

TACOMA NEWS TRIBUNE

Judge backs current law on releasing state's mentally ill

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Emergency medical technicians from Rural/Metro wheel a patient out the Involuntary Commitment Court at Western State Hospital on Feb. 27, 2013. On that day, the patient was one of 10 individuals transported from local hospital emergency rooms to the court for commitment hearings. (SEAN ROBINSON/Staff writer)

State law says doctors, not judges, decide when the mentally ill should be released from Western State Hospital in Lakewood. If those decisions spin a revolving door and allow repeated trips in and out of commitment, so be it.

Pierce County Superior Court Judge Jerry Costello landed squarely on that point Friday, reversing a March 13 ruling by Court Commissioner Craig Adams.

The case revolved around two women committed to Western State more than two dozen times. Recently, both were released despite court orders to detain them.

One woman, 27, is a convicted sex offender, institutionalized in various settings since the age of 14. The hospital released her eight days after a court order involuntarily committed her for 90 days. A day later, she assaulted staff members at an assisted-living facility.

The other woman, 44, is prone to repeated acts of self-mutilation, including stabbing herself in the abdomen and swallowing razor blades. The hospital released her in January, two months before the expiration of a 180-day commitment order.

In March, Adams said the women were released for technically flawed reasons, despite state laws that give doctors wide discretion. He added that the state's commitment system operates without legal accountability.

The decision created the prospect of a legal tremor, potentially forcing Western State to accept or detain more patients for longer periods when available beds are scarce.

Friday, Costello tackled Adams' legal reasoning while carefully avoiding any assessment of the quality of care the women received, or the thorny issues surrounding the state's mental-health system.

"Medical, political and administrative decisions are not for this court to review," he said. "Observers may well wonder about the decisions that were made in (the women's) cases. Those are not issues for this court."

In essence, Costello restored the status quo. The arguments hinged on types of mental-health diagnoses and the slender difference between two legal phrases: "grave disability" and "likelihood of serious harm to self or others."

Costello's decision cut through those points in favor of a simpler angle: The hospital, not the court, has the final say on a patient's mental fitness, and that was what state lawmakers intended when they wrote the commitment laws.

“The Legislature plainly intended for experts to exercise their judgment about patient care and make release decision accordingly,” Costello said.

For Adams to be right, Costello said, the state’s commitment law had to be unconstitutional.

“The law as written is constitutional,” Costello said. “The manner in which it has been applied is constitutional.”

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