

1 EXPEDITE
2 Hearing set for:
3 Date: Friday, April 23, 2021
4 Time: 9:00 a.m.
5 Judge/Calendar: Judge James Dixon

6 **SUPERIOR COURT OF WASHINGTON**
7 **FOR THURSTON COUNTY**

8 CANDIS RUSH, JUSTIN AUTREY,
9 GREGORY STEEN, THEODORE RHONE, and
10 MICHAEL LINEAR, on behalf of themselves
11 and all others similarly situated,

12 Plaintiffs/Petitioners,

13 vs.

14 WASHINGTON STATE DEPARTMENT OF
15 CORRECTIONS, a state agency; STEPHEN
16 SINCLAIR, Secretary of the Washington State
17 Department of Corrections; WASHINGTON
18 STATE DEPARTMENT OF HEALTH, a state
19 agency; and DR. UMAIR SHAH, Secretary for
20 the Washington State Department of Health;

21 Defendants/Respondents.

CLASS ACTION

No. 21-2-00491-34

DECLARATION OF THEODORE
RHONE

22 I, Theodore Rhone declare the following:

- 23
1. I am 63 years old.
 2. My birthday is 1/19/1958.
 3. I am over the age of 18 and am competent to testify as to the contents of this

declaration.

1 **Background**

2 4. I am currently in detention at the Stafford Creek Corrections Center in Aberdeen,
3 Washington.

4 5. My DOC number is 708234.

5 6. I have been at this facility since November or October of 2011.

6 7. I am currently in housing unit H-6.

7 **Medical History**

8 8. I am diabetic and insulin dependent. I take oral medications for my diabetes.

9 9. I also have high blood pressure, anxiety, neuropathy, and some eye problems. I
10 was once stabbed in the heart in the 1990s and require medical testing to make sure I am ok.

11 10. As of today, I have not caught COVID.

12 **General Conditions**

13 11. When they first started quarantining us, Around October or November, they had
14 us locked down for three months. During that whole time, we didn't have access to fresh air, we
15 didn't go outside, we couldn't do anything. We were allowed to come out of our cell and into the
16 day room for about 45 minutes each day, with about 8 cells out at a time.

17 12. Once those three months of lock down were over, DOC slowly started letting
18 some of the kitchen workers go back to work and has been expanding re-opening ever since.

19 13. Just recently, around 3/21, one staff member that works at kitchen and prepares
20 all of our food tested positive for covid. Four additional staff members were sent home because
21 they were in close contact with the person who tested positive, but two of them came back the
22 following day. DOC has still not provided us with any update or formal explanation on these
23 events and there has been no action on this. The kitchen has not been shut down and residents are

1 still allowed to go in large groups to go and pick up their food. The only way we can keep up to
2 date with what is going on throughout the facility is by talking to staff or people who work in
3 different locations in the facility. We cannot rely on DOC to be transparent about the dangers we
4 all face.

5 14. Currently, we are allowed out of our cells in cohorts. For example, the day room
6 is being rotated for use meaning one cohort is allowed in there in an effort to social distance.
7 Another cohort will be the yard, and then rotate out. Before this rotation started, there were just
8 masses of people inside the day room.

9 15. Even with these new policies, we continue to have a problem with social
10 distancing and masking. Correctional Officers continue to wear their mask, but I see them gather
11 around and talk and sometimes with their mask up, or down, or somewhere around their chin.

12 16. People in the cohorts still vary on their own efforts to social distance and mask.
13 The staff will get on us about social distancing, if COs see a group of residents standing around
14 and talking, they'll come in and tell everyone to go to 6 feet. Sometimes these interactions are
15 cordial and other times they are aggressive. It just depends on the mood of the individual CO.
16 But the worst part is even though they are telling us to do it, the COs aren't doing it.

17 17. The biggest concern to me is that the facility, as a whole, is treating the
18 coronavirus as if it is over because not many people are showing symptoms and there are not a
19 lot of people on quarantine. The staff here are not showing any urgency of trying to get ahead of
20 the disease or being proactive. There are no active efforts at education around the virus, the
21 vaccine, or any of the variants we are hearing about on the news. I even had a staff member tell
22 me that two of the five confirmed COVID deaths were unnecessary. I took that to mean they
23 were avoidable.

1 18. This COVID thing is not dead. To treat me and others as if it is over because
2 people are not reporting symptoms, and DOC is actively trying to go about business as usual, is a
3 dangerous mistake.

4 **DOC Vaccine Efforts**

5 19. From what I understand, there are three different vaccines, Moderna, Phizer, and
6 Johnson and Johnson. I believe DOC is distributing the Moderna and Johnson and Johnson to us
7 at some point. This is based on a kiosk message that DOC has sent around.

