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STATE OF WASHINGTON
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No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

**PETITIONERS' MOTION TO ACCELERATE REVIEW AND
MOTION TO SUPPLEMENT PETITIONERS' RECORD IN
SUPPORT OF PETITION FOR A WRIT OF MANDAMUS AND/OR
PERSONAL RESTRAINT PETITION**

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I. IDENTITIES OF MOVING PARTIES

Petitioners Shyanne Colvin, Shanell Duncan, Terry Kill, Leondis Berry, and Theodore Roosevelt Rhone ask the Court to accelerate consideration of this motion and to grant their motion to supplement the record with additional relevant evidence described below.

II. RELIEF REQUESTED

Pursuant to RAP 9.11 and other applicable rules, Petitioners seek leave of the Court to supplement the record with supplemental and other additional declarations that include relevant information that will assist the Court in its consideration of the issues presented in this action. The Petitioners ask the Court to consider the following additional supplemental and original declarations:

PSD 667-675	Supp. Decl. of Petitioner Leondis Berry
PSD 676-682	Supp. Decl. of Shyanne Colvin
PSD 683-691	Decl. of Rene Fernandez
PSD 692-698	Second Supp. Decl. of Petitioner Terry Kill
PSD 699-705	Decl. of Patrick O'Brien
PSD 706-711	Supp. Decl. of Theodore Rhone
PSD 712-719	Supp. Decl. of Shanell Duncan.

The Petitioners also ask the Court to accelerate review of this motion.

III. REASONS WHY RELIEF SHOULD BE GRANTED

The declarations filed along with this motion include supplemental declarations from each Petitioner that address the current situation that each Petitioner is confronting in different prisons in Washington. In addition, the proposed additions to the record include original declarations from two individuals with testimony regarding current conditions in Washington's prisons that is particularly relevant to the Court's consideration of the current existing facts.

The Petitioners in the supplemental declarations describe their current living situations and the manner in which those living situations have changed since the initiation of this litigation on March 23, 2020. Those declarations contain salient facts regarding the manner in which policies and practices Respondents have described in their report to this Court on Monday, April 13, 2020, and in their responsive brief filed the same day are actually being implemented or ignored on the ground in Washington's prisons.

The two additional original declarations, one from Mr. Rene Fernandez and the other from Mr. Patrick O'Brien, describe in first-hand detail the conditions experienced by people held in quarantine at Monroe Correctional Center and conditions at the Larch Correction Center, a minimum security "camp." Each declaration describes the overcrowded

conditions and the impossibility of effective social distancing at either facility, even after the large outbreak of COVID-19 at MCC.

All of these supplemental and original declarations provide the Court with additional facts essential to assist the Court in understanding how the current COVID-19 outbreak is being experienced by people living in Washington's prisons and the conditions that demonstrate the need for large-scale release of people including the Petitioners and many others from DOC custody.¹

IV. CONCLUSION

The Court should grant the Petitioners motion to supplement the record and consider the relevant information contained in the supplemental and original declarations filed with this motion.

RESPECTFULLY SUBMITTED this 16th day of April, 2020.

COLUMBIA LEGAL SERVICES

s/ Janet S. Chung

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¹ The Petitioners also anticipate seeking leave to file supplemental declarations from some or all of Petitioners' experts following receipt of the Respondents' second report to the Court due on Friday, April 17. Petitioners will file a second motion to supplement the record and those supplemental declarations on April 21 along with their response to the Respondents' two reports.

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

SHYANNE COLVIN, et al.,)	
)	No. 98317-8
Petitioners,)	
)	
v.)	REVISED INDEX TO
)	PETITIONERS' SET OF
JAY INSLEE, et al.,)	DOCUMENTS SUBMITTED
)	FOR THE RECORD
Respondents.)	
_____)	

Petitioners, through their counsel, submit for the record the following set of documents which were filed in the Washington Supreme Court.

Pleadings in the Supreme Court

<u>Document</u>	<u>PSD No.</u>
1. Amended Petition for a Writ of Mandamus	1-70
2. Petitioners' Motion to Accelerate Review	71-88
3. Declaration of Counsel, Nicholas B. Straley with attachments 1-16 as follows:	89-167
1. March 23 email from Nick Straley to Governor Inslee, Secretary Sinclair and others	103-104
2. March 16 email cover sheet to Secretary Sinclair and others	105
3. March 16 letter from stakeholders to Secretary Sinclair	106-112
4. March 16 email cover sheet to Governor Inslee and others	113
5. March 16 letter from stakeholders to Governor Inslee	114-118

<u>Document</u>	<u>PSD No.</u>
6. March 17 email from Secretary Sinclair to stakeholders	119-120
7. March 17 email from Secretary Sinclair to Nick Straley	121-123
8. March 17 email from Nick Straley to Secretary Sinclair	124-127
9. March 20 email from Nick Straley to Secretary Sinclair	128-131
10. Redacted declaration A	132-137
11. Redacted declaration B	138-146
12. Redacted declaration C	147-149
13. Redacted declaration D	150-155
14. Redacted declaration E	156-163
15. List of COVID research and articles gathered and organized by Columbia Legal Services	164-165
16. March 22 email from Nick Straley to Secretary Sinclair	166
4. Declaration of Dr. Michael Puisis and Dr. Ronald Shansky	168-194
5. Declaration of Robert B. Greifinger, M.D.	195-220
6. Declaration of Frederick M. Altice, M.D.	221-234
7. Declaration of Dan Pacholke	235-248
8. Declaration of Cassie Sauer	249-256
9. Amended Declaration of Alex Bergstrom	257-285
10. Declaration of Shyanne Colvin	286-293
11. Declaration of Shanell Duncan	294-298
12. Declaration of Terry Kill	299-310
13. Declaration of Leondis Berry	311-321
14. Declaration of Theodore Roosevelt Rhone	322-325
15. Declaration of Brian Stark	326-330
16. Declaration of Hozie Holley	331-334
17. Declaration of Maurice Phillip-Meadows	335-343
18. Declaration of Timothy Pauley	344-352
19. Declaration of Francis Cota	353-362

<u>Document</u>	<u>PSD No.</u>
20. Declaration of William Burkett	363-371
21. Declaration of Joseph Siriani	372-375
22. Declaration of Daniel Ralph Maples	376-386
23. Declaration of Linda Graham	387-392
24. Supplemental Declaration of Counsel Nicholas B. Straley	393-396
25. Ruling on Motions – March 27, 2020	397-398
26. Motion for Leave to File Briefs of Amici Curiae Fred T. Korematsu Center for Law & Equality, American Civil Liberties Union of Washington, Disability Rights Washington, Seattle Chapter of the National Lawyers Guild, And Washington Defender Association in Support of Petitioners	399-413
27. Amended Motion for Leave to File Brief of Amici Curiae Public Health and Human Rights Experts	414-421
28. Order on Amicus Motions – April 1, 2020	422
29. Declaration of Laurel Simonsen with attachments 1-10 as follows:	423-621
1. <i>Basank v. Decker</i> – Memorandum & Order	436-451
2. Decl. of Robert B. Griefinger, MD	452-455
3. Decl. of Dr. Peter Scharf	456-489
4. <i>Coleman v. Newsom</i> , Decl. of Marc Stern, MD	490-510
5. <i>Dawson v. Asher</i> , Decl. of Dr. Marc Stern	511-514
6. Decl. of Homer Venters	515-550
7. Decl. of Jaimie Meyer	551-560
8. <i>Fraihat v. U.S. Imm. And Customs Enf't</i> , Decl. of Dr. Carlos Franco-Paredes	561-574
9. <i>Heredia Mons v. McAleenan</i> , Decl. of Carlos Franco-Paredes, M.D., M.P.H.	575-610
10. Decl. of Craig W. Haney	611-620
30. Supplemental Declaration of Alex Bergstrom	622-666

<u>Document</u>	<u>PSD No.</u>
31. Supplemental Declaration of Petitioner Leondis Berry	667-675
32. Supplemental Declaration of Shyanne Colvin	676-682
33. Declaration of Rene Fernandez	683-691
34. Second Supplemental Declaration of Petitioner Terry Kill	692-698
35. Declaration of Patrick O'Brien	699-705
36. Supplemental Declaration of Theodore Rhone	706-711
37. Supplemental Declaration of Shanell Duncan	712-719

DATED this 16th day of April, 2020.

s/Nicholas B. Straley
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No. 98317-8

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SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
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Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

**SUPPLEMENTAL DECLARATION OF
PETITIONER LEONDIS BERRY**

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I, Leondis Berry, declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to the best of my knowledge:

1. I am over the age of 18 and competent to testify as to the contents of this declaration.

2. I have received and read my declaration dated March 19, 2020 and everything included in that document is true and correct. I do want to make note that I do not have a pacemaker, instead I have a defibrillator.

3. I am providing this supplemental declaration to provide the Court with additional information regarding my circumstances that have changed since then.

4. I continue in DOC custody at the Stafford Creek Corrections Center (SCCC) and continue to reside in H-5 Unit, B-Wing

5. Each unit in this facility consists of two wings, known as A and B, in each wing there are two tiers, an upper and lower.

6. **Health and Safety Measures:** There is one wing of G-unit that is serving as quarantine for people at SCCC.

7. There are about fifteen people as of last week, but more people are getting sent there regularly.

8. When half of G unit became a quarantine site, DOC staff started moving more people into various cells to make room. In my wing, I saw one cell house three people, with one of them sleeping on the floor.

9. Last week, my unit had 4 people taken into quarantine at G unit.

10. The first pair was moved at night. I was in my room just watching from the window. I saw DOC staff come in and take the two people and move them. Afterward I saw staff in hazmat suits go in and pack up all of their belongings.

11. The next morning, another two people were taken into quarantine. I was going to the bathroom when I saw the hazmat suits and the packing start all over again.

12. Just yesterday, there were an additional 4 people taken out of A wing from my unit.

13. DOC has provided us with cloth masks. They look like paper towels attached to a string. This happened three or four days ago. Staff from DOC came room to room handing out the masks and each person was provided with one mask. We were not given any instructions on how to wear it or how to clean it. I have been using the same mask since.

14. Using the mask is not a requirement for the residents of SCCC and many people do not use it.

15. There have been no changes medical wise. If someone gets sick or needs medical attention, the process is the same as it has always been.

16. I had to renew my medications recently and to do that, I had to fill out a kite form. I also have been feeling pain in the kidney area for about two weeks and put that in the kite form as well. I just got back a response to my kite two days ago (4/13). The kite tells me the process has not changed, since I was instructed to fill out another kite to report the pain and go to sick call.

17. I am not aware that sick call has changed and I have not gone yet.

18. **Social Distancing:** Social distancing continues to be nearly impossible at SCCC. I try to be mindful of keeping my distance from other people, but our living situation makes it impossible

19. Our sinks, toilets, and showers have us close together routinely.

20. I have a cellmate who sleeps right above me in a bunk bed two feet away. While I can control who I speak to or how I cover myself, I have no control over his practices.

21. In the gym and yard, DOC has stopped allowing any group activities take place. No one is allowed to play basketball, soccer, or hand ball. They have also limited the number of units that can be in the yard at the same time. Normally there would be 4 units in the yard, but now there is a limit of two. There is a big yard and a small yard, so there are two units on the yard at a time, but one unit per side. This amounts to about two hundred people in the yard at a time.

22. People are just out in the yard exercising together or doing track and field events. I am not going to the yard right now because people don't respect the virus and are just going about as if nothing is happening.

