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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN RE DETENTION OF M.W. and W.D.,

Respondents.

v.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES and
WESTERN STATE HOSPITAL,

Appellants.

Filed
Washington State Supreme Court

OCT 06 2015

Ronald R. Carpenter
Clerk

**BRIEF OF *AMICI CURIAE* AMERICAN CIVIL LIBERTIES
UNION OF WASHINGTON, DISABILITY RIGHTS
WASHINGTON AND WASHINGTON DEFENDER ASSOCIATION**

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I. INTRODUCTION

At issue in this case is House Bill 1114, passed in 2013, which so radically departed from the constitutional requirements for mental health commitment laws that the trial court found it unconstitutional beyond a reasonable doubt. Laws of 2013, ch. 289 (codified at RCW 71.05.320(3)(c)(ii)) (hereinafter “HB 1114”); Resp. Br. App’x A. HB 1114 violated substantive due process by authorizing potentially indefinite locked confinement in the state psychiatric hospital for a person civilly committed after a violent felony charge was dismissed due to the person’s incompetency to stand trial. It also violated procedural due process by stripping these individuals of the right to a trial and to proof by the State of clear, cogent, and convincing evidence that prolonged confinement was legally justified. Instead, it subjected them to prolonged recommitment every six months merely upon the State’s making a “prima facie” showing, shifting the burden of proof to the confined individuals to prove they no longer present a substantial likelihood of committing acts similar to the dismissed charges. For the reasons given by the trial court and Respondents, and as discussed below, this Court should affirm the lower court ruling that HB 1114 is unconstitutional.

II. IDENTITY AND INTEREST OF *AMICI*

The interests and identity of *Amici* American Civil Liberties Union of Washington (ACLU), Disability Rights Washington (DRW), and the Washington Defender Association (WDA), are set forth in the Motion for Leave to File, which accompanies this Brief.

III. STATEMENT OF THE CASE

The following is based on the statement of facts and procedure set forth in Respondents' Brief with supporting citations to the record. Respondents M.W. and W.D. were charged in separate incidents with second-degree assault allegedly committed while each was a patient in a psychiatric facility. In both cases, the criminal charges were dismissed prior to trial on the grounds that Respondents were unable to understand the proceedings or assist in their defense. Because of their incompetency to stand trial, it would have violated due process to proceed with the criminal proceedings.¹ There was neither a criminal conviction nor a determination of any kind in the criminal case that Respondents had actually committed any crimes.

Prior to HB 1114, the dismissal of felony charges due to incompetency and inability to restore competency would have resulted in a

¹ *Dusky v. United States*, 362 U.S. 402, 80 S. Ct. 788, 4 L. Ed. 2d 824 (1960); *Pate v. Robinson*, 383 U.S. 375, 86 S. Ct. 836, 15 L. Ed. 2d 815 (1966); *Drope v. Missouri*, 420 U.S. 162, 171-72, 95 S. Ct. 896, 43 L. Ed. 2d 103 (1975).

required evaluation for civil commitment under RCW 10.77.086. An initial commitment for a 6-month period and any subsequent 6-month commitments would occur, if warranted, under the Involuntary Treatment Act procedures applicable to any civil commitment case (Chapter 71.05 RCW, hereinafter the "ITA"). Here however, based on HB 1114 (RCW 71.05.280(3)(b)), the judge in the civil commitment case entered a "finding" that Respondents had committed acts listed in the criminal sentencing law definitions as violent felonies.² Under HB 1114, there is no requirement of proof beyond a reasonable doubt or any other particular burden of proof as to this finding, and mental state elements of the charged offense are disregarded: "it shall not be necessary to show intent, willfulness, or state of mind as an element of the crime." RCW 71.05.280(3)(a).

An initial 6-month period of civil commitment and confinement in the state mental hospital under the ITA (Chapter 71.05 RCW) was then imposed on Respondents after they stipulated that the grounds for an initial commitment were present. At the end of the initial 6-month period of confinement, the State filed a petition in both cases for prolonged commitment and confinement under HB 1114. Respondents' commitment

² The finding was based on HB 1114's requirement that "the court shall determine whether the acts the person committed constitute a violent offense under RCW 9.94A.030."

continued for another six months, without any evidentiary hearing, based solely on declarations and the allegations in the State’s petition describing the HB 1114 finding and “prima facie” evidence that Respondents continued to suffer from a mental disorder or developmental disability and were likely to commit an act similar to the dismissed charge. Resp. Br. at 2, 7 (citing RCW 71.05.320(3)(c)(ii)).

