

FILED
COURT OF APPEALS
DIVISION II

2018 MAY 31 PM 1:21

STATE OF WASHINGTON

BY _____
DEPUTY

No. 50440-5-II

IN THE COURT OF APPEALS OF THE STATE
OF WASHINGTON

DIVISION II

CARLOS JOHN WILLIAMS

Appellant,

v.

WASHINGTON STATE
DEPARTMENT OF CORRECTIONS

Defendants/Respondant.

ON APPEAL FROM THE SUPERIOR COURT
OF THURSTON COUNTY, STATE OF WASHINGTON.

BRIEF OF APPELLANT

CARLOS JOHN WILLIAMS
PRO SE

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CLALLAM BAY, WA 98326
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pm 5/30/18

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 A. The trial court failed to consider Mr. Williams July 24, 2013 request to Counselor Kmiecik for a copy of his Mental Health Treatment Plan as a valid request to a Health Care Provider thus violating the Public Records Act (PRA), RCW 42.56 et. seq., and/or the Uniform Health Care Information Act (UHCIA), RCW 70.02 et seq.

 B. The trial court failed to consider Mr. Williams request to the Monroe Correctional Complex Registered Health Information Technician (RHIT) for copy of Mental Health Treatment Plan response for him to "contact his counselor for a copy" as a violation of the Public Records Act (PRA), RCW 42.56 et seq., and/or the Uniform Health Care Information Act (UHCIA), RCW 20.02 et seq.

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I. ASSIGNMENT OF ERROR

The trial Court erred by entering Order of Dismissal of a valid PRA and/or UHCIA request.

II. ISSUE PERTAINING TO ASSIGNMENT OF ERROR

RCW 42.56 et seq. and RCW 70.02 et seq. govern this matter. Mr. Williams, made a valid request to his mental health counselor Ms. Kmiecik on July 24, 2013. Mr. Williams was confined at the Monroe Correctional Complex's Special Offender Unit (SOU). Mr. Williams was a patient. RCW 70.02.030 states: Patient may authorize healthcare Facility to disclose the patient's healthcare information.

RCW 70.02.090, states: a healthcare provider or healthcare facility shall honor an authorization, if requested and provide a copy of the recorded healthcare information.

RCW 70.02.030(3) states: to be valid, disclosure authorization to an healthcare provider or healthcare facility shall"

- (a) Be in writing, dated, and signed by patient;
- (b) identify the nature of the information to be disclosed.

III. STATEMENT OF THE CASE

A. Procedural History

Carols John Williams, saw his assigned Mental Health Counselor on July 24, 2013. At that time a request was made for a copy of his Mental Health Treatment Plan. Mr. Williams submitted a "kite" (Offender Request Form) to his healthcare provider (Ms. Kmieak). She responded to Mr. Williams request

directing him to contact Medical Records, pursuant to RCW 70.02 et seq. Mr. Williams believed himself to be a patient, and Ms. Kmiecik to be his healthcare provider. As Mr. Williams previously had received copies of his Treatment Plan from previous Mental Health Counselors, upon request pursuant to RCW 70.02.030.

What occurred was Mr. Williams was directed to the Medical Records personnel-Ms. Shelly Beck, by Ms. Kmiecik. Thus violating the Uniform Health Care Information Act, RCW 70.02 et seq.

Worse yet, Shelly Beck, the designated Public Disclosure Coordinator directed Mr. Williams back to Ms. Kmiecik for a copy of his Treatment Plan on March 20, 2014.

B Substantive Facts

Mr. Williams^w was denied a copy of his Mental Health Treatment Plan from his Health Care Provider on July 24, 2013. MS. Kmiecik was Mr. Williams Mental Health Counselor. This fact is not disputed by defendant. w

Mr. Williams was denied a copy of his Mental Health Treatment Plan by the Monroe Correctional Complex (MCC) Registered Health Information Technician (RHIT) Shelly Beck on March 20, 2014, also, by directing Mr. Williams back to Ms. Kmiecik. Either/or could have provided a copy of his Mental Health Treatment Plan. See, Clerks papers 2-80.

IV. ARGUMENT

The trial court failed to consider Mr. Williams' July 24, 2013 request to his Mental Health Counselor Ms. Kmiecik for a copy of his Mental Health Treatment Plan as a valid request to a Health Care Provider thus violating the Public records Act (PRA) RCW 42.56 et. seq., and/or the uniform Health Care Information Act (UHCIA), RCW 70.02 et. seq.

The trial court determined that the response from Ms. Kmiecik was not a PRA violation. However, Mr. Williams was a patient at MCC SOU. Ms. Kmiecik was Mr. Williams' Health Care Provider. RCW 70.02.090.

Mr. Williams request ("kite") did not need to specifically cite the Public records Act (PRA) PAWS I, 114 Wash. 2d at 685-86, 790 P.2d 604.

Mr. Williams was directed by Ms. Kmiecik to "go through medical records", Mr. Williams contacted medical records-Ms. Shelly Beck. Parmelee v. Clark 148 Wn. App. 748, 201 P.3d 1027 (2008) squarely addresses this issue. In Parmelee, supra the Court confirmed the statutory authority of state agencies to establish the place in which, and the employee from whom, the public may obtain information and copies of records:

"The law permits an agency to designate a person to whom a request for records should be directed".
id, at 751.

Because Mr. Williams did direct his request to both his medical provider and/or the RHIT of MCC, DOC was obligated to provide copies. Ms. Shelly Beck was the designated Public Disclosure Coordinator, and Ms. Kmiecik was the Health Care Provider or designee, pursuant to UHCIA, RCW 70.02.080(1)(a).

V. CONCLUSION

Defendant continually violated RCW 70.02.080(1) by not providing plaintiff copies of his recorded Health Care information. Defendant did not meet any of the requirements of RCW 70.02.090 necessary to withhold records from plaintiff. Plaintiff Mr. Williams is entitled to damages pursuant to RCW 70.02.17(3) due to Defendants violation on the Uniform Health Care Information Act. Mr. Williams is also entitled to reasonable attorney fees and expenses pursuant to RCW 70.02.170(3) due to the above argued violations.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 29th day of May, 2018.

Respectfully Submitted,

Carlos John Williams

Signature

STATE OF WASHINGTON)
COUNTY OF CLALLAM BAY)

S.S. Affidavit of Mailing
Case#: 50440-5-II

I, Carlos John Williams, do swear that
on 29 May 2018 I did place in pre-paid
first class mail:

1) Original of Brief of Appellant;

upon -
COURT OF APPEALS
Division II
950 Broadway #300
M15 TB-06
Tacoma, WA 98402.4454

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STATE OF WASHINGTON
BY DEPUTY

Dated: 5/29/18

Subscribed To and Sworn To, before me
Ian Erickson, Notary Public in and for the
State of Washington. Residing in Clallam Bay
County. My commission expires: 2/4/2020



Ian Erickson
5/29/18