23. I just stay in my room except to shower, use the phone, and do other necessary activities.

24. There are seven phones and they are back to back right up against each other. DOC has placed plastic bags over three of the phones to create some space. The phones are otherwise a foot away from each other, but now with the bags, there is about 3 feet of space between them. They are not being sanitized and the only way they get it cleaned is by the individual deciding to clean it. If you plan on doing that, you have to go to the bathroom and grab disinfectant to clean the phone. You also have to look for a rag to use or find a paper towel, which is only located by the microwaves in the dayroom.

25. The day room has about 20-25 people in there when people are out in the yard. In the day room, you have people walking around, coughing in the open air, without a care in the world like there is nothing happening. I do not feel comfortable being in there. There are tables in the dayroom, two microwaves, two JPay machines, and a kiosk machine where we get information sent to us. I can't avoid using the day room, I use the microwave and phones constantly. I have to go to the dayroom to get ice as well. The day room gets used by everyone in my wing and there are about 130 people in my wing.

26. The day room becomes even more of a problem when people come back inside from the yard, they all stand by the door or just walk around in the day room. There is no chance for social distancing when this happens. They just congregate amongst each other and they don't act like they even need to stay apart. I don't see any of the COs trying to enforce anything. Everyone just goes about their normal business as if there is no crises happening.

27. The showers are right next to the day room. There are two urinals, two toilets, 6 sinks, and between 4-6 showers depending on which bathroom it is and there are four bathrooms in total per unit. Two bathrooms per tier. More often than not, the bathrooms are dirty. It is only required to be cleaned three times a day. People go in to sneeze into the

sink or shower. The toilet stalls are basically just as dirty. Since this whole epidemic has started, the frequency of cleaning has not increased. At any given time, there is probably between 4-7 people using the bathroom. The only thing we have access to is disinfectant spray. The porters are the ones who get all the materials to clean the bathrooms.

28. For the chow hall, DOC has staggered how people enter but eventually the whole wing is in there. First, one tier goes to the chow hall at a time. Once there, half the tier goes in and the other half has to wait about five minutes. After five minutes, they go in and eat so the whole tier is in there, this is about sixty to seventy people. Eventually, other tiers are sent so that the whole wing is in there. At some point, between 130-136 people are in there eating. The tables in there normally seat four people, but it has been limited to only allow two people per each table. Even with that, there is only a foot and a half or two feet of distance between the next person. So social distancing is fairly impossible in this area as well.

29. I've only been to the chow hall a couple times since this whole thing started. Sometimes I run low on food so I go in there to get the provided meals. Otherwise I am in my room and eat the commissary that I am able to purchase. Mostly top roman and sometimes I can get summer sausages.

30. DOC staff try to encourage social distancing, but a good majority of people do not respect it. This goes back to people just not wearing the provided masks.

31. For example, DOC has put little things on the ground. They act as markers for people to practice social distancing, but when you have a hundred people in line to use the JPay machine, phones, or kiosks, those little markers do nothing. I have not seen any DOC staff enforce the distance part, so the markers are just there, and many people are just aggravated about having to social distance in the first place.

32. The staff guards just do what they need to do. They are wearing masks now. But this is a recent development, before that I was not seeing masks worn regularly. But now, I have not seen a staff member not wear a mask.

33. A few weeks back, everyone got two bars of soap, but no additional rags or hand sanitizer.

34. There is hepastat and pink disinfectant available at the office station and in the bathrooms, but nothing else.

35. There is no toilet or sink in my cell, but if I have to use the toilet at night, I am generally allowed to go.

36. I am scared to death about the practices that I am seeing at SCC. I don't have any confidence in DOC's ability to protect me from the corona virus because everyone around me seems to not take this seriously.

I am unable to sign this document as it was prepared in Wenatchee, Washington, but I have had it read to me over the telephone and authorize Tony Gonzalez to sign it on my behalf.

DATED this 14th day of April, 2020 in Wenatchee, Washington.

/s/ Tony Gonzalez

Leondis Berry, by Tony Gonzalez, WSBA #47771

No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

SUPPLEMENTAL DECLARATION OF SHYANNE COLVIN

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I, Shyanne N. Colvin, declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to my best knowledge and belief:

1. I have received and read my declaration dated March 22, 2020 and everything included in that document is true and correct.
2. I am providing this supplemental declaration to provide the Court with additional information regarding my circumstances that have changed since March 22.
3. I was initially moved from the receiving unit into K Unit in the minimum security unit at the Washington Correctional Complex for Women at in Gig Harbor.
4. I was in K unit for several weeks. K unit includes one big dormitory-style room where as many as 60 people sleep and three other wings made up of rooms that hold three people each.
5. I was in the dorm and did not have my own room. In the dorm, there are 17 cubicles made up of bunk beds and lockers, and each has the capacity for four people. There were a few open beds, but there were still too many people to maintain social distancing between people.

6. The walls of the cubicles are made of the bunk beds. There is a thin piece of plywood between two sets of bunk beds that creates one set of the walls. There are no doors on the cubicles. You can see into the adjacent by sitting on the top bunks.
7. All of the residents are supposed to try and keep a six-foot distance from each other, but in the dorms they can't enforce it and everyone sleeps within about 3 feet of three other people.
8. While I was in K unit, we were restricted to our cubicles for much of the days. We were basically on a lockdown schedule, but in a big dorm room with lots other people. DOC thinks it's ok for four people to be confined in a cubicle that is separated by a sheet of plywood from four other people.
9. On Friday, April 10, 2020 I was moved into J unit, which is the residence for parents and infants. I'm now in a room with two other people, so I still can't social distance, but at least I'm not in dorm any longer.
10. My wing shares four bathroom stalls, four sinks, and two showers. We have access to those all day, except when they are closed for cleaning.

11. DOC has provided soap and paper towels for hand-washing, but they have threatened to take the paper towels away because they accused us of “overusing” them. We do not have any access to hand sanitizer.
12. There are around 90 people in J unit. We are technically allowed to come and go from our unit and go to the dayrooms at any time, unless guards decide to shut them down.
13. There are two dayrooms, and only 10 people in each day room at a time, and there’s no loitering allowed in the hallways. If you’re not one of the 20 people in the dayrooms, then you’re confined to your room or you get infracted.
14. Even with only 10 people in the dayroom at a time, it’s almost impossible to maintain social distance. The microwave is two feet away from the sink, and the hot shot is on the same counter, less than a foot away. So, if people are using those things, we’re all just a few feet from each other.
15. The dayrooms are shut down at 8:30 AM and 8:30 PM every day for cleaning. During the day, residents are supposed to clean up after themselves. There’s an antibacterial spray you have to check out. We are not allowed to use bleach to clean or disinfect anything during the day.

16. There are kiosks like in a bank that everyone uses. When you use a kiosk, then you are only about six inches from the other residents.
17. We still go to the chowhall for meals. About 30 of us go at a time. In the minimum-security unit where I am, we have single tables that are kind of like desks, but at MSC and CCU (the medium and higher-security units) they're still sitting two or three to a table. The tables get cleaned with antibacterial spray between shifts.
18. On Friday, April 10, 2020, DOC gave us cut up old t-shirts and had us fold those with rubber bands to use as face masks. The t-shirts smelled like mold. Before that, we did not have any PPE, and that is what we were using until last night.
19. Last night on April 13, 2020, after count, they handed out fabric masks that other inmates had been making in the craft room. The masks smell like they have not been washed. If we don't wear them, we get infraacted. No one has given us instructions on how to clean them or keep them from becoming contaminated.

20. The guards are now using masks. At first it wasn't mandatory, but now they're required to wear them. The staff have actual medical grade masks, either surgical masks or N-95. The COs say they don't know what is going on or whether we will get that type of protective equipment.

Dated this 14th day of April, 2020 in Gig Harbor, Washington.

I am unable to sign this document as it was prepared in Seattle, Washington, but I have had it read to me over the telephone and authorize Laurel Simonsen to sign it on my behalf.

A handwritten signature in black ink, appearing to be 'Shyanne Colvin', written over a horizontal line.

Shyanne Colvin, by Laurel Simonsen, WSBA #47904

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANT

I, Laurel Simonsen, declare under penalty of perjury under the laws of the State of Washington:

1. I am an attorney with Columbia Legal Services, the legal aid organization representing the petitioners in this matter.
2. Due to shortened time and limitations on access to the declarants due to the current public health emergency, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.
3. I personally spoke with Shyanne Colvin over the telephone on April 14, 2020. I drafted Ms. Colvin's declaration while on the telephone with her. At the conclusion of the call, I read Ms. Colvin's declaration to her, and Ms. Colvin stated to me that she believed the contents of her declaration to be true and correct, and authorized me to sign the declaration on her behalf.

DATED this 14th day of April, 2020 at Seattle, Washington.



Laurel Simonsen, WSBA #47904

No. 98317-8

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Respondents.

DECLARATION OF RENE FERNANDEZ

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Attorneys for Petitioners

I, Rene Fernandez, declare under penalty of perjury under the laws of the Washington that the following statements are true and correct to my best knowledge and belief:

1. I am 47 years old and am competent to testify as to the contents of this declaration.
2. I am providing this declaration so that the Court has information about what is happening inside the Department of Corrections.
3. I am currently detained at the Monroe Correctional Complex (MCC) at MSU camp, in B unit, tier 4. Which is the epicenter of everything at DOC.
4. I have 15 months left on my sentence for a nonviolent offense involving identity theft. I've been approved for work release on July 27, 2020.
5. **Outbreak and Quarantine:** There are 4 units at MCC, MSU campus. Each unit has four tiers and Tier 4 from B unit was the first tier to have someone with a positive test for COVID-19.
6. Prior to the first positive test, we were already on modified movement. All the information we had was that a guard tested positive. I did not understand why the guards here did not start wearing masks since that first guard tested positive. They only started wearing masks after a resident from B unit tested positive.

7. That Sunday, the guy that tested positive started getting sick and they took him to the hospital. Then we were told we were on quarantine. That first Sunday night, 5 people had temperatures over 100 degrees. They were taken as well.
8. DOC responded by returning a 11:30 at night to B unit with 2 cheeseburgers, French fries and apple pies. They tried moving the infected tiers with McDonalds.
9. My cell is approximately six feet away from the cell that tested positive. My tier used to have forty-one people, but now we are down to twenty-four as a part of DOC's reshuffling of the units.
10. The B unit was the last to get reorganized and we are still going through a reorganization currently. Currently, in B Unit, two tiers have a maximum holding capacity of 41 people and the other two tiers have a maximum of 24. None of the tiers are at max capacity. To create this room, people were taken to the hole, quarantine, or isolation.
11. DOC only provided us with little paper masks after the initial outbreak. We didn't receive those masks until three or four days after the first positive case and only after we kept asking for them.
12. Before the first person in B unit tested positive, a couple of people would wear masks around the unit. I would see them get threatened

with an infraction because they were apparently starting trouble and raising fear.

13. When we were finally provided with masks, we were called to the officer's desk to get them. We were called one tier at a time. We had to line up like a food line to get the masks. Then after we were in line, someone mentioned that this didn't make sense because we were not social distancing. After that, the Sargant started spreading us apart. We had been in line together for about 20 or 30 minutes.
14. We were not given any instructions on how to wear them or how to clean them. I have been using the same mask since then.
15. Just today (4/15), I was provided with a what looks like a homemade mask, looks like a ski mask. It was left on my bed with two additional rags. They look nice, better than the paper ones we have now, but not medical grade or N95s.
16. **Social Distancing:** There is no social distancing here. The phones are right next to each other. They are less than a foot apart and a one-inch piece of plexiglass separates each phone. I can almost smell the next person's breath while I talk on the phone.
17. The dayroom is where the phones, hotshot (boiling water), and jpay are. We share the dayroom with all four tiers.