Both individuals filed motions challenging the constitutionality of their continued commitment under HB 1114. Following a hearing, the trial court ruled that the statute was unconstitutional beyond a reasonable doubt.

IV. ARGUMENT

HB 1114 Violates the Substantive and Procedural Due Process Requirements for Mental Health Civil Commitment under RCW 71.05

1. Civil commitment on the basis of mental illness and dangerousness involves a “massive” deprivation of liberty implicating both substantive and procedural due process.

The state and federal constitutions forbid the state to deprive an individual of liberty without due process. U.S. Const. am. XIV; Wash. Const. art. I § 3. State and federal case law has long recognized that mental health civil commitment is a “massive” curtailment of liberty. This Court recognized in *In re Detention of LaBelle*, 107 Wn.2d 196, 201, 728 P.2d 138 (1986), that in mental health civil commitment proceedings “the

potential for harm must be great enough to justify such a massive curtailment of liberty.” (internal quotation marks omitted). The United States Supreme Court has similarly characterized the deprivation of liberty at stake in civil commitment cases as “a massive curtailment” requiring due process protection. *Vitek v. Jones*, 445 U.S. 480, 491–92, 100 S. Ct. 1254, 63 L. Ed. 2d 552 (1980) (refusing to allow transfer of a convicted prison inmate to a state mental hospital without additional due process protection).

As a result, this Court in *LaBelle*, 107 Wn.2d at 201, explained that it will scrutinize mental health civil commitment statutes for compliance with both substantive and procedural due process. “[S]ubstantive due process . . . requires the judiciary to determine whether the statutory criteria provide a constitutionally adequate basis for detention.” *Id.* In addition, the procedural due process analysis is necessarily informed by the very strong individual interest and significant risk of error that follows from the fact that a massive intrusion on liberty by the government is involved. *Id.* at 204.

2. HB 1114 violates the substantive due process requirements for mental health civil commitment.

Because of the massive deprivation of liberty involved, the courts have long required mental health civil commitment proceedings to abide

by certain rules in order to be constitutional. As to substantive due process, “there is . . . no constitutional basis for confining . . . [mentally ill] persons involuntarily if they are dangerous to no one and can live safely in freedom.” *O'Connor v. Donaldson*, 422 U.S. 563, 575, 95 S. Ct. 2486, 45 L. Ed. 2d 396 (1975). Mental illness alone is not sufficient to justify commitment; a substantial risk of dangerousness—one great enough to justify the curtailment of liberty—must also be proven, and under a heavy burden of proof: “Mental disease does not in itself connote dangerousness, nor is it necessarily an indicator of dangerousness.” *In re Harris*, 98 Wn.2d 276, 281, 283, 654 P.2d 109 (1982).

Moreover, it follows from *O'Connor* that the commitment may only last so long as the mental illness and concomitant dangerousness lasts. “Even if the initial commitment was permissible, it could not constitutionally continue after that basis no longer existed.” *Foucha v. Louisiana*, 504 U.S. 71, 77-78, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992) (internal quotation marks omitted). The *Foucha* Court specifically cited with approval a case involving the prolonged confinement of persons ruled incompetent to stand trial on criminal charges: *Jackson v. Indiana*, 406 U.S. 715, 738, 92 S. Ct. 1845, 32 L. Ed. 2d 435 (1972), which held that:

[T]he State was entitled to hold a person for being incompetent to stand trial only long enough to determine if he could be cured and become competent. If he was to be

held longer, the State was required to afford the protections constitutionally required in a civil commitment proceeding.

Foucha, 504 U.S. at 79. This Court has also acknowledged that a civil commitment process complies with substantive due process only if it provides for periodic review for precisely this reason. *State v. Beaver*, ___ Wn.2d ___, ___ P.3d ___, 2015 WL 5455821 at *4 (2015) (citing *State v. Klein*, 156 Wn.2d 102, 110, 124 P.3d 644 (2005)).

In addition to proving the need for continued deprivation of liberty, the State also has a constitutional duty to provide remedial treatment during the confinement, with the treatment aimed at preparing the confined individual to receive treatment in a less restrictive setting if possible. *Olmstead v. LC*, 527 U.S. 581, 119 S. Ct. 2176, 144 L. Ed. 2d 540 (1999); *In re Detention of J.S.*, 124 Wn.2d 689, 880 P.2d 976 (1994). Compliance with this requirement is necessary in order to assure that the deprivation of liberty only lasts as long as necessary. The individual must have the opportunity to be moved to a less restrictive alternative than the state mental hospital as soon as the State can no longer prove the requirements for full confinement.

