 people on my tier got surgical mask, but most people in A-Unit do not have them.

31. One officer told an inmate from A-Unit to go to B-Unit to do work. He said he couldn't because he didn't have a mask. He was yelled at and DOC threatened to take his job if he didn't go over there.

32. Not everyone is being screened or tested for the virus.

33. People who have compromised immune systems are not getting proper care. For instance, there is one inmate who is continually coughing and has a history of tuberculosis, but DOC has not taken them to get an X-ray.

34. On Tuesday night, April 7, 2020, the MCC Superintendent went into B-Unit with the CPM and around four officers, carrying a bunch of boxes. I heard from my tier rep and other residents that they passed out McDonald's to all of the residents in B-Unit. I haven't talked to anyone directly in B-Unit, because I am trying to avoid close contact.

35. On Wednesday morning, April 8, 2020, they took away phone access until 8:00 AM. I believe this was because there were around 20 Washington State troopers as well as a bunch of media out on the hill.

36. My wife, with family members of other people here in Monroe, has been outside picketing, wanting to get DOC to take action to keep us safe.

37. I'm really concerned about what it's taking to get DOC to take action. There are fewer staff on site. More and more people are

getting sick and not enough is happening to keep people safe. DOC is trying to improvise as they go.

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 Laurel Simonsen to sign it on my behalf.

DATED this 8th day of April, 2020 at Seattle, Washington.

/s/ Laurel Simonson

Terry Kill, by Laurel Simonson, WSBA #47904

COLUMBIA LEGAL SERVICES, INSTITUTIONS PROJECT

April 09, 2020 - 8:16 AM

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_Affidavit_Declaration_20200409081419SC556308_3766.pdf
This File Contains:
Affidavit/Declaration - Other
The Original File Name was 20_0408 Terry Kill Supplemental Declaration.pdf
- 983178_Motion_20200409081419SC556308_1023.pdf
This File Contains:
Motion 1 - Other
The Original File Name was 20 0409 motion for emergency relief - COLVIN.pdf

A copy of the uploaded files will be sent to:

- DAdreBCunningham@gmail.com
- John.Samson@atg.wa.gov
- PCpatcecf@piercecountywa.gov
- alex.bergstrom@columbialegal.or
- andrea@smithalling.com
- changro@seattleu.edu
- correader@atg.wa.gov
- dadre@defensenet.org
- djohnson@paulweiss.com
- dkimballstanley@paulweiss.com
- dvasquez@karrtuttle.com
- heatherm@dr-wa.org
- hhatrup@karrtuttle.com
- hsebens@co.skagit.wa.us
- janet.chung@columbialegal.org
- jmidgley@aclu-wa.org
- julia.bladin@columbialegal.org
- leeme@seattleu.edu
- mmc@smithalling.com
- nblock@co.skagit.wa.us
- nf@neilfoxlaw.com
- nick.straley@columbialegal.org
- pleadings@aclu-wa.org
- rachael@dr-wa.org
- sbuergel@paulweiss.com
- talner@aclu-wa.org
- tdavis@aclu-wa.org
- teresa.chen@piercecountywa.gov
- tim.lang@atg.wa.gov

Comments:

Emergency Motion to Accelerate Review, for Appointment of Special Master, and for Immediate Relief

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 20200409081419SC556308