18. For the yard, they let us out once or twice a day. Since D, C, and B unit are on quarantine, we all go out by ourselves; meaning no mixed units. They try to spread us out between the gym and yard. I don't really go to the gym. I would rather be outside.
19. When I am in the yard, there are usually about 80 to 100 people. The whole B unit goes out, minus the ones that decide to stay inside or go to the gym. We sit in our tables, workout, or walk the track. Everyone stays away from each other. This is the only time we get to really separate ourselves and get fresh air.
20. The current schedule is broken down as follows: initial morning from 7:30-9:10; the morning is 9:30-11:10; initial afternoon is from 12:30-14:20; afternoon is 14:30-15:25; initial evening is from 17:50-18:35; and then final evening is from 19:00 to 20:25.
21. So here, under this new schedule, sometimes I get to go out once a day, occasionally twice. For example, today, I will get initial morning and initial evening. Tomorrow just afternoon 14:30-15:25. This is not enough time, especially when this is the only meaningful opportunity to separate from everyone and get fresh air.

22. Just today, we were notified that there is going to be a late night every night. For this, two units are in the yard and it alternates each day between the two pairs of units.
23. There is a patio we share with A unit and there are about 10 people at a time. Sometimes there are more people. Depends on who is in watching over us. The patio is large enough to hold two tables and a bench.
24. Since B, C, and D units are on quarantine, we don't get to go to the chow hall. We get our food brought to us by COs. They wear gloves and masks when they bring the food. The food being provided to us right now are tv dinners called Airway Heights tv dinners.
25. The only one going to the chow hall is A unit, but even they are limited. All they do is go to main line (the food line), pick up the clam shells holding their food, and take it back to their rooms.
26. **Medical Care.** There is no medical care at MCC right now. When people get sick, they just go straight to isolation. For people who need medications, everything just gets brought out to them.
27. As a tier rep, I was able to participate in a meeting with a county representative the other day. During that discussion, the group was informed that in order to get tested, we need to display symptoms

because of the lack of testing kits. But this does not cover the people who do not show symptoms.

28. Staff come into our unit two or three times a day for temperature checks. Whoever has a temperature over 100.4 degrees is taken to TRU – E unit. From what I understand, this is where people are being taken for isolation.
29. They use digital temperature readers and put the light on your forehead and they use another by putting it in your ear. This happens 2 or 3 times a day. If the temperature is 100.4 or more, then you get taken.
30. Right now, every time someone is taken from B unit, we start the quarantine all over again.
31. Just in the last twenty-four hours, 2 more people have been taken.
32. As the tier rep, along with other tier reps, we asked to get in black and white what the CDC guidelines are for prison cleaning during the COVID 19 outbreak. We still have not gotten it.
33. For cleaning, we keep using the same liquids as before: bleach, Hepastat, and heavy duty multipurpose cleaner. At first, we had access to the bleach ourselves, but now we are given jugs with watered down bleach. Also, we used to get hepastat bottles where

the color was a deep red. I can tell this is watered down now too because the color is significantly lighter.

34. We also clean our own bathroom. There are two toilets, two urinals, and 4 showers, and 4 sinks. The room itself is really small, everything is next to each other, and social distancing is impossible. At any given time there could be 4-5 people in the bathrooms. Two using the urinal, two on the toilet, four in the shower, and 3 on the sink.

35. Using the phone is currently a huge ordeal. There are 6 phones per unit. Sometimes you need to wait hours to use the phone. There is a line to wait and the only thing we really do is wear our masks.

36. We are at a point where people are sick in this unit and people are scared to admit it. If you cough or sneeze, you can expect nothing but isolation and a nightmare. We need help at MCC, COVID is here, and this is only the beginning. I hope it is not too late to act.

DATED this 15th day of April 2020 in Wenatchee, Washington.

I am unable to sign this document as it was prepared in Wenatchee, but I have had it read to me over the telephone and authorize Tony Gonzalez to sign it on my behalf.

/s/ Tony Gonzalez

Rene Fernandez, by Tony Gonzalez, WSBA #47771

No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

**SECOND SUPPLEMENTAL DECLARATION OF
PETITIONER TERRY KILL**

Nicholas Allen, WSBA #42990
Nicholas B. Straley, WSBA #25963
Janet S. Chung, WSBA #28535
COLUMBIA LEGAL SERVICES
101 Yesler Way, Suite 300
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Telephone: (206) 464-1122
Attorneys for Petitioners

I, Terry Kill, declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to the best of my knowledge:

1. I am over the age of 18 and competent to testify as to the contents of this declaration.
2. My birthday is October 1, 1967
3. I have received and read my declaration dated March 22, 2020. I have not received a copy of my April 8th, 2020 declaration yet, but it was read to me over the phone, and everything included in those documents is true and correct.
4. I am providing this third declaration to provide the Court with additional information regarding my circumstances that have changed since April 8th.
5. I am currently in DOC custody at the Monroe Correctional Complex – Minimum Security Unit. I currently reside in A-Unit
6. There are 50-52 people in A-Unit, about 119 people in B-Unit, C-Unit and D-Unit house about 120 people each.
7. B-, C-, and D-Units are all quarantined. C-Unit had two new positive cases last night, Tuesday, April 14, 2020, and we all got locked down.

8. A-Unit is the only unit that is not under quarantine, but we are treated in much the same way as the other units are. The only difference is that we do not get any temperature checks or other health care monitoring.
9. Even though A-Unit is the only unit not on quarantine, I still see units sharing our common spaces like the dayroom, gym, breezeway, patio, and yard.
10. People from B-Unit come over to A-Unit and talk to friends or get the latest news.
11. People continue to be allowed to use the breezeway, which is a common area used by A-Unit and B-Unit. That is still open since it is the main entry and exit from both units.
12. People from B-Unit continue to use the same communal ice chest as A-Unit.
13. The unit rotations for gym use continue without any cleaning in between.
14. People from A-Unit still go to B-Unit to clean up any messes or grab laundry bags.
15. I continue to avoid a lot of areas in the facility, but it is nearly impossible to remain six feet away from anyone at any given point in time.

16. When I exit my cubicle to check the kiosk for any messages, I have to walk by other people in line waiting or using the kiosks, JPay machines, or phones. The kiosks themselves are only about 3 feet apart. There are generally 10 or so people in the dayroom where the phones and kiosks are at any given time there. There's always people coming and going.
17. When I go use the bathroom, there are usually at least four other individuals there using the toilet or washing their hands.
18. I no longer go to the gym because I do not trust the cleaning procedures being used. Lots of people are still using the gym, including playing handball and pickleball.
19. The kitchen had been closed, and they were serving premade meals covered in cellophane, like from meals-on-wheels. However, today, April 15, 2020, they hired approximately five people from A-Unit to go back in and start preparing meals again. They're serving normal meals in clamshells. We go to the chowhall to pick up our food and take it back to our tiers.
20. I do what I can to practice social distancing. I try to walk alone for exercise. When I am out in the yard, I am out there with about 40 other people, but at least outside it's fairly easy to keep some space between myself and others.

21. Since my April 8, 2020 declaration, DOC has provided all of the residents with surgical masks. I was given mine while I was asleep on Monday, April 13, 2020. When I woke up, I saw it on the hook where I hang my clothes. I was not provided any instructions on how to wear it or how to clean it. I believe it is the disposable kind.
22. Today, they handed out fabric masks that are kind of funky – they're made out of socks. We were issued one each. They did not provide any instructions on how to use or clean these masks either. They haven't given us instructions on whether we're supposed to use the cloth masks or the surgical masks.
23. Before getting these masks, you could ask for a mask, but it really depended on the person providing them. For example, if you had a job where you absolutely needed a mask, then you would get one. I have managed to collect a few masks, and I have been trying to rotate them to keep them clean and working.
24. Whenever I speak to someone, I try my best to stand beside them and not face them directly. I use my mask as often as I can.
25. However, people make mistakes. I sometimes forget to have my mask on and don't realize it until another individual reminds me. I have seen other people make the same mistake.

26. The worst part is how little it takes to become ill. The close quarters, the inability to stay six feet away from anyone, and the small lapses in memory or judgment could end in illness, quarantine, isolation, or serious complications.
27. For the most part, I see guards wearing masks now. I think it started on Monday when they really started buckling down and enforcing that the staff need to wear protective masks. The chain of command has been making sure they're following the rules.
28. DOC has not provided any additional cleaning supplies since the outbreak began here at MCC. We continue to have the same amount of cleaning supplies as before, including diluted bleach, something similar to Simple Green, Hepastat, and rags. Things are generally getting cleaned around three times per day. It's up to us to clean surfaces and phones throughout the day.
29. Overall, the whole situation is tense here. Since the initial outbreak, I see the guards on edge and it does not make me feel comfortable to ask any questions or bring up any concerns to them. I just want to avoid any situation with them.
30. Tensions are running high amongst the other residents as well. I notice people coughing and sneezing more frequently than before.

31. I'm still very concerned about what it's taking to get DOC to take action. More and more people are getting sick and not enough is happening to keep people safe.

I am unable to sign this document as it was prepared in Seattle, Washington, but I have had it read to me over the telephone and authorize Laurel Simonsen to sign it on my behalf.

DATED this 15th day of April, 2020 in Monroe, Washington.

A handwritten signature in black ink, appearing to be 'Terry Kill', written over a horizontal line.

Terry Kill, by Laurel Simonsen, WSBA #47904

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANT

I, Laurel Simonsen, declare under penalty of perjury under the laws of the State of Washington:

1. I am an attorney with Columbia Legal Services, the legal aid organization representing the petitioners in this matter.
2. Due to shortened time and limitations on access to the declarants due to the current public health emergency, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.
3. I personally spoke with Terry Kill over the telephone on April 15, 2020. I drafted Mr. Kill's declaration while on the telephone with him. At the conclusion of our call, I read Mr. Kill's declaration to him, and he stated to me that he believed the contents of his declaration to be true and correct, and authorized me to sign the declaration on his behalf.

DATED this 15th day of April, 2020 at Seattle, Washington.



Laurel Simonsen, WSBA #47904

No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

DECLARATION OF PATRICK O'BRIEN

Nicholas Allen, WSBA #42990
Nicholas B. Straley, WSBA #25963
Janet S. Chung, WSBA #28535
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Attorneys for Petitioners

I, Patrick O'Brien, swear under penalty of perjury under the laws of the state of Washington that the following statement is true and correct to the best of my knowledge and belief:

1. I am over the age of 18 and competent to testify herein.
2. I currently reside at the Larch Corrections Center in Yacolt WA.
My DOC number is #914724.
3. My birthdate is September 19, 1958. I am 61 years old and am living with asthma. I know this puts me at high risk if COVID-19 were to get into Larch.
4. I have seven months of time left. I did not get a life sentence, but it feels like they're just waiting for the virus to get in and roll over all of us.
5. We are completely full to capacity. Most of the facility is dorm-style beds. There are two buildings with eight tiers in each building: four downstairs and four upstairs. On each floor, three of the tiers are dorms; one tier is rooms.
6. I am one of the lucky ones who has a room. It takes about a year to get a room. There are four people in each room, which is about 12 feet.