HB 1114 violates substantive due process because it satisfies none of these requirements. It assumes that the likelihood of committing

similar acts continues merely upon a prima facie showing and the HB 1114 finding regarding the dismissed criminal charge.

Moreover, HB 1114 violates not only the Constitution but also the stated reason the ITA was adopted: “to prevent inappropriate, indefinite commitment of mentally disordered persons.” RCW 71.05.010(1). The pre-HB 1114 version of the statute did prevent “inappropriate, indefinite commitment;” HB 1114, in contrast, promotes it.

A ruling that HB 1114 is unconstitutional would leave ample constitutionally valid mechanisms in place to protect public safety. For example, Respondents’ ITA commitment could still be renewed every six months if the State proves that confinement in the state hospital is necessary despite the treatment being given; Respondents could be moved to a less restrictive treatment setting if the treatment has improved their mental health status; and a court could reinstate the criminal proceedings against Respondents when and if competency is restored. What the State cannot do is erase the long-established substantive due process requirements that safeguard individuals subjected to the “massive” deprivation of liberty that occurs with prolonged confinement in the state mental hospital, especially when that confinement occurs after criminal charges were dismissed for incompetency.

3. HB 1114 violates procedural due process.

In addition to substantive due process safeguards, Respondents are also entitled to procedural due process protections that HB 1114 withholds. The pre-HB 1114 version of the ITA (and due process) required the State to petition for renewed commitment every six months and to prove by clear, cogent, and convincing evidence that the mental illness and dangerousness elements remained present, and that continued confinement in the state mental hospital was necessary with no less restrictive alternative being available. RCW 71.05.310-.320; *State v. Morgan*, 180 Wn.2d 312, 322-23, 330 P.3d 774 (2014). As the U.S. Supreme Court has noted, the mere fact that a person is incarcerated post-conviction does not allow transfer to a mental hospital without further due process protection. *Vitek*, 445 U.S. at 493-94. Here, where Respondents had not even been convicted, their interest in due process is presumably even greater.

Courts have upheld Washington's mental commitment laws only when they provide for additional procedural protection whenever there is a prolonged confinement—and the more prolonged the confinement, the greater the procedural protections: “Thus, a person subject to commitment receives ever-increasing procedural rights as the commitment duration lengthens.” *In re Detention of A.S.*, 138 Wn.2d 898, 911, 982 P.2d 1156

(1999); *see also*, *State v. CPC Fairfax Hospital*, 129 Wn.2d 439, 452, 918 P.2d 497 (1996) (holding continued detention of minor violative of Mental Health Service for Minors Act because of failure to file petition for additional 14–day detention).

In contrast, statutes that apply a lesser burden for confinement than “clear, cogent, and convincing,” with respect to incompetent defendants are struck down as unconstitutional. *Born v. Thompson*, 154 Wn.2d 749, 117 P.3d 1098 (2005). In *Born*, for example, this Court ruled that detention of an allegedly incompetent defendant charged with a violent misdemeanor based on the preponderance standard violated procedural due process. While it is true that the felonies charged in the case at bar are more serious than the misdemeanors at issue in *Born*, the principles recognized in *Born* demonstrate the invalidity of HB 1114. As *Born* makes clear, a significant deprivation of liberty is involved when an individual is being confined in connection with incompetency to stand trial for a crime, and stronger procedural protections are required the greater the length of confinement at stake. *Born*, 154 Wn.2d at 755, 758.

HB 1114’s failure to provide increasingly stringent procedural protections with increasingly long periods of confinement violates the constitution. In fact, instead of **additional** procedural protections, it authorizes prolonged confinement beyond the initial 6-month commitment

based on **fewer** procedural protections because it presumes confinement will continue based on a “prima facie” showing that can only be overcome with proof supplied by the patient. RCW 71.05.320(3)(c)(ii) states:

[C]ommitment [of the individual found incompetent to stand trial] shall continue for up to an additional one hundred eighty day period whenever the petition presents prima facie evidence that the person continues to suffer from a mental disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the mental disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior.

Id. The State’s Reply Brief admits that the “prima facie” evidence standard does not provide for any weighing of evidence or credibility determination; it simply assumes the truth of the State’s allegations. Reply Br. at 15-16.

