

NO. 91494-0

*bjh*

SUPREME COURT OF THE STATE OF  
WASHINGTON

PATRICIA BLACKBURN; DAVID  
EUGENE CARPENTER; JACOB DAU;  
DENNIS FANT; BONIFACIO H.  
FORNILLOS; AKANELE A. IMO; JOSE  
M. LOPEZ; RALPH PETERSON; and  
MATTHEW J. STALEY

RESPONDENTS'  
STATEMENT OF  
ADDITIONAL  
AUTHORITIES

Appellants,

v.

STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND  
HEALTH SERVICES; WESTERN  
STATE HOSPITAL,

Respondents.

Pursuant to RAP 10.8, State Respondents submit the following additional authorities in response to a question posed by Justice González to opposing counsel during oral argument. Justice González asked:

What is the practical outcome for the Hospital if in fact they're faced with a patient who says they're going to do harm if they are treated by somebody of a particular background and the Hospital allows that person to go in to that situation and [that person] gets injured. Is there liability for knowing and not protecting in that risk?<sup>1</sup>

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<sup>1</sup> Oral Argument at 14:51, *Blackburn v. State*, (No. 91494-0), available at <http://www.tvw.org/watch/?eventID=2016051004> (last visited June 13, 2016).

To that point, the State submits two cases:

*L.W. v. Grubbs*, 92 F.3d 894 (9th Cir. 1996) (holding that a state official can be held liable under § 1983 to a prison employee for harm inflicted upon the employee by a prisoner where the official, through action or inaction, participated in creating a dangerous condition and acted with deliberate indifference to a known or obvious danger in subjecting the employee to it).

*Gormley v. Wood-El*, 93 A.3d 344, 218 N.J. 72 (2014) (§ 1983 claim against state mental health officials brought by a lawyer who was viciously attacked in a state psychiatric hospital by her civilly-committed client could proceed to trial on state-created-danger theory where hospital officials had failed to protect lawyer from known special dangers posed by client).

RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of June, 2016.

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## DECLARATION OF SERVICE

I declare that on June 21, 2016, I caused the foregoing document to be electronically filed and a copy sent to all parties and counsel of record as follows:

Electronic Mail by Agreement

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DATED this 21<sup>st</sup> day of June, 2016, at Tumwater, WA.

*s/ Lisa M. Savoia*

Lisa M. Savoia, Legal Assistant

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Good afternoon,

Attached please find Respondents' Statement of Additional Authorities:

Thank you.

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