7. In the dorms, there are cubicles made up two or three beds, two bottom bunks, and a top bunk. There are around 14 cubicles in each tier. Each cubicle is approximately 6x8 feet for three people.
8. They've opened up the visiting room and the EFV rooms to try and clear out the top bunks in the dorms. But they've only opened up about 8 cots in the visiting room, and 3 cots in each EFV room, for a total of 14 new beds. But there are over 100 top bunks, so it's really not having much of an impact on the dorms. Plus, it's still impossible to be six feet apart in any of those rooms anyway.
9. No one is wearing masks – not staff and not residents. The staff are supposed to be wearing masks, but they don't. On Tuesday, April 14, 2020, there were a bunch of people visiting from Olympia, so the staff put on masks while those people were here. But within 20 minutes of them leaving, no one was wearing masks. Last night, I walked by the CO's office and there were six people in the tiny office together, and not a single person was wearing a mask.

They're treating it like it's a joke.
10. None of the residents have been provided with masks or other PPE.

There's no access to hand sanitizer or bleach.

11. There is no social distancing going on. None. When they call us out for mainline, they call us by tiers and we all walk in a line and they ring everyone's tag, and we're bumped up against one another. For meals, they march the whole tier down to the chowhall together, then we get marched back with our meals on trays to eat in our rooms/dorms.
12. There are four people currently in quarantine: two are being quarantined in the dayroom on my floor and the other two in a dayroom on another floor. The people in quarantine use the bathroom that is right across the hall from my room. The bathroom is not even adjacent to the room where they're being quarantined, they have to walk all the way down our common hallway to use it. No one else is allowed to use that bathroom. But the people in quarantine still have time out for yard, they share our same drinking fountains, and use the same phones as the rest of us.
13. Nurses go in and out of the quarantine rooms to check temperatures, and they wear masks. But the residents in quarantine never wear masks, even when they come out of the quarantine room to use the bathroom or other shared facilities.

14. Because one of the bathrooms is just for the people in quarantine, that means there are now 78 of us sharing one bathroom. The bathroom we share has three showers, three sinks, and two toilets. It only gets cleaned once a day, but it doesn't really get cleaned. No one outside of prison would use this bathroom. It gets sprayed down with very diluted bleach once a day, but that is it. And there are always 8-10 people in there, using the facilities, cutting hair, lifting buckets of water to work out, etc.
15. Nothing is being rigorously cleaned. The only cleaner that we have access to is Hepastat, which we have to get from the porters. There is nothing to clean the phones between uses, not even a rag. The phones get cleaned once a day, and that's after hundreds of people have used them. There are three phones in a group, and they are about a foot apart from each other, so the people who are using them are just inches away from one another, shoulder to shoulder. And people are lined up close together when they wait to use the phones.
16. Being in here scares me to death. I'm really worried that if the virus gets in here, it will be a death sentence. The only thing

they're doing is taking the temperature of people going in and out every day. That isn't enough to protect us.

Dated this 15th day of April, 2020 in Yacolt, Washington.

I am unable to sign this document as it was prepared in Seattle, Washington, but I have had it read to me over the telephone and authorize Laurel Simonsen to sign it on my behalf.

A handwritten signature in black ink, appearing to be 'P. O'Brien', written over a horizontal line.

Patrick O'Brien, by Laurel Simonsen, WSBA #47904

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANT

I, Laurel Simonsen, declare under penalty of perjury under the laws of the State of Washington:

1. I am an attorney with Columbia Legal Services, the legal aid organization representing the petitioners in this matter.
2. Due to shortened time and limitations on access to the declarants due to the current public health emergency, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.
3. I personally spoke with Patrick O'Brien over the telephone on April 14 and 15, 2020. I drafted Mr. O'Brien's declaration while on the telephone with him. At the conclusion of our call, I read Mr. O'Brien's declaration to him, and he stated to me that he believed the contents of his declaration to be true and correct, and authorized me to sign the declaration on his behalf.

DATED this 15th day of April, 2020 at Seattle, Washington.



Laurel Simonsen, WSBA #47904

No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

SUPPLEMENTAL DECLARATION OF THEODORE RHONE

Nicholas Allen, WSBA #42990
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Attorneys for Petitioners

I, Theodore Roosevelt Rhone, declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to the best of my knowledge and belief:

1. My birthdate is January 19, 1958. I am over the age of 18 and competent to testify.
2. I am a petitioner in this matter. I reside at the Stafford Creek Corrections Center in Aberdeen, Washington. My DOC number is #708234.
3. I have received and read my declaration dated March 18, 2020 and everything included in that document is true and correct.
4. I am providing this supplemental declaration to provide the Court with additional information regarding my circumstances that have changed since March 18.
5. It seems like the staff aren't taking this seriously. Until last week, they weren't wearing masks, though that has now changed. But they still don't practice social distancing, even amongst themselves.
6. Starting Friday, April 10, 2020, they handed out paper masks to each of us. However, these are the kind of masks that are meant to be thrown away after use, but DOC has told us that we're each only getting one. I asked the nurse at medical about it yesterday,

Tuesday, April 14, 2020, and was told that it was impossible for us to get additional masks.

7. In order to make room to quarantine other residents, they are trying to move a third person into many of the “big” cells on the top tiers. Mine was one of the first cells they tried to move a third person into, but I told them that this was contrary to social distancing recommendations. You just think about what people sleeping on the floor get exposed to when people are out walking around and coming to and from the bathrooms. I also told them that I am a petitioner in this case, just so that they knew this was going on. I later got called in from my job and they told me they wouldn’t be putting a person on the floor in my cell.
8. I have to go to medical to get my insulin. When anyone goes to medical, they take your temperature to screen for COVID-19. But even the news is saying that temperature checks aren’t sufficient to determine whether someone has COVID-19 or not. Plus, it is cold and flu season. People are afraid to go in for treatment for a cold and end up being locked down or in isolation because they’re not testing people for COVID.
9. They have some people in quarantine in G unit. They’ve released someone from quarantine into my unit. He told me that they didn’t

even come in to check on him; it took them five days to come pick up his trash.

10. If they put you in isolation or quarantine, you can die in that cell.

Once they put you on deadlock, you can't come out of your cell, and they only come by when they decide to come by. That's the danger of isolation – you get ignored.

11. I don't think it's sufficient for people to be quarantined. The

ventilation is all connected, so it doesn't matter if you're in quarantine or not. I don't even have to come into contact with someone; everyone breathes the same air, and everyone can be exposed.

12. I have diabetes, high blood pressure, respiratory problems, and

issues with my pancreas. If I got sick, I understand that I'd be going to quarantine, but my concern is they won't take care of me. I'd just be another casualty. I've seen too many people die in here, and that was when COVID wasn't even an issue. Many of the providers are nice, but the people in charge won't let them provide necessary medical care.

13. If COVID gets in here, people are going to die. This institution is not prepared for an outbreak. They're not prepared for a volume of

people to get sick here. Even the nearest hospital in Aberdeen can't handle that.

Dated this 15th day of April, 2020 in Aberdeen, Washington.

I am unable to sign this document as it was prepared in Seattle, Washington, but I have had it read to me over the telephone and authorize Laurel Simonsen to sign it on my behalf.

A handwritten signature in black ink, appearing to be 'Theodore Rhone', written in a cursive style.

Theodore Rhone, by Laurel Simonsen, WSBA #47904

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANT

I, Laurel Simonsen, declare under penalty of perjury under the laws of the State of Washington:

1. I am an attorney with Columbia Legal Services, the legal aid organization representing the petitioners in this matter.
2. Due to shortened time and limitations on access to the declarants due to the current public health emergency, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.
3. I personally spoke with Theodore Rhone over the telephone on April 14 and 15, 2020. I drafted Mr. Rhone's declaration while on the telephone with him. At the conclusion of our call, I read Mr. Rhone's declaration to him, and he stated to me that he believed the contents of his declaration to be true and correct, and authorized me to sign the declaration on his behalf.

DATED this 15th day of April, 2020 at Seattle, Washington.



Laurel Simonsen, WSBA #47904

No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

SUPPLEMENTAL DECLARATION OF SHANELL DUNCAN

Nicholas Allen, WSBA #42990
Nicholas B. Straley, WSBA #25963
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101 Yesler Way, Suite 300
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Telephone: (206) 464-1122
Attorneys for Petitioners

I, Shanell Duncan, declare under penalty of perjury under the laws of Washington State that the following statements are true and correct to my best knowledge and belief:

1. I am 40 years old and am competent to testify as to the contents of this declaration.
2. I have received and read my declaration dated March 19, 2020 and everything included in that document is true and correct.
3. I am providing this supplemental declaration to provide the Court with additional information regarding the change in circumstances since March 19th.
4. I continue in detention at Monroe Correctional Complex (MCC) at MSU camp, in A unit.
5. It has been difficult to engage in any social distancing and MCC. I live in housing specifically for people in the Mental Health Program. Normally, this program provides PTSD, anger management, writing class, and other classes to help people build skills and provide structure.
6. However, there is no longer any programming going on. There is only one staff person who continues to work and she comes in every day so we can at least talk to her. We came into this program

to try and build our lives, but due to the lack of programming there is all this tension going around.

7. My room is a two man room, but I am the only one in here at the moment. The hallway outside of my room is so small that I cannot help but come into contact with other people.
8. The tier I am on has 9 rooms and there are 1 to 2 people in each room. There are about 12 people in the tier right now.
9. We have one bathroom on our tier, and we share the two toilets, four sinks, two showers and two urinals.
10. There is no room in the bathroom to social distance either.
11. As of three days ago, we have stopped eating inside the chow hall. Sometimes we have the food brought to us and other times we go to get our meals. We try to social distance while we are at the chow hall, but as we walk back all of that goes away and we walk shoulder to shoulder back to our room.
12. The same deal involves the day room. There is a sign on the door that limits the number of people to 10 people, but it is not enforced. The day room is an enclosed area with 2 windows. Even if we kept it to 10 people it would be impossible to social distance because all the tables are pushed together so they are touching each other. There is little room to move the tables around, so you just

end up sitting next to people. And due to the enclosed space, if anyone was sick anyway, there would be no amount of space to protect ourselves.

13. If I were to get sick, all that will be done is that I get placed in TRU. Staff would come to take my temperature, isolate me, and wait for everything to end. Only if I were to have breathing issues would I be sent out to the hospital. I have not seen that there is any access to IV drips or other medical treatment available on site.
14. **Post Outbreak and Quarantine:** Since the initial outbreak at MCC, people are still on edge.
15. DOC handed out some sort of dust filter mask four days ago. But Yesterday, they provided these new masks that are supposed to be washable, but that would take two days to come back from the laundry. These new ones are masks made out of elastic and socks.
16. When the outbreak first happened, DOC attempted to offer cheeseburgers to the tier that had become infected with the virus. This was B unit. DOC ended up quarantining over a hundred people when the first the person tested positive and it looks like the cheeseburgers were a way to try to calm people down. This all happened sometime fairly late at night.

17. Prior to everything happening, tiers 1, 2, and 4 in A unit used to be a housing location for people on the mental health program. Then when people started getting sick, DOC took people from B unit and D unit and placed them in 4th tier for 7 days in A unit. Right now, there is about 5 or 6 people in A unit, on 4th tier, on quarantine. DOC continues to shuffle people around the facility to make more room for quarantined individuals. I do not understand why DOC would place people on quarantine inside the one unit in this facility that is not on quarantine. The people from 4th tier in A unit use the same facilities as the rest of us.
18. Some shared spaces for quarantined and non-quarantined people include: Ice machine, JPay kiosks, the tables, and books in the day room among other things.
19. The porters from A unit are sent to clean these surfaces afterward but they are not provided with any PPE to protect themselves aside from the masks they are given individually and some gloves. These porters then come back and congregate with the rest of us.
20. DOC also has thirteen people sleeping in the EFVs where families used to come to visit for the weekend. The EFVs are just like trailers. This happened about 4 days ago. I can't see how people would have enough space to social distance in those trailers.