The courts have only allowed reduced procedural protections for mental health civil commitment proceedings when the length of confinement is limited and the length bears a “reasonable relation” to the purported purpose of the commitment. *See LaBelle*, 107 Wn.2d at 221-22; *Foucha, supra*; *Jackson*, 406 U.S. at 725, 738. HB 1114 disregards both of these requirements and, as Respondents’ Brief explains, the prima facie evidence standard is far below the clear, cogent, and convincing evidence

standard that procedural due process requires. The clear, cogent, and convincing standard “means the ultimate fact in issue must be shown by evidence to be ‘highly probable.’ . . . [T]he evidence must be more substantial than in the ordinary civil case in which proof need only be by a preponderance of the evidence.” *LaBelle*, 107 Wn.2d at 209. In contrast, the “prima facie” standard is either akin to the “probability of prevailing” standard ruled unconstitutional by this Court in *Davis v. Cox*, 183 Wn.2d 269, 280-83, 351 P.3d 862 (2015) (discussing how Washington's anti-SLAPP statute was invalid because it allowed pretrial dismissal of a civil suit based on a lesser showing than the usual summary judgment standard), or less. The risk of error in applying a lesser burden of proof is great; as this Court noted in *Born*, 154 Wn.2d at 757, “[w]hen all that is required is a pending charge of a misdemeanor that involves a violent act, the risk of an erroneous deprivation of liberty is significant.”

HB 1114 not only imposes a lesser standard of proof for prolonged confinement by lowering the standard applicable to the State but it also impermissibly shifts the burden to Respondents to prove they no longer present a substantial likelihood of committing acts similar to the dismissed charges. RCW 71.05.320(3)(c)(ii). In effect, HB 1114 creates a presumption that Respondents’ future dangerousness continues indefinitely because of the type of charge that was dismissed and the

inability to restore competency in the criminal case. It imposes this presumption despite the fact that Respondents are receiving remedial treatment during the many months they are confined in the state hospital. This Court should affirm the trial court's conclusion that this weakened procedural provision, like the others discussed above, violates procedural due process.

4. Cases involving other types of civil commitment do not save the constitutionality of HB 1114.

The State attempts to salvage HB 1114 by citing cases involving other types of civil commitment rather than the specific type of commitment involved here. While the State refers to Respondents as "violent felony offenders," Respondents have not been convicted of violent felonies because the charges against them were dismissed prior to any determination they were "offenders" of any kind. Instead, they have been civilly committed to the state psychiatric hospitals for treatment, and, pursuant to HB 1114, the civil commitment judge simply found the **dismissed** charge fit the statutory definition of a violent offense.

Respondents' status contrasts sharply with individuals committed pursuant to Chapter 71.09 RCW as sexually violent predators (SVP). In Chapter 71.09 RCW cases, a defendant is competent at the time of prior criminal proceedings, convicted of one of a few kinds of sexually violent

offenses, serves a criminal sentence based on that conviction, and then is committed as a sexually violent predator under a process with many criminal-like safeguards. This Court made clear in *State v. Morgan* that Chapter 71.05 RCW mental health commitment proceedings are very different than Chapter 71.09 RCW proceedings: “The legislature has clearly found that the chapter 71.05 RCW scheme is not suitable for the special challenges of SVPs.” 180 Wn.2d at 322-23 (internal citation marks omitted).

The Court in *Morgan* explained that “under chapter 71.05 RCW [the ITA], commitment orders are limited to 180 days, and the State must file a new petition and bear the burden of proof in order to extend the order.” *Id.* at 322-23 (citing RCW 71.05.320). But the legislature has found that persons committed under Chapter 71.09 RCW “generally require prolonged treatment in a secure facility followed by intensive community supervision in the cases where positive treatment gains are sufficient for community safety.” In distinguishing Chapter 71.09 RCW commitment from the ITA commitment involved in Respondents’ case here, the *Morgan* Court implicitly rejected the notion that indefinite confinement without a new commitment proceeding every six months would be allowed under the ITA.

Similarly, when a competent criminal defendant is found not guilty on the basis of insanity, after the defendant has chosen to present and prove an insanity defense, the insanity acquittal has long been recognized as legally distinct from mental commitment of persons who had criminal charges dismissed due to incompetency. As this Court noted in *Klein*, 156 Wn.2d at 114, “Washington law since 1905 has presumed the mental condition of a person acquitted by reason of insanity continues and the burden rests with that individual to prove otherwise.” *Accord, Beaver, supra*. The presumption is allowed for insanity acquittees because they are competent and chose to prove the affirmative defense of insanity. *Born, supra*.

