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Appeals court overturns mental health ruling

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A federal appeals court on Friday overturned an order requiring Washington health officials to provide competency evaluations to mentally ill defendants within seven days of a judge's order, but justices said there should be limits on the wait-times for these defendants.

A three-judge panel of 9th U.S. Circuit Court of Appeals acknowledged that the state Department of Social and Health Services has failed to comply with its own goals designed to protect the constitutional rights of mentally ill people charged with crimes. But the judges said an order issued last year by U.S. District Judge Marsha Pechman in Seattle setting a seven-day deadline for competency evaluations went beyond what the Constitution requires.

Delays in getting treatment and evaluations of criminal defendants has been a problem in several Cowlitz County cases.

The most recent involves Sergey Fedoruk, who is awaiting a new trial on allegations that he murdered his brother-in-law in Kelso in 2011. Fedoruk waited in jail for weeks for a bed at Western State, leading Cowlitz Superior Court Judge Stephen Warning last October to fine the state \$2,000 a day for additional delays in treating Fedoruk.

In 2011, suspected car thief Maunu Williams waited in jail more than six months, unable even to enter a plea, because Western State had not room to admit him for an evaluation of his competency to stand trial. And in 2005, burglary suspect Alec Bolic

was held in the Cowlitz County Jail for four months awaiting a competency evaluation at Western State. At most, he would have served 30 days in jail if he had just pleaded guilty.

In its ruling Friday, the appeals court sent the case back to federal court to address its findings. In addition to reworking the part of the injunction that sets time limits, the court also wants Pechman to take into account a new law passed in 2015 that requires competency services within 14 days of a court order. It set a non-binding seven-day goal but gave the state two weeks.

The lawyers with the American Civil Liberties Union and Disability Rights Washington, who filed the lawsuit against the state, said overall, they were pleased with the appeal's court ruling.

They said they were heartened that the court affirmed a key feature of Pechman's order: "the need for an injunction to ensure that the rights of individuals with mental illness are respected."

"This is an important ruling because people with mental illness suffer real harms when they are warehoused in jail waiting for court-ordered services," said Emily Cooper, staff attorney for Disability Rights Washington. "Jails are not therapeutic settings, and their condition deteriorates when they spend day after day in jail."

The lawyers said they were also happy that the court said the state must conduct competency evaluations within a reasonable time.

"Whether the ultimate ruling is seven days or 14 days, it will clearly be a tremendous improvement from the weeks and months that some individuals had been waiting in jail for evaluations when the suit was filed," said ACLU of Washington attorney La Rond Baker.

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