21. DOC also has other people in the chapel. They are sleeping in there and I saw them delivering chips and pop there the other day. Again, I don't see how social distancing could be effective in there.
22. The way DOC is moving people all around this facility, they are playing Russian roulette with us. It is no wonder ten people have now tested positive and five staff.
23. About a week ago, the COs started wearing masks all the time. But when we got the first tested case, I didn't see any of the CO's wearing a mask.
24. DOC has taken some steps to protect us, like handing out masks, but it is too late at this point. The constant movement of people around this facility; the cramped spaces; the shared phones, bathrooms, and rooms; and the number of positive tests basically tell me there are more people sick here than we know about. DOC is acting like they have this under control and the conditions in this facility cause me concern for my diabetes and heart issues. If I were to get infected, I fear this would become a death sentence for me.

DATED this 16th day of April 2020 in Monroe, Washington.

I am unable to sign this document as it was prepared in Wenatchee, WA but I have had it read to me over the telephone and authorize Tony Gonzalez to sign it on my behalf.

/s/Tony Gonzalez

Shanell Duncan, by Tony Gonzalez, WSBA #47771

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANTS

I, Tony Gonzalez, declare under penalty of perjury under the laws of the State of Washington:

1. I am counsel for the petitioners in this action.
2. Due to shortened time and limitations on access to the declarants due to the current public health emergency, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.
3. I personally spoke with following declarants over the telephone on the dates stated herein. I drafted each declarant's declaration while on the telephone with them. At the conclusion of the call, I read each declarant's declaration to them, and each declarant stated to me that they believed the contents to their declaration to be true and correct, and authorized me to sign the declaration on their behalf.

<u>Declarant</u>	<u>Date</u>
Leondis Berry	April 15, 2020
Rene Fernandez	April 15, 2020
Shanell Duncan	April 16, 2020

DATED this 16th day of April, 2020 at Wenatchee, Washington.

s/Tony Gonzalez
Tony Gonzalez, WSBA #47771

FILED
SUPREME COURT
STATE OF WASHINGTON
4/16/2020 12:51 PM
BY SUSAN L. CARLSON
CLERK

No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

**SUPPLEMENTAL DECLARATION OF
PETITIONER LEONDIS BERRY**

Nicholas Allen, WSBA #42990
Nicholas B. Straley, WSBA #25963
Janet S. Chung, WSBA #28535
COLUMBIA LEGAL SERVICES
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Attorneys for Petitioners

I, Leondis Berry, declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to the best of my knowledge:

1. I am over the age of 18 and competent to testify as to the contents of this declaration.

2. I have received and read my declaration dated March 19, 2020 and everything included in that document is true and correct. I do want to make note that I do not have a pacemaker, instead I have a defibrillator.

3. I am providing this supplemental declaration to provide the Court with additional information regarding my circumstances that have changed since then.

4. I continue in DOC custody at the Stafford Creek Corrections Center (SCCC) and continue to reside in H-5 Unit, B-Wing

5. Each unit in this facility consists of two wings, known as A and B, in each wing there are two tiers, an upper and lower.

6. **Health and Safety Measures:** There is one wing of G-unit that is serving as quarantine for people at SCCC.

7. There are about fifteen people as of last week, but more people are getting sent there regularly.

8. When half of G unit became a quarantine site, DOC staff started moving more people into various cells to make room. In my wing, I saw one cell house three people, with one of them sleeping on the floor.

9. Last week, my unit had 4 people taken into quarantine at G unit.

10. The first pair was moved at night. I was in my room just watching from the window. I saw DOC staff come in and take the two people and move them. Afterward I saw staff in hazmat suits go in and pack up all of their belongings.

11. The next morning, another two people were taken into quarantine. I was going to the bathroom when I saw the hazmat suits and the packing start all over again.

12. Just yesterday, there were an additional 4 people taken out of A wing from my unit.

13. DOC has provided us with cloth masks. They look like paper towels attached to a string. This happened three or four days ago. Staff from DOC came room to room handing out the masks and each person was provided with one mask. We were not given any instructions on how to wear it or how to clean it. I have been using the same mask since.

14. Using the mask is not a requirement for the residents of SCCC and many people do not use it.

15. There have been no changes medical wise. If someone gets sick or needs medical attention, the process is the same as it has always been.

16. I had to renew my medications recently and to do that, I had to fill out a kite form. I also have been feeling pain in the kidney area for about two weeks and put that in the kite form as well. I just got back a response to my kite two days ago (4/13). The kite tells me the process has not changed, since I was instructed to fill out another kite to report the pain and go to sick call.

17. I am not aware that sick call has changed and I have not gone yet.

18. **Social Distancing:** Social distancing continues to be nearly impossible at SCCC. I try to be mindful of keeping my distance from other people, but our living situation makes it impossible

19. Our sinks, toilets, and showers have us close together routinely.

20. I have a cellmate who sleeps right above me in a bunk bed two feet away. While I can control who I speak to or how I cover myself, I have no control over his practices.

21. In the gym and yard, DOC has stopped allowing any group activities take place. No one is allowed to play basketball, soccer, or hand ball. They have also limited the number of units that can be in the yard at the same time. Normally there would be 4 units in the yard, but now there is a limit of two. There is a big yard and a small yard, so there are two units on the yard at a time, but one unit per side. This amounts to about two hundred people in the yard at a time.

22. People are just out in the yard exercising together or doing track and field events. I am not going to the yard right now because people don't respect the virus and are just going about as if nothing is happening.

23. I just stay in my room except to shower, use the phone, and do other necessary activities.

24. There are seven phones and they are back to back right up against each other. DOC has placed plastic bags over three of the phones to create some space. The phones are otherwise a foot away from each other, but now with the bags, there is about 3 feet of space between them. They are not being sanitized and the only way they get it cleaned is by the individual deciding to clean it. If you plan on doing that, you have to go to the bathroom and grab disinfectant to clean the phone. You also have to look for a rag to use or find a paper towel, which is only located by the microwaves in the dayroom.

25. The day room has about 20-25 people in there when people are out in the yard. In the day room, you have people walking around, coughing in the open air, without a care in the world like there is nothing happening. I do not feel comfortable being in there. There are tables in the dayroom, two microwaves, two JPay machines, and a kiosk machine where we get information sent to us. I can't avoid using the day room, I use the microwave and phones constantly. I have to go to the dayroom to get ice as well. The day room gets used by everyone in my wing and there are about 130 people in my wing.

26. The day room becomes even more of a problem when people come back inside from the yard, they all stand by the door or just walk around in the day room. There is no chance for social distancing when this happens. They just congregate amongst each other and they don't act like they even need to stay apart. I don't see any of the COs trying to enforce anything. Everyone just goes about their normal business as if there is no crises happening.

27. The showers are right next to the day room. There are two urinals, two toilets, 6 sinks, and between 4-6 showers depending on which bathroom it is and there are four bathrooms in total per unit. Two bathrooms per tier. More often than not, the bathrooms are dirty. It is only required to be cleaned three times a day. People go in to sneeze into the

sink or shower. The toilet stalls are basically just as dirty. Since this whole epidemic has started, the frequency of cleaning has not increased. At any given time, there is probably between 4-7 people using the bathroom. The only thing we have access to is disinfectant spray. The porters are the ones who get all the materials to clean the bathrooms.

28. For the chow hall, DOC has staggered how people enter but eventually the whole wing is in there. First, one tier goes to the chow hall at a time. Once there, half the tier goes in and the other half has to wait about five minutes. After five minutes, they go in and eat so the whole tier is in there, this is about sixty to seventy people. Eventually, other tiers are sent so that the whole wing is in there. At some point, between 130-136 people are in there eating. The tables in there normally seat four people, but it has been limited to only allow two people per each table. Even with that, there is only a foot and a half or two feet of distance between the next person. So social distancing is fairly impossible in this area as well.

29. I've only been to the chow hall a couple times since this whole thing started. Sometimes I run low on food so I go in there to get the provided meals. Otherwise I am in my room and eat the commissary that I am able to purchase. Mostly top roman and sometimes I can get summer sausages.

30. DOC staff try to encourage social distancing, but a good majority of people do not respect it. This goes back to people just not wearing the provided masks.

31. For example, DOC has put little things on the ground. They act as markers for people to practice social distancing, but when you have a hundred people in line to use the JPay machine, phones, or kiosks, those little markers do nothing. I have not seen any DOC staff enforce the distance part, so the markers are just there, and many people are just aggravated about having to social distance in the first place.

32. The staff guards just do what they need to do. They are wearing masks now. But this is a recent development, before that I was not seeing masks worn regularly. But now, I have not seen a staff member not wear a mask.

33. A few weeks back, everyone got two bars of soap, but no additional rags or hand sanitizer.

34. There is hepastat and pink disinfectant available at the office station and in the bathrooms, but nothing else.

35. There is no toilet or sink in my cell, but if I have to use the toilet at night, I am generally allowed to go.

36. I am scared to death about the practices that I am seeing at SCC. I don't have any confidence in DOC's ability to protect me from the corona virus because everyone around me seems to not take this seriously.

I am unable to sign this document as it was prepared in Wenatchee, Washington, but I have had it read to me over the telephone and authorize Tony Gonzalez to sign it on my behalf.

DATED this 14th day of April, 2020 in Wenatchee, Washington.

/s/ Tony Gonzalez

Leondis Berry, by Tony Gonzalez, WSBA #47771

FILED
SUPREME COURT
STATE OF WASHINGTON
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No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

SUPPLEMENTAL DECLARATION OF SHYANNE COLVIN

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Attorneys for Petitioners

I, Shyanne N. Colvin, declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to my best knowledge and belief:

1. I have received and read my declaration dated March 22, 2020 and everything included in that document is true and correct.
2. I am providing this supplemental declaration to provide the Court with additional information regarding my circumstances that have changed since March 22.
3. I was initially moved from the receiving unit into K Unit in the minimum security unit at the Washington Correctional Complex for Women at in Gig Harbor.
4. I was in K unit for several weeks. K unit includes one big dormitory-style room where as many as 60 people sleep and three other wings made up of rooms that hold three people each.
5. I was in the dorm and did not have my own room. In the dorm, there are 17 cubicles made up of bunk beds and lockers, and each has the capacity for four people. There were a few open beds, but there were still too many people to maintain social distancing between people.

6. The walls of the cubicles are made of the bunk beds. There is a thin piece of plywood between two sets of bunk beds that creates one set of the walls. There are no doors on the cubicles. You can see into the adjacent by sitting on the top bunks.
7. All of the residents are supposed to try and keep a six-foot distance from each other, but in the dorms they can't enforce it and everyone sleeps within about 3 feet of three other people.
8. While I was in K unit, we were restricted to our cubicles for much of the days. We were basically on a lockdown schedule, but in a big dorm room with lots other people. DOC thinks it's ok for four people to be confined in a cubicle that is separated by a sheet of plywood from four other people.
9. On Friday, April 10, 2020 I was moved into J unit, which is the residence for parents and infants. I'm now in a room with two other people, so I still can't social distance, but at least I'm not in dorm any longer.
10. My wing shares four bathroom stalls, four sinks, and two showers. We have access to those all day, except when they are closed for cleaning.