This Court’s ruling in *Born* explained the distinction between insanity acquittees and respondents committed based on dismissed criminal charges. 154 Wn.2d at 760-61. *Born* stated that:

[I]n the case of automatic commitment of an insanity acquittee [under a District of Columbia law], commitment follows only if the “acquittee himself advances” the defense of insanity and proves the criminal act was a result of mental illness, and, more importantly, risk of commitment for mere idiosyncratic behavior is eliminated by proof that the acquittee committed the criminal act.

Id. at 760 (citing *State v. Platt*, 143 Wn.2d 242, 252, 19 P.3d 412 (2001))

(“[T]hose subject to commitment as insanity acquittees have been found to have committed, under the beyond a reasonable doubt standard, an act that

would result in a criminal conviction but for their insanity.”)). An insanity acquittee is necessarily competent to stand trial and possesses the capacity to participate in his or her own defense. *See In re Pers. Restraint of Fleming*, 142 Wn.2d 853, 864-65, 16 P.3d 610 (2001) (because an incompetent person may not be tried for a crime, he cannot seek acquittal on the grounds of insanity while the incapacity continues).

Under RCW 10.77.090(1)(d)(i), in contrast, a defendant in a criminal case—such as Respondents here—is found incompetent when he or she “lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense.” RCW 10.77.010(14). The incompetence of the defendant makes determination of whether he or she committed all elements of the charged violent felony impossible, because the defendant is unable to help challenge the State’s claims about the alleged conduct. As a result, the rationale for presuming continued mental illness and shifting the burden to Respondents to prove lack of dangerousness cannot withstand a due process challenge.

Nor is the “conditional” liberty interest of an insanity acquittee faced with revocation of conditional release at issue here as it was in *Beaver, supra*. Under HB 1114, the State purports to bypass the standards that apply to prolonged six-month ITA confinements in a situation where Respondents’ full liberty interests are at stake.

The State cites no other case upholding a state law that allows prolonged mental health civil commitment following dismissal of criminal charges based on incompetency. In its Reply Brief, the State claims 18 U.S.C. § 4241-47 is analogous. However, those statutes have only been upheld based on the limited time for confinement and existence of other procedural safeguards. See *United States v. Strong*, 489 F.3d 1055, 1061 (9th Cir. 2007) (relying on *Jackson*, 406 U.S. at 738 (Indiana statute invalidated because a person charged with a crime and committed due to incapacity cannot be held more than the reasonable period of time necessary to determine whether competency can be restored and that the commitment did not bear a reasonable relation to the purported purpose for which the commitment was designed)).

5. Upholding the constitutionality of HB 1114 would further fuel the current crisis facing Washington's mental health system.

As stated above, Washington's mental health systems, civil and criminal/forensic, must abide by the Constitution. Watered down standards that lead to prolonged or even indefinite detention should not be permitted, especially at a time when the state's service delivery systems are in turmoil. Recent lawsuits have brought to light some major problems in these systems, which largely stem from the chronic

underfunding of mental health services in Washington.³ On the ITA side, this Court recognized that the practice of “psychiatric boarding” was unlawful and that its use may violate the constitutional rights of patients. *In re Detention of DW*, 181 Wn.2d 201, 332 P.3d 423 (2014). On the criminal/forensic side, the U.S. District Court for the Western District of Washington found the State in violation of “the constitutional rights of some of its most vulnerable citizens,” as a result of prolonged delays for competency services. *Trueblood v. Wash. State Dep’t of Social and Health Servs.*, No. 2:14-cv-01178 MJP, Dkt. No. 131 at 2 (W.D. Wash. Apr. 2, 2015) (Findings of Fact and Conclusions of Law), *appeal docketed*, No. 15-35462 (9th Cir. Jun. 12, 2015).

HB 1114 (RCW 71.05.320(3)(c)(ii)) is yet further evidence of a broken mental health system and the statute’s due process violations make it harder for the state to comply with the spirit and mandate of the U.S. Supreme Court’s *Olmstead* decision, which noted that “confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic

³ Washington consistently ranks at the bottom relative to other states with regard to psychiatric bed capacity, despite its high ranking with regard to mental illness prevalence. See *Inpatient Psychiatric Capacity and Utilization in Washington State*, Washington State Institute for Public Policy (Jan. 2015), http://www.wsipp.wa.gov/ReportFile/1585/Wsipp_Inpatient-Psychiatric-Capacity-and-Utilization-in-Washington-State_Report.pdf; *Parity or Disparity: The State of Mental Health in America 2015*, Mental Health America (Nov. 2014), <http://www.mentalhealthamerica.net/sites/default/files/Parity%20or%20Disparity%202015%20Report.pdf>.

independence, educational advancement, and cultural enrichment.”