8 20. I have tried to get vaccinated already because of my health conditions, but I was
9 told that DOC is only authorized to distribute the vaccine to people who are 65 and older. This
10 has also been expanded to people who are working in correctional industries and other jobs
11 considered essential.

12 21. In H-6, the majority of the 65 and older individuals are white, and they have
13 received the vaccine. I do know one individual who is black and over 70 years old who had
14 trouble getting the vaccine. He had to file a grievance and file a complaint with the Ombuds
15 office to get vaccinated.

16 22. Generally, staff have not said much about the vaccine or given any education
17 around the vaccine. The only other thing we have received from DOC is a questionnaire on
18 whether we want to get the vaccine. If we did want it, we can sign up for it. But this
19 questionnaire lacks any kind of information on the benefits of the vaccine, side effects, impacts
20 on underlying conditions or current medications, or other information that may be useful.

21 23. I don't even know if this is the only chance we get to sign up for the vaccine.
22 There are rumors going around saying that if you don't take the vaccine you won't be able to
23

1 work in certain places. I take that to mean that there will be policies that do not allow us to
2 participate in many activities, like family visits, unless you take the vaccine.

3 24. I have also watched two different programs on TV to understand the importance
4 of the vaccine and the side effects of it.

5 25. In here, there is a mix of emotions around the vaccine. I have heard from people
6 who do not want to take the vaccine talk about conspiracy theories, others say they don't feel
7 comfortable taking something created so quickly, and others are concerned about long term
8 effects. Overall, I'd say the majority of the residents here are 50/50 on whether they would take
9 the vaccine.

10 26. There are some staff that I talk to who have told me they refuse to get to vaccine.
11 It is my understanding that there are a lot of staff who are refusing to get the vaccine. There are
12 some staff who say they are vaccinated but as far as I can tell they are the minority.

13 27. As for myself, I am actively asking staff to give me the vaccine and I continue to
14 be told no. The CDC has made it clear that the COVID virus has impacted the African American
15 communities severely, that people with underlying conditions are at most risk, and so are people
16 of advanced age. For these reasons, I continue to ask for the vaccine and I don't understand why
17 I continue to be told no. I am not afraid of the potential side effects of the vaccine because of the
18 TV shows I was able to watch and because I am a man of god; if I don't take the vaccine there is
19 a possibility that DOC will not allow me to take part in my religious beliefs and pray with other
20 people.

21 28. About a week ago, on a Monday or Tuesday, I spoke to the Captain of this
22 facility. He said there was a bunch of vaccines that they could not use because the government
23 has made specific categories on who to give it to and they couldn't give it to people outside of

1 those categories. The Captain said there was nothing they could do with them, he said there was
2 “a bunch of them,” referring to the vaccines, so I took that to mean that those vaccines have
3 probably gone to waste by now.

4 29. I worry about our lack of access to the vaccine. For myself because there are
5 variants being discovered I wish we were being provided with more information. I wish we were
6 hearing about how these variants will impact us differently or what they will do to us, or how
7 they will interact with the vaccine.

8 **Who I Am**

9 30. From my perspective, people need to be educated about these viruses. I think it is
10 imperative for everyone to know that the only way to handle these situations is to get people
11 down to one-person cells to the point the administration is not overwhelmed, people can try to
12 social distance, and we can reduce the opportunity of this virus from taking control.

13 31. I think staff needs to be educated as much as they can be and provided with
14 classes on preventative measures. How to use a mask, how to engage others to encourage
15 masking and social distancing, how to pass along general information about the vaccines, how to
16 help stop the spread of misinformation.

17 32. I think people should be able to receive a vaccine that is available when it is
18 requested, not when other people deem it. People in prison don't have the opportunity to stay
19 away from people, or to take off their mask without breathing in stale air.

20 33. We are human beings, we have value, and we have worth. Its when people on the
21 outside, don't care about people in prison, that we are forgotten and allowed to suffer in silence.
22 This entire effort is about eliminating possible deaths, this is not supposed to be political, this is
23 supposed to be based on science.

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34. One of the biggest things throughout all of this is the lack of humanity. We need to be a people to bring back the sense of compassion, the sense of care for our neighbor. It is only together that we will win this fight against the virus.

35. 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.

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

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

Dated this 30th day of March 2021 in Aberdeen, Washington.

Theodore Rhone, by Tony Gonzalez, WSBA #47771

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANT


I, Tony Gonzalez, 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 urgency and limitations on access to the declarants due to the current public health crises, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.

3. I personally spoke with Theodore Rhone over the telephone on March 30, 2021. I drafted Mr. Rhone's declaration while on the telephone with him. At the conclusion of the call, I read Mr. Rhone's declaration to him, and Mr. Rhone stated to me that he believed the contents of this attached declaration to be true and correct, and authorized me to sign the declaration on his behalf.

DATED this 30th day of March, 2021 at Wenatchee, Washington.



Tony Gonzalez, WSBA #47771