11. DOC has provided soap and paper towels for hand-washing, but they have threatened to take the paper towels away because they accused us of “overusing” them. We do not have any access to hand sanitizer.
12. There are around 90 people in J unit. We are technically allowed to come and go from our unit and go to the dayrooms at any time, unless guards decide to shut them down.
13. There are two dayrooms, and only 10 people in each day room at a time, and there’s no loitering allowed in the hallways. If you’re not one of the 20 people in the dayrooms, then you’re confined to your room or you get infracted.
14. Even with only 10 people in the dayroom at a time, it’s almost impossible to maintain social distance. The microwave is two feet away from the sink, and the hot shot is on the same counter, less than a foot away. So, if people are using those things, we’re all just a few feet from each other.
15. The dayrooms are shut down at 8:30 AM and 8:30 PM every day for cleaning. During the day, residents are supposed to clean up after themselves. There’s an antibacterial spray you have to check out. We are not allowed to use bleach to clean or disinfect anything during the day.

16. There are kiosks like in a bank that everyone uses. When you use a kiosk, then you are only about six inches from the other residents.
17. We still go to the chowhall for meals. About 30 of us go at a time. In the minimum-security unit where I am, we have single tables that are kind of like desks, but at MSC and CCU (the medium and higher-security units) they're still sitting two or three to a table. The tables get cleaned with antibacterial spray between shifts.
18. On Friday, April 10, 2020, DOC gave us cut up old t-shirts and had us fold those with rubber bands to use as face masks. The t-shirts smelled like mold. Before that, we did not have any PPE, and that is what we were using until last night.
19. Last night on April 13, 2020, after count, they handed out fabric masks that other inmates had been making in the craft room. The masks smell like they have not been washed. If we don't wear them, we get infraacted. No one has given us instructions on how to clean them or keep them from becoming contaminated.

20. The guards are now using masks. At first it wasn't mandatory, but now they're required to wear them. The staff have actual medical grade masks, either surgical masks or N-95. The COs say they don't know what is going on or whether we will get that type of protective equipment.

Dated this 14th day of April, 2020 in Gig Harbor, Washington.

I am unable to sign this document as it was prepared in Seattle, Washington, but I have had it read to me over the telephone and authorize Laurel Simonsen to sign it on my behalf.

A handwritten signature in black ink, appearing to be 'Shyanne Colvin', written over a horizontal line.

Shyanne Colvin, by Laurel Simonsen, WSBA #47904

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANT

I, Laurel Simonsen, declare under penalty of perjury under the laws of the State of Washington:

1. I am an attorney with Columbia Legal Services, the legal aid organization representing the petitioners in this matter.
2. Due to shortened time and limitations on access to the declarants due to the current public health emergency, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.
3. I personally spoke with Shyanne Colvin over the telephone on April 14, 2020. I drafted Ms. Colvin's declaration while on the telephone with her. At the conclusion of the call, I read Ms. Colvin's declaration to her, and Ms. Colvin stated to me that she believed the contents of her declaration to be true and correct, and authorized me to sign the declaration on her behalf.

DATED this 14th day of April, 2020 at Seattle, Washington.



Laurel Simonsen, WSBA #47904

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STATE OF WASHINGTON
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No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

DECLARATION OF RENE FERNANDEZ

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Attorneys for Petitioners

I, Rene Fernandez, declare under penalty of perjury under the laws of the Washington that the following statements are true and correct to my best knowledge and belief:

1. I am 47 years old and am competent to testify as to the contents of this declaration.
2. I am providing this declaration so that the Court has information about what is happening inside the Department of Corrections.
3. I am currently detained at the Monroe Correctional Complex (MCC) at MSU camp, in B unit, tier 4. Which is the epicenter of everything at DOC.
4. I have 15 months left on my sentence for a nonviolent offense involving identity theft. I've been approved for work release on July 27, 2020.
5. **Outbreak and Quarantine:** There are 4 units at MCC, MSU campus. Each unit has four tiers and Tier 4 from B unit was the first tier to have someone with a positive test for COVID-19.
6. Prior to the first positive test, we were already on modified movement. All the information we had was that a guard tested positive. I did not understand why the guards here did not start wearing masks since that first guard tested positive. They only started wearing masks after a resident from B unit tested positive.

7. That Sunday, the guy that tested positive started getting sick and they took him to the hospital. Then we were told we were on quarantine. That first Sunday night, 5 people had temperatures over 100 degrees. They were taken as well.
8. DOC responded by returning a 11:30 at night to B unit with 2 cheeseburgers, French fries and apple pies. They tried moving the infected tiers with McDonalds.
9. My cell is approximately six feet away from the cell that tested positive. My tier used to have forty-one people, but now we are down to twenty-four as a part of DOC's reshuffling of the units.
10. The B unit was the last to get reorganized and we are still going through a reorganization currently. Currently, in B Unit, two tiers have a maximum holding capacity of 41 people and the other two tiers have a maximum of 24. None of the tiers are at max capacity. To create this room, people were taken to the hole, quarantine, or isolation.
11. DOC only provided us with little paper masks after the initial outbreak. We didn't receive those masks until three or four days after the first positive case and only after we kept asking for them.
12. Before the first person in B unit tested positive, a couple of people would wear masks around the unit. I would see them get threatened

with an infraction because they were apparently starting trouble and raising fear.

13. When we were finally provided with masks, we were called to the officer's desk to get them. We were called one tier at a time. We had to line up like a food line to get the masks. Then after we were in line, someone mentioned that this didn't make sense because we were not social distancing. After that, the Sargant started spreading us apart. We had been in line together for about 20 or 30 minutes.
14. We were not given any instructions on how to wear them or how to clean them. I have been using the same mask since then.
15. Just today (4/15), I was provided with a what looks like a homemade mask, looks like a ski mask. It was left on my bed with two additional rags. They look nice, better than the paper ones we have now, but not medical grade or N95s.
16. **Social Distancing:** There is no social distancing here. The phones are right next to each other. They are less than a foot apart and a one-inch piece of plexiglass separates each phone. I can almost smell the next person's breath while I talk on the phone.
17. The dayroom is where the phones, hotshot (boiling water), and jpay are. We share the dayroom with all four tiers.

18. For the yard, they let us out once or twice a day. Since D, C, and B unit are on quarantine, we all go out by ourselves; meaning no mixed units. They try to spread us out between the gym and yard. I don't really go to the gym. I would rather be outside.
19. When I am in the yard, there are usually about 80 to 100 people. The whole B unit goes out, minus the ones that decide to stay inside or go to the gym. We sit in our tables, workout, or walk the track. Everyone stays away from each other. This is the only time we get to really separate ourselves and get fresh air.
20. The current schedule is broken down as follows: initial morning from 7:30-9:10; the morning is 9:30-11:10; initial afternoon is from 12:30-14:20; afternoon is 14:30-15:25; initial evening is from 17:50-18:35; and then final evening is from 19:00 to 20:25.
21. So here, under this new schedule, sometimes I get to go out once a day, occasionally twice. For example, today, I will get initial morning and initial evening. Tomorrow just afternoon 14:30-15:25. This is not enough time, especially when this is the only meaningful opportunity to separate from everyone and get fresh air.

22. Just today, we were notified that there is going to be a late night every night. For this, two units are in the yard and it alternates each day between the two pairs of units.
23. There is a patio we share with A unit and there are about 10 people at a time. Sometimes there are more people. Depends on who is in watching over us. The patio is large enough to hold two tables and a bench.
24. Since B, C, and D units are on quarantine, we don't get to go to the chow hall. We get our food brought to us by COs. They wear gloves and masks when they bring the food. The food being provided to us right now are tv dinners called Airway Heights tv dinners.
25. The only one going to the chow hall is A unit, but even they are limited. All they do is go to main line (the food line), pick up the clam shells holding their food, and take it back to their rooms.
26. **Medical Care.** There is no medical care at MCC right now. When people get sick, they just go straight to isolation. For people who need medications, everything just gets brought out to them.
27. As a tier rep, I was able to participate in a meeting with a county representative the other day. During that discussion, the group was informed that in order to get tested, we need to display symptoms

because of the lack of testing kits. But this does not cover the people who do not show symptoms.

28. Staff come into our unit two or three times a day for temperature checks. Whoever has a temperature over 100.4 degrees is taken to TRU – E unit. From what I understand, this is where people are being taken for isolation.
29. They use digital temperature readers and put the light on your forehead and they use another by putting it in your ear. This happens 2 or 3 times a day. If the temperature is 100.4 or more, then you get taken.
30. Right now, every time someone is taken from B unit, we start the quarantine all over again.
31. Just in the last twenty-four hours, 2 more people have been taken.
32. As the tier rep, along with other tier reps, we asked to get in black and white what the CDC guidelines are for prison cleaning during the COVID 19 outbreak. We still have not gotten it.
33. For cleaning, we keep using the same liquids as before: bleach, Hepastat, and heavy duty multipurpose cleaner. At first, we had access to the bleach ourselves, but now we are given jugs with watered down bleach. Also, we used to get hepastat bottles where

the color was a deep red. I can tell this is watered down now too because the color is significantly lighter.

34. We also clean our own bathroom. There are two toilets, two urinals, and 4 showers, and 4 sinks. The room itself is really small, everything is next to each other, and social distancing is impossible. At any given time there could be 4-5 people in the bathrooms. Two using the urinal, two on the toilet, four in the shower, and 3 on the sink.

35. Using the phone is currently a huge ordeal. There are 6 phones per unit. Sometimes you need to wait hours to use the phone. There is a line to wait and the only thing we really do is wear our masks.

36. We are at a point where people are sick in this unit and people are scared to admit it. If you cough or sneeze, you can expect nothing but isolation and a nightmare. We need help at MCC, COVID is here, and this is only the beginning. I hope it is not too late to act.

DATED this 15th day of April 2020 in Wenatchee, Washington.

I am unable to sign this document as it was prepared in Wenatchee, but I have had it read to me over the telephone and authorize Tony Gonzalez to sign it on my behalf.

/s/ Tony Gonzalez

Rene Fernandez, by Tony Gonzalez, WSBA #47771

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STATE OF WASHINGTON
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No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

**SECOND SUPPLEMENTAL DECLARATION OF
PETITIONER TERRY KILL**

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Attorneys for Petitioners

I, Terry Kill, declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to the best of my knowledge:

1. I am over the age of 18 and competent to testify as to the contents of this declaration.
2. My birthday is October 1, 1967
3. I have received and read my declaration dated March 22, 2020. I have not received a copy of my April 8th, 2020 declaration yet, but it was read to me over the phone, and everything included in those documents is true and correct.
4. I am providing this third declaration to provide the Court with additional information regarding my circumstances that have changed since April 8th.
5. I am currently in DOC custody at the Monroe Correctional Complex – Minimum Security Unit. I currently reside in A-Unit
6. There are 50-52 people in A-Unit, about 119 people in B-Unit, C-Unit and D-Unit house about 120 people each.
7. B-, C-, and D-Units are all quarantined. C-Unit had two new positive cases last night, Tuesday, April 14, 2020, and we all got locked down.

8. A-Unit is the only unit that is not under quarantine, but we are treated in much the same way as the other units are. The only difference is that we do not get any temperature checks or other health care monitoring.
9. Even though A-Unit is the only unit not on quarantine, I still see units sharing our common spaces like the dayroom, gym, breezeway, patio, and yard.
10. People from B-Unit come over to A-Unit and talk to friends or get the latest news.
11. People continue to be allowed to use the breezeway, which is a common area used by A-Unit and B-Unit. That is still open since it is the main entry and exit from both units.
12. People from B-Unit continue to use the same communal ice chest as A-Unit.
13. The unit rotations for gym use continue without any cleaning in between.
14. People from A-Unit still go to B-Unit to clean up any messes or grab laundry bags.
15. I continue to avoid a lot of areas in the facility, but it is nearly impossible to remain six feet away from anyone at any given point in time.