Olmstead, 527 U.S. at 601. The *Olmstead* Court held that in enacting the Americans with Disabilities Act (ADA), Congress intended to remedy the historical isolation and segregation of individuals with disabilities, the discrimination of forced institutionalization, and the failure to make accommodations to existing services and practices. *Id.* at 588-589. As a result, “states are required to provide community-based treatment for persons with mental disabilities when the State’s treatment professionals determine that such placement is appropriate, the affected persons do not oppose such treatment, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities.” *Id.* at 607.

Washington’s ITA statute attempts to strike a balance consistent with *Olmstead* and includes intent language “to encourage, whenever appropriate, that services be provided within the community.”⁴

Laws like HB 1114, in contrast, undermine the State’s obligation to treat people in the community by making it nearly impossible to meet the statute’s burdensome criteria and obtain release from confinement in the state mental hospital to any less restrictive setting, much less community-based treatment. Contrary to the intent of the ADA’s

⁴ RCW 71.05.010, as amended by E2SSB 5649, Laws of 2015, ch. 269, sec. 1

integration mandate as discussed in *Olmstead*, and contrary to RCW 71.05.010(1), prolonged confinement of individuals under HB 1114 will have the effect of indefinite confinement of people who may no longer be mentally ill or dangerous due to the treatment they have received. HB 1114 not only is unconstitutional, it is bad public policy.

V. CONCLUSION

For the foregoing reasons, this Court should affirm the trial court's ruling that HB 1114 violates both substantive and procedural due process.

DATED this 25th day of September, 2015.

Respectfully submitted,

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No. 90570-3

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN RE DETENTION OF M.W. and W.D.,

Respondents.

v.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES and
WESTERN STATE HOSPITAL,

Appellants.

CERTIFICATE OF SERVICE

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CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2015, I caused to be served the foregoing *Motion for Leave to File Amici Curiae Brief and Brief of Amici Curiae, American Civil Liberties Union of Washington, Disability Rights Washington, and Washington Defender Association* to the parties below, in the manner noted:

Via Email with Consent to Service:

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DATED this 25th day of September 2015 at Seattle, Washington

By: 
Mark Cooke, WSBA #40155
ACLU of Washington Foundation

OFFICE RECEPTIONIST, CLERK

To: Edward Wixler
Cc: 'kate@washapp.org'; 'wapofficemail@washapp.org'; Leaders, Amber (ATG); 'rebeccag@atg.wa.gov'; 'stephanieL1@atg.wa.gov'; Mark Cooke; Nancy Talner; 'David Zuckerman (david@davidzuckermanlaw.com)'; 'emilyc@dr-wa.org'; 'abenson@defensenet.org'; 'cindy@defensenet.org'
Subject: RE: In re Detention of M.W. and W.D., No. 90570-3 - Amici Filings

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Cc: 'kate@washapp.org' <kate@washapp.org>; 'wapofficemail@washapp.org' <wapofficemail@washapp.org>; Leaders, Amber (ATG) <AmberL1@ATG.WA.GOV>; 'rebeccag@atg.wa.gov' <rebeccag@atg.wa.gov>; 'stephanieL1@atg.wa.gov' <stephanieL1@atg.wa.gov>; Mark Cooke <mcooke@aclu-wa.org>; Nancy Talner <TALNER@aclu-wa.org>; 'David Zuckerman (david@davidzuckermanlaw.com)' <david@davidzuckermanlaw.com>; 'emilyc@dr-wa.org' <emilyc@dr-wa.org>; 'abenson@defensenet.org' <abenson@defensenet.org>; 'cindy@defensenet.org' <cindy@defensenet.org>
Subject: In re Detention of M.W. and W.D., No. 90570-3 - Amici Filings

Good morning,

Attached for filing in Case No. 90570-3, In re Detention of M.W. and W.D., are the following documents:

- Motion for Leave to File *Amici Curiae* Brief of American Civil Liberties Union of Washington, Disability Rights Washington, and Washington Defender Association
- Brief of *Amici Curiae* American Civil Liberties Union of Washington, Disability Rights Washington, and Washington Defender Association
- Certificate of Service

The documents are filed by Mark Cooke, WSBA No. 40155 (mcooke@aclu-wa.org, 206-624-2184). Counsel for Appellants and Respondents have previously agreed to service by email in this case and are copied above.

Sincerely,
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