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AT SEATTLE
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD G. TURAY,

Plaintiff,

v.

DAVID B. WESTON, et al.,

Defendants.

NO. C91-664WD

ORDER AND INJUNCTION

The plaintiff has moved for injunctive relief based on the jury's finding that defendants Weston and Dehmer deprived him of his constitutional right of access to mental health treatment. All materials filed in support of or opposition to the motion, and the evidence received at trial, have been fully considered.

Plaintiff Richard Turay is confined as a "sexually violent predator" by the State of Washington pursuant to RCW ch. 71.09, a civil commitment statute. Plaintiff alleges in this lawsuit that the conditions of his confinement at the Special Commitment Center ("SCC") at Monroe, Washington, have violated his civil rights. He contends that his rights have been violated by overly restrictive policies regarding security, physical movement, visitation, and mail; by the defendants' failure to provide him with adequate mental health treatment and with educational, vocational, exer-

over 2

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1 cise, and recreational opportunities; and by certain defendants
2 having subjected him to an unlawful probe search.

3 The defendants are David Weston, superintendent of the SCC;
4 William Dehmer, program director; Norman Nelson, forensic thera-
5 pist; John Anderson-Taylor, forensic therapist; Steven Wahl,
6 psychiatric security attendant; Andre Simon, psychiatric security
7 attendant; and Joan Kirchoff, former forensic therapist.

8 Plaintiff has not challenged in this case the constitution-
9 ality of RCW ch. 71.09, nor the legality of his confinement; the
10 suit relates only to conditions of confinement.

11 This case was tried to a jury March 16-28, 1994. On March
12 28, the jury returned its verdict finding that defendants Weston
13 and Dehmer had denied plaintiff access to constitutionally ade-
14 quate mental health treatment. On two claims relating to visita-
15 tion the jury was unable to reach agreement; these were submitted
16 to the court by stipulation, and the court found for the defen-
17 dants. The jury also was unable to agree on the probe search
18 claim, which will be retried to a different jury. In the March 28
19 verdict, the jury found for the defendants on all other claims.

20 The Fourteenth Amendment Due Process Clause of the United
21 States Constitution requires state officials to provide a civilly-
22 committed person, such as the plaintiff, with access to mental
23 health treatment which gives him a realistic opportunity to be
24 cured or to improve the mental condition for which he was con-
25 fined. See Youngberg v. Romeo, 457 U.S. 307, 319-22 (1982);
26 Ohlinger v. Watson, 652 F.2d 775, 778 (9th Cir. 1980). Continued

1 confinement without access to mental health treatment, as required
2 by the Constitution, would result in irreparable harm to the
3 plaintiff. Given the verdict of the jury, and the findings set
4 out below, the plaintiff is entitled to injunctive relief narrowly
5 tailored to remedy this constitutional violation.

6 With respect to the provision of mental health treatment,
7 the evidence submitted at trial established, and the court finds
8 as facts, the following:

9 1. The jury's finding that defendants Weston and Dehmer
10 have failed to provide plaintiff with access to mental health
11 treatment which gives him a reasonable opportunity to be cured, or
12 to improve, is adopted for purposes of this order and injunction.

13 2. "Sexually violent predators", as defined by RCW 71.09.-
14 020, are a difficult population to treat therapeutically, requir-
15 ing specialized treatment expertise and modalities.

16 3. A person civilly-committed under Washington's sexually
17 violent predators law, RCW ch. 71.09, will not be released from
18 secure confinement until a determination is made that his mental
19 abnormality or personality disorder has so changed that he is not
20 likely to commit predatory acts of sexual violence if released.
21 RCW 71.09.090.

22 4. For the most part, treatment staff at SCC are inexperi-
23 enced in the treatment of sex offenders.

24 5. The training of staff in this area has been developed ad
25 hoc, and has consisted mostly of lectures.

26

1 6. Until recently, no clinical psychologist or psychiatrist
2 was regularly available to the treatment staff for consultation or
3 supervision of therapy programs.

4 7. Treatment plans with objective measures of progress have
5 not been developed for individuals confined in the program. As a
6 result, it is difficult for either the resident or the staff to
7 know if the individual is improving and in what ways.

8 8. Trust is an important element in a therapeutic relation-
9 ship, yet trust and rapport between therapy staff and persons
10 confined at SCC has remained very low, partly because of deficien-
11 cies in the program.

12 9. Treatment staff have verbally abused residents and have
13 performed strip searches of residents.

14 10. The failure of the program to meet constitutional
15 standards to date has contributed to a belief by residents that
16 they have no chance of ever qualifying for release, i.e., that
17 their confinement amounts to a life sentence.

18 Based on the foregoing, the defendants Weston and Dehmer, in
19 their official capacities, are hereby enjoined as follows:

20 A. To adopt and implement a plan for initial and ongoing
21 training and/or hiring of competent sex offender therapists at
22 SCC.

23 B. To implement strategies to rectify the lack of trust and
24 rapport between residents and treatment-providers.

25 C. To implement a treatment program for residents which
26 includes all therapy components recognized as necessary by pre-

1 vailing professional standards in comparable programs where
2 participation is coerced. As agreed to by defendants, this shall
3 include the involvement of spouses and family members in the
4 treatment of residents, and plans for encouraging the visitation
5 and support of family members.

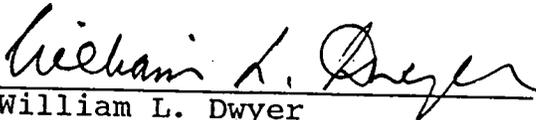
6 D. To develop and maintain individual treatment plans for
7 residents that include objective benchmarks of improvement so as
8 to document, measure, and guide an individual's progress in
9 therapy.

10 E. To provide a psychologist or psychiatrist expert in the
11 diagnosis and treatment of sex offenders to supervise the clinical
12 work of treatment staff, including monitoring of the treatment
13 plans of individual residents, and to consult with staff regarding
14 specific issues or concerns about therapy which may arise.

15 Defendant Weston shall file and serve on plaintiff and his
16 counsel by July 20, 1994, a report describing the steps taken to
17 satisfy the terms of this injunction. Plaintiff's counsel may
18 submit any objections to the report no later than July 27, 1994.
19 After court review of the report and objections, if any, a further
20 order will be issued.

21 The clerk is directed to send copies of this order to all
22 counsel of record.

23 Dated: June 3, 1994.

24
25 
26 William L. Dwyer
United States District Judge