16. When I exit my cubicle to check the kiosk for any messages, I have to walk by other people in line waiting or using the kiosks, JPay machines, or phones. The kiosks themselves are only about 3 feet apart. There are generally 10 or so people in the dayroom where the phones and kiosks are at any given time there. There's always people coming and going.
17. When I go use the bathroom, there are usually at least four other individuals there using the toilet or washing their hands.
18. I no longer go to the gym because I do not trust the cleaning procedures being used. Lots of people are still using the gym, including playing handball and pickleball.
19. The kitchen had been closed, and they were serving premade meals covered in cellophane, like from meals-on-wheels. However, today, April 15, 2020, they hired approximately five people from A-Unit to go back in and start preparing meals again. They're serving normal meals in clamshells. We go to the chowhall to pick up our food and take it back to our tiers.
20. I do what I can to practice social distancing. I try to walk alone for exercise. When I am out in the yard, I am out there with about 40 other people, but at least outside it's fairly easy to keep some space between myself and others.

21. Since my April 8, 2020 declaration, DOC has provided all of the residents with surgical masks. I was given mine while I was asleep on Monday, April 13, 2020. When I woke up, I saw it on the hook where I hang my clothes. I was not provided any instructions on how to wear it or how to clean it. I believe it is the disposable kind.
22. Today, they handed out fabric masks that are kind of funky – they're made out of socks. We were issued one each. They did not provide any instructions on how to use or clean these masks either. They haven't given us instructions on whether we're supposed to use the cloth masks or the surgical masks.
23. Before getting these masks, you could ask for a mask, but it really depended on the person providing them. For example, if you had a job where you absolutely needed a mask, then you would get one. I have managed to collect a few masks, and I have been trying to rotate them to keep them clean and working.
24. Whenever I speak to someone, I try my best to stand beside them and not face them directly. I use my mask as often as I can.
25. However, people make mistakes. I sometimes forget to have my mask on and don't realize it until another individual reminds me. I have seen other people make the same mistake.

26. The worst part is how little it takes to become ill. The close quarters, the inability to stay six feet away from anyone, and the small lapses in memory or judgment could end in illness, quarantine, isolation, or serious complications.
27. For the most part, I see guards wearing masks now. I think it started on Monday when they really started buckling down and enforcing that the staff need to wear protective masks. The chain of command has been making sure they're following the rules.
28. DOC has not provided any additional cleaning supplies since the outbreak began here at MCC. We continue to have the same amount of cleaning supplies as before, including diluted bleach, something similar to Simple Green, Hepastat, and rags. Things are generally getting cleaned around three times per day. It's up to us to clean surfaces and phones throughout the day.
29. Overall, the whole situation is tense here. Since the initial outbreak, I see the guards on edge and it does not make me feel comfortable to ask any questions or bring up any concerns to them. I just want to avoid any situation with them.
30. Tensions are running high amongst the other residents as well. I notice people coughing and sneezing more frequently than before.

31. I'm still very concerned about what it's taking to get DOC to take action. More and more people are getting sick and not enough is happening to keep people safe.

I am unable to sign this document as it was prepared in Seattle, Washington, but I have had it read to me over the telephone and authorize Laurel Simonsen to sign it on my behalf.

DATED this 15th day of April, 2020 in Monroe, Washington.

A handwritten signature in black ink, appearing to be 'Terry Kill', written in a cursive style with a long horizontal stroke extending to the right.

Terry Kill, by Laurel Simonsen, WSBA #47904

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANT

I, Laurel Simonsen, declare under penalty of perjury under the laws of the State of Washington:

1. I am an attorney with Columbia Legal Services, the legal aid organization representing the petitioners in this matter.
2. Due to shortened time and limitations on access to the declarants due to the current public health emergency, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.
3. I personally spoke with Terry Kill over the telephone on April 15, 2020. I drafted Mr. Kill's declaration while on the telephone with him. At the conclusion of our call, I read Mr. Kill's declaration to him, and he stated to me that he believed the contents of his declaration to be true and correct, and authorized me to sign the declaration on his behalf.

DATED this 15th day of April, 2020 at Seattle, Washington.



Laurel Simonsen, WSBA #47904

FILED
SUPREME COURT
STATE OF WASHINGTON
4/16/2020 12:58 PM
BY SUSAN L. CARLSON
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No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

DECLARATION OF PATRICK O'BRIEN

Nicholas Allen, WSBA #42990
Nicholas B. Straley, WSBA #25963
Janet S. Chung, WSBA #28535
Columbia Legal Services
101 Yesler Way, Suite 300
Seattle, WA 98104
Telephone: (206) 464-1122
Attorneys for Petitioners

I, Patrick O'Brien, swear under penalty of perjury under the laws of the state of Washington that the following statement is true and correct to the best of my knowledge and belief:

1. I am over the age of 18 and competent to testify herein.
2. I currently reside at the Larch Corrections Center in Yacolt WA.
My DOC number is #914724.
3. My birthdate is September 19, 1958. I am 61 years old and am living with asthma. I know this puts me at high risk if COVID-19 were to get into Larch.
4. I have seven months of time left. I did not get a life sentence, but it feels like they're just waiting for the virus to get in and roll over all of us.
5. We are completely full to capacity. Most of the facility is dorm-style beds. There are two buildings with eight tiers in each building: four downstairs and four upstairs. On each floor, three of the tiers are dorms; one tier is rooms.
6. I am one of the lucky ones who has a room. It takes about a year to get a room. There are four people in each room, which is about 12 feet.

7. In the dorms, there are cubicles made up two or three beds, two bottom bunks, and a top bunk. There are around 14 cubicles in each tier. Each cubicle is approximately 6x8 feet for three people.
8. They've opened up the visiting room and the EFV rooms to try and clear out the top bunks in the dorms. But they've only opened up about 8 cots in the visiting room, and 3 cots in each EFV room, for a total of 14 new beds. But there are over 100 top bunks, so it's really not having much of an impact on the dorms. Plus, it's still impossible to be six feet apart in any of those rooms anyway.
9. No one is wearing masks – not staff and not residents. The staff are supposed to be wearing masks, but they don't. On Tuesday, April 14, 2020, there were a bunch of people visiting from Olympia, so the staff put on masks while those people were here. But within 20 minutes of them leaving, no one was wearing masks. Last night, I walked by the CO's office and there were six people in the tiny office together, and not a single person was wearing a mask.

They're treating it like it's a joke.
10. None of the residents have been provided with masks or other PPE.

There's no access to hand sanitizer or bleach.

11. There is no social distancing going on. None. When they call us out for mainline, they call us by tiers and we all walk in a line and they ring everyone's tag, and we're bumped up against one another. For meals, they march the whole tier down to the chowhall together, then we get marched back with our meals on trays to eat in our rooms/dorms.
12. There are four people currently in quarantine: two are being quarantined in the dayroom on my floor and the other two in a dayroom on another floor. The people in quarantine use the bathroom that is right across the hall from my room. The bathroom is not even adjacent to the room where they're being quarantined, they have to walk all the way down our common hallway to use it. No one else is allowed to use that bathroom. But the people in quarantine still have time out for yard, they share our same drinking fountains, and use the same phones as the rest of us.
13. Nurses go in and out of the quarantine rooms to check temperatures, and they wear masks. But the residents in quarantine never wear masks, even when they come out of the quarantine room to use the bathroom or other shared facilities.

14. Because one of the bathrooms is just for the people in quarantine, that means there are now 78 of us sharing one bathroom. The bathroom we share has three showers, three sinks, and two toilets. It only gets cleaned once a day, but it doesn't really get cleaned. No one outside of prison would use this bathroom. It gets sprayed down with very diluted bleach once a day, but that is it. And there are always 8-10 people in there, using the facilities, cutting hair, lifting buckets of water to work out, etc.
15. Nothing is being rigorously cleaned. The only cleaner that we have access to is Hepastat, which we have to get from the porters. There is nothing to clean the phones between uses, not even a rag. The phones get cleaned once a day, and that's after hundreds of people have used them. There are three phones in a group, and they are about a foot apart from each other, so the people who are using them are just inches away from one another, shoulder to shoulder. And people are lined up close together when they wait to use the phones.
16. Being in here scares me to death. I'm really worried that if the virus gets in here, it will be a death sentence. The only thing

they're doing is taking the temperature of people going in and out every day. That isn't enough to protect us.

Dated this 15th day of April, 2020 in Yacolt, Washington.

I am unable to sign this document as it was prepared in Seattle, Washington, but I have had it read to me over the telephone and authorize Laurel Simonsen to sign it on my behalf.

A handwritten signature in black ink, appearing to be 'P. O'Brien', written over a horizontal line.

Patrick O'Brien, by Laurel Simonsen, WSBA #47904

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANT

I, Laurel Simonsen, declare under penalty of perjury under the laws of the State of Washington:

1. I am an attorney with Columbia Legal Services, the legal aid organization representing the petitioners in this matter.
2. Due to shortened time and limitations on access to the declarants due to the current public health emergency, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.
3. I personally spoke with Patrick O'Brien over the telephone on April 14 and 15, 2020. I drafted Mr. O'Brien's declaration while on the telephone with him. At the conclusion of our call, I read Mr. O'Brien's declaration to him, and he stated to me that he believed the contents of his declaration to be true and correct, and authorized me to sign the declaration on his behalf.

DATED this 15th day of April, 2020 at Seattle, Washington.



Laurel Simonsen, WSBA #47904

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No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

SUPPLEMENTAL DECLARATION OF THEODORE RHONE

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Nicholas B. Straley, WSBA #25963
Janet S. Chung, WSBA #28535
Columbia Legal Services
101 Yesler Way, Suite 300
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Telephone: (206) 464-1122
Attorneys for Petitioners

I, Theodore Roosevelt Rhone, declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to the best of my knowledge and belief:

1. My birthdate is January 19, 1958. I am over the age of 18 and competent to testify.
2. I am a petitioner in this matter. I reside at the Stafford Creek Corrections Center in Aberdeen, Washington. My DOC number is #708234.
3. I have received and read my declaration dated March 18, 2020 and everything included in that document is true and correct.
4. I am providing this supplemental declaration to provide the Court with additional information regarding my circumstances that have changed since March 18.
5. It seems like the staff aren't taking this seriously. Until last week, they weren't wearing masks, though that has now changed. But they still don't practice social distancing, even amongst themselves.
6. Starting Friday, April 10, 2020, they handed out paper masks to each of us. However, these are the kind of masks that are meant to be thrown away after use, but DOC has told us that we're each only getting one. I asked the nurse at medical about it yesterday,

Tuesday, April 14, 2020, and was told that it was impossible for us to get additional masks.

7. In order to make room to quarantine other residents, they are trying to move a third person into many of the “big” cells on the top tiers. Mine was one of the first cells they tried to move a third person into, but I told them that this was contrary to social distancing recommendations. You just think about what people sleeping on the floor get exposed to when people are out walking around and coming to and from the bathrooms. I also told them that I am a petitioner in this case, just so that they knew this was going on. I later got called in from my job and they told me they wouldn’t be putting a person on the floor in my cell.
8. I have to go to medical to get my insulin. When anyone goes to medical, they take your temperature to screen for COVID-19. But even the news is saying that temperature checks aren’t sufficient to determine whether someone has COVID-19 or not. Plus, it is cold and flu season. People are afraid to go in for treatment for a cold and end up being locked down or in isolation because they’re not testing people for COVID.
9. They have some people in quarantine in G unit. They’ve released someone from quarantine into my unit. He told me that they didn’t

even come in to check on him; it took them five days to come pick up his trash.

