

Bell et al v. Department of Corrections FAQ--UPDATE

What's happening with the Bell v. Department of Corrections ("DOC") case?

Columbia Legal Services ("CLS") sued DOC in September 2023. The lawsuit was filed in Thurston County Superior Court in Olympia. The judge dismissed the lawsuit on August 2, 2024. CLS is appealing. The appeal will take time—probably more than a year. We will update this FAQ when there is something new to report.

What is the lawsuit about?

The lawsuit is about DOC's use of "presumptive" drug tests on paper, mail, and other things belonging to people in prison. DOC has used tests from companies like Detectachem, NARK, and MMC International.

To use the test, an officer takes a sample of paper, mail, or other object, and then places the sample into a pouch that contains certain chemicals. Officers can also rub a swab on the sample and place the swab in the pouch. The chemicals in the pouch can make the sample turn different colors to show the possible presence of drugs.

The lawsuit says that:

- The tests can't be trusted about whether drugs are really present;
- DOC refused to double-check whether the tests are right or not with lab testing; and
- People in custody have been punished for having drugs when they didn't have any.

What is the lawsuit trying to do?

- Get DOC to undo (expunge) all discipline imposed because of these tests; and
- Get DOC to give back all good conduct time taken away because of these tests.

The lawsuit also asks for people disciplined because of a test to get money if they:

- Lost good conduct time;
- Were put in solitary confinement;
- Were transferred to another prison;
- Lost a prison job;
- Lost visitation; or
- Were punished in some other way.

The lawsuit says that DOC should change its testing policy.

The lawsuit asks that DOC reimburse CLS for its costs and attorney fees. CLS is a nonprofit.

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Is this case only for people at Airway Heights Corrections Center?

No. The case is against DOC and its use of these tests in all DOC prisons.

Does the case also cover urinalysis or breathalyzer testing at DOC?

No.

How can I join the case?

There is no way to join the case right now. Because it is a proposed class action case, we will send notice to class members as needed in the future, if a class gets certified. However, this may not be for some time because the case is currently being appealed.

You can contact us if you:

- Would like to talk about what happened to you because of a drug test; or
- Have questions.

Here's how to contact us:

LEGAL MAIL to: Columbia Legal Services,
711 Capitol Way S., Ste. #706,
Olympia, WA 98501

E-MAIL: docdrugtests@columbialegal.org

PHONE: 360-499-6068 (collect and confidential attorney line for the case)

This line is mostly for appointments. We can only take one call at a time. If you are in custody and unable to reach us after trying this phone number, write us via legal mail to ask for an appointment.

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I just got an infraction or a mail rejection because of these presumptive tests. What should I do?

If you got an infraction notice based on one of these tests and you think it's wrong, you can now ask for outside lab testing. DOC has a form to ask for outside lab testing. Ask for form number 14-204. If DOC doesn't give you a form, ask for outside testing before and during an infraction hearing. Ask at your infraction hearing for form 14-204. If DOC won't give you form 14-204, write your request for outside testing on a piece of paper and ask that it be included with your infraction hearing documents.

You can also file a Resolution Request (Grievance) or ask your DOC counselor for more information about how to request outside testing. If the test is confirmed by a lab to be drugs, you will be required to pay for the lab testing. We don't know if DOC will allow outside lab testing for mail rejections. You may wish to still ask for it.

This is not individualized legal advice. Everyone's infraction or mail rejection situation may be different. CLS is unable to represent people at their individual infraction hearings.

I got an infraction because of a presumptive test. I lost at my hearing and lost my appeal within DOC. Can CLS help me with a PRP or lawsuit? Should I file a PRP or lawsuit on my own?

CLS cannot give advice on whether someone should file their own individual PRP or lawsuit. CLS cannot represent people in individual PRPs or lawsuits at this time. You should review and follow any disciplinary hearing notices and appeal deadlines that you may have, and review any deadlines to file a PRP or other lawsuit, if you wish to do so. You are responsible for meeting your deadlines.