10. If they put you in isolation or quarantine, you can die in that cell.

Once they put you on deadlock, you can't come out of your cell, and they only come by when they decide to come by. That's the danger of isolation – you get ignored.

11. I don't think it's sufficient for people to be quarantined. The

ventilation is all connected, so it doesn't matter if you're in quarantine or not. I don't even have to come into contact with someone; everyone breathes the same air, and everyone can be exposed.

12. I have diabetes, high blood pressure, respiratory problems, and

issues with my pancreas. If I got sick, I understand that I'd be going to quarantine, but my concern is they won't take care of me. I'd just be another casualty. I've seen too many people die in here, and that was when COVID wasn't even an issue. Many of the providers are nice, but the people in charge won't let them provide necessary medical care.

13. If COVID gets in here, people are going to die. This institution is not prepared for an outbreak. They're not prepared for a volume of

people to get sick here. Even the nearest hospital in Aberdeen can't handle that.

Dated this 15th day of April, 2020 in Aberdeen, Washington.

I am unable to sign this document as it was prepared in Seattle, Washington, but I have had it read to me over the telephone and authorize Laurel Simonsen to sign it on my behalf.

A handwritten signature in black ink, appearing to be 'Theodore Rhone', written in a cursive style. The signature is positioned above a horizontal line.

Theodore Rhone, by Laurel Simonsen, WSBA #47904

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANT

I, Laurel Simonsen, declare under penalty of perjury under the laws of the State of Washington:

1. I am an attorney with Columbia Legal Services, the legal aid organization representing the petitioners in this matter.
2. Due to shortened time and limitations on access to the declarants due to the current public health emergency, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.
3. I personally spoke with Theodore Rhone over the telephone on April 14 and 15, 2020. I drafted Mr. Rhone's declaration while on the telephone with him. At the conclusion of our call, I read Mr. Rhone's declaration to him, and he stated to me that he believed the contents of his declaration to be true and correct, and authorized me to sign the declaration on his behalf.

DATED this 15th day of April, 2020 at Seattle, Washington.



Laurel Simonsen, WSBA #47904

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SUPREME COURT
STATE OF WASHINGTON
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No. 98317-8

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

SUPPLEMENTAL DECLARATION OF SHANELL DUNCAN

Nicholas Allen, WSBA #42990
Nicholas B. Straley, WSBA #25963
Janet S. Chung, WSBA #28535
Columbia Legal Services
101 Yesler Way, Suite 300
Seattle, WA 98104
Telephone: (206) 464-1122
Attorneys for Petitioners

I, Shanell Duncan, declare under penalty of perjury under the laws of Washington State that the following statements are true and correct to my best knowledge and belief:

1. I am 40 years old and am competent to testify as to the contents of this declaration.
2. I have received and read my declaration dated March 19, 2020 and everything included in that document is true and correct.
3. I am providing this supplemental declaration to provide the Court with additional information regarding the change in circumstances since March 19th.
4. I continue in detention at Monroe Correctional Complex (MCC) at MSU camp, in A unit.
5. It has been difficult to engage in any social distancing and MCC. I live in housing specifically for people in the Mental Health Program. Normally, this program provides PTSD, anger management, writing class, and other classes to help people build skills and provide structure.
6. However, there is no longer any programming going on. There is only one staff person who continues to work and she comes in every day so we can at least talk to her. We came into this program

to try and build our lives, but due to the lack of programming there is all this tension going around.

7. My room is a two man room, but I am the only one in here at the moment. The hallway outside of my room is so small that I cannot help but come into contact with other people.
8. The tier I am on has 9 rooms and there are 1 to 2 people in each room. There are about 12 people in the tier right now.
9. We have one bathroom on our tier, and we share the two toilets, four sinks, two showers and two urinals.
10. There is no room in the bathroom to social distance either.
11. As of three days ago, we have stopped eating inside the chow hall. Sometimes we have the food brought to us and other times we go to get our meals. We try to social distance while we are at the chow hall, but as we walk back all of that goes away and we walk shoulder to shoulder back to our room.
12. The same deal involves the day room. There is a sign on the door that limits the number of people to 10 people, but it is not enforced. The day room is an enclosed area with 2 windows. Even if we kept it to 10 people it would be impossible to social distance because all the tables are pushed together so they are touching each other. There is little room to move the tables around, so you just

end up sitting next to people. And due to the enclosed space, if anyone was sick anyway, there would be no amount of space to protect ourselves.

13. If I were to get sick, all that will be done is that I get placed in TRU. Staff would come to take my temperature, isolate me, and wait for everything to end. Only if I were to have breathing issues would I be sent out to the hospital. I have not seen that there is any access to IV drips or other medical treatment available on site.
14. **Post Outbreak and Quarantine:** Since the initial outbreak at MCC, people are still on edge.
15. DOC handed out some sort of dust filter mask four days ago. But Yesterday, they provided these new masks that are supposed to be washable, but that would take two days to come back from the laundry. These new ones are masks made out of elastic and socks.
16. When the outbreak first happened, DOC attempted to offer cheeseburgers to the tier that had become infected with the virus. This was B unit. DOC ended up quarantining over a hundred people when the first the person tested positive and it looks like the cheeseburgers were a way to try to calm people down. This all happened sometime fairly late at night.

17. Prior to everything happening, tiers 1, 2, and 4 in A unit used to be a housing location for people on the mental health program. Then when people started getting sick, DOC took people from B unit and D unit and placed them in 4th tier for 7 days in A unit. Right now, there is about 5 or 6 people in A unit, on 4th tier, on quarantine. DOC continues to shuffle people around the facility to make more room for quarantined individuals. I do not understand why DOC would place people on quarantine inside the one unit in this facility that is not on quarantine. The people from 4th tier in A unit use the same facilities as the rest of us.
18. Some shared spaces for quarantined and non-quarantined people include: Ice machine, JPay kiosks, the tables, and books in the day room among other things.
19. The porters from A unit are sent to clean these surfaces afterward but they are not provided with any PPE to protect themselves aside from the masks they are given individually and some gloves. These porters then come back and congregate with the rest of us.
20. DOC also has thirteen people sleeping in the EFVs where families used to come to visit for the weekend. The EFVs are just like trailers. This happened about 4 days ago. I can't see how people would have enough space to social distance in those trailers.

21. DOC also has other people in the chapel. They are sleeping in there and I saw them delivering chips and pop there the other day. Again, I don't see how social distancing could be effective in there.
22. The way DOC is moving people all around this facility, they are playing Russian roulette with us. It is no wonder ten people have now tested positive and five staff.
23. About a week ago, the COs started wearing masks all the time. But when we got the first tested case, I didn't see any of the CO's wearing a mask.
24. DOC has taken some steps to protect us, like handing out masks, but it is too late at this point. The constant movement of people around this facility; the cramped spaces; the shared phones, bathrooms, and rooms; and the number of positive tests basically tell me there are more people sick here than we know about. DOC is acting like they have this under control and the conditions in this facility cause me concern for my diabetes and heart issues. If I were to get infected, I fear this would become a death sentence for me.

DATED this 16th day of April 2020 in Monroe, Washington.

I am unable to sign this document as it was prepared in Wenatchee, WA but I have had it read to me over the telephone and authorize Tony Gonzalez to sign it on my behalf.

/s/Tony Gonzalez

Shanell Duncan, by Tony Gonzalez, WSBA #47771

CERTIFICATION RE AUTHORIZATION TO SIGN
ON BEHALF OF DECLARANTS

I, Tony Gonzalez, declare under penalty of perjury under the laws of the State of Washington:

1. I am counsel for the petitioners in this action.

2. Due to shortened time and limitations on access to the declarants due to the current public health emergency, distance, shortened time, and prison procedures, I was unable to obtain physical signatures from the declarants.

3. I personally spoke with following declarants over the telephone on the dates stated herein. I drafted each declarant's declaration while on the telephone with them. At the conclusion of the call, I read each declarant's declaration to them, and each declarant stated to me that they believed the contents to their declaration to be true and correct, and authorized me to sign the declaration on their behalf.

<u>Declarant</u>	<u>Date</u>
Leondis Berry	April 15, 2020
Rene Fernandez	April 15, 2020
Shanell Duncan	April 16, 2020

DATED this 16th day of April, 2020 at Wenatchee, Washington.

s/Tony Gonzalez
Tony Gonzalez, WSBA #47771

FILED
SUPREME COURT
STATE OF WASHINGTON
4/16/2020 12:51 PM
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CERTIFICATE OF SERVICE

I certify that on the date below, I electronically filed Petitioners' Motion To Accelerate Review And Motion To Supplement Petitioners' Record In Support Of Petition For A Writ Of Mandamus And/Or Personal Restraint Petition, Supplemental Declaration of Petitioner Leondis Berry, Supplemental Declaration of Shyanne Colvin, Declaration of Rene Fernandez, Second Supplemental Declaration of Petitioner Terry Kill, Declaration of Patrick O'Brien, Supplemental Declaration of Theodore Rhone, Supplemental Declaration of Shanell Duncan, and Revised Index to Petitioners' Set of Documents Submitted for the Record, with the Clerk of the Court using the electronic filing system, which will send notification of filing to all parties of record at their email addresses as follows:

DAdreBCunningham@gmail.com
John.Samson@atg.wa.gov
PCpatcecf@piercecountywa.gov
andrea@smithalling.com
caedmonc@gmail.com
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correader@atg.wa.gov
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djohnson@paulweiss.com
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tdavis@aclu-wa.org
teresa.chen@piercecountywa.gov
tim.lang@atg.wa.gov

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED this 16th day of April 2020, at Tacoma, WA.

s/ Maureen Janega
MAUREEN JANEGA, Paralegal
Columbia Legal Services
101 Yesler Way, Suite 300
Seattle, WA 98104
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maureen.janega@columbialegal.org

COLUMBIA LEGAL SERVICES, INSTITUTIONS PROJECT

April 16, 2020 - 12:51 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 98317-8
Appellate Court Case Title: Shyanne Colvin et al. v. Jay Inslee et al.

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- 983178_Cert_of_Service_20200416124706SC398113_0462.pdf
This File Contains:
Certificate of Service
The Original File Name was 20 0416 MJ Certificate of Service 1.pdf
- 983178_Designation_of_Clerks_Papers_20200416124706SC398113_2210.pdf
This File Contains:
Designation of Clerks Papers
The Original File Name was Revised Index to Petitioners Set of Documents_FINAL.pdf
- 983178_Motion_20200416124706SC398113_5461.pdf
This File Contains:
Motion 1 - Supplement Clerks Papers
The Original File Name was 20 0416 motion to supplement the record.FINAL.pdf

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COLUMBIA LEGAL SERVICES, INSTITUTIONS PROJECT

April 16, 2020 - 1:00 PM

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Appellate Court Case Title: Shyanne Colvin et al. v. Jay Inslee et al.

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Affidavit/Declaration - Other
The Original File Name was 20 0415 Duncan Supplemental Decl.pdf

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Comments:

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Filing on Behalf of: Nicholas Broten Straley - Email: nick.straley@columbialegal.org (Alternate Email: nick.straley@columbialegal.org)

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Phone: (206) 287-9662

Note: The Filing Id is 20200416125928SC269938

COLUMBIA LEGAL SERVICES, INSTITUTIONS PROJECT

April 16, 2020 - 12:59 PM

Transmittal Information

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Appellate Court Case Number: 98317-8
Appellate Court Case Title: Shyanne Colvin et al. v. Jay Inslee et al.

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- 983178_Affidavit_Declaration_20200416125822SC559393_1705.pdf
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Affidavit/Declaration - Other
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