

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Case Type: Other Civil

O'Shea Chairse, on behalf of himself
and all others similarly situated,

Civil File No. _____

Plaintiff,

vs.

CLASS ACTION COMPLAINT

State of Minnesota Department of
Human Services and Minnesota
Commissioner of Human Services Jodi
Harpstead, in her official and
individual capacities,

JURY TRIAL DEMANDED

Defendants.

PRELIMINARY STATEMENT

1. This suit challenges the failure of the State of Minnesota Department of Human Services ("DHS") to comply with Minn. Stat. § 253B.10, subd. 1(b), which requires DHS to transfer civilly committed inmates to a state-operated treatment facility within 48 hours of their civil commitment.
2. There are more than 60 inmates who have been waiting weeks or even months to be transferred to a state-run treatment facility following their civil commitment. Additional individuals were previously harmed and/or will be harmed in the future by DHS's failure to transfer them to a state-operated treatment facility within 48 hours of their civil commitment.
3. A 2016 report from the Office of the Legislative Auditor warned about violations of Minn. Stat. § 253B.10. The report found the availability of "secure inpatient beds" was "inadequate" to meet demand in 2016.

4. The same report stated that “delays in placing individuals into treatment . . . may have increased county jails’ risks, potentially affecting the health or safety of the patient, fellow jail inmates, and jail staff.”
5. In September 2022, Scott County Judge Christopher Wilton said, referring to Minn. Stat. § 253B.10, “I’ve never seen a statute where there’s just overt failure to comply, and it’s not even close.”
6. In an October 26, 2022 order, Scott County Judge Colleen King concluded that the “law requires that within 48-hours of commitment, the committed person must be placed by the Commissioner of Human Services in a state-operated treatment facility.”
7. Judge King stated: “The Commissioner of Human Services has violated the 48-hour rule in Scott County cases since at least the spring of 2021 . . . Since that time, at least 4 individuals have been committed in Scott County under circumstances where the 48-hour rule would apply, and in each of those cases, the committed person was not transferred out of the jail for treatment within, or even close to, 48-hours.”
8. Judge King stated: “The Scott County Jail is not a treatment facility.”
9. Judge King stated: “Petitioner has been denied necessary care for his mental illness while in the jail. The petitioner has thus been denied due process under the United States and Minnesota Constitutions.”
10. Judge King stated: “The Commissioner of Human Services has failed to comply with a duty imposed by law necessitating judicial intervention and oversight. The 48-hour rule found in M.S.A. §253B.10, subd. 1 creates a clear and unequivocal legal duty for the Commissioner to place the Petitioner in a state-operated treatment program within 48-

hours of his commitment There is no exception [to] that 48-hour rule under Minnesota law.”

11. Judge King stated: “The Commissioner has been aware that compliance with the 48-hour rule is required and has had ample time to comply given that this issue was identified in 2016 in a report from the Office of the Legislative Auditor.”
12. In November 2022, Scott County Judge Colleen King said, “There are countless . . . individuals who are languishing in jails because the issue has not been addressed. Wrongful incarceration is not the United States of America.”
13. The situation in Scott County described by Judge King is not unique to Scott County, but reflects a pattern occurring throughout the State of Minnesota.
14. In a December 21, 2022 order, Scott County Judge Christian Wilton commanded Minnesota Commissioner of Human Services Jodi Harpstead “to provide the Court with 30-day reports concerning all cases in the State of Minnesota to which the 48-hour rule applies, identifying the originating County and the time and date that the 48-hour period would have expired for each patient.”
15. DHS appealed Judge Wilton’s December 21, 2022 order, arguing that Judge Wilton does not have the authority to require Commissioner Jodi Harpstead to submit monthly reports about her efforts to comply with Minn. Stat. § 253B.10.
16. On behalf of himself and a class of similarly situated persons, Plaintiff O’Shea Chairse files this action for injunctive and/or monetary relief under 42 U.S.C. §§ 1983 and 1988, and under the common law of the State of Minnesota.

PARTIES

17. Plaintiff O'Shea Chairse ("Plaintiff") is a resident of Minnesota.
18. Defendant DHS is an agency of the State of Minnesota that has failed and continues to fail to comply with Minn. Stat. § 253B.10.
19. Defendant Jodi Harpstead is a resident of Minnesota. Harpstead serves as the Minnesota Commissioner of Human Services, and was at all times material herein responsible for DHS's compliance with Minnesota law, including Minn. Stat. § 253B.10. Plaintiff is suing Harpstead in her official and individual capacities.

JURISDICTION

20. This Court has jurisdiction over this matter pursuant to Minn. Stat. § 484.01 *et seq.* Venue lies properly in Hennepin County, Minnesota pursuant to Minn. Stat. § 542.01 *et seq.*, as the events giving rise to this action occurred in Hennepin County.

BACKGROUND

21. On October 17, 2022, Plaintiff was civilly committed as a person who posed a risk of harm due to a mental illness and a chemically dependent person to the Commissioner of Human Services.
22. However, the Commissioner of Human Services did not transfer Plaintiff to a state-run facility within 48 hours of his civil commitment on October 17, 2022.
23. Instead, he remained in the Hennepin County Jail until December 5, 2022 when his caseworker was able to have him admitted into New Way Treatment Center. During his time in Hennepin County Jail, he was denied his mental health medications and was kept in a suicide unit where he was only allowed out of his cell for short periods to shower or use the telephone.

24. Plaintiff and others similarly situated suffered unlawful incarceration, lack of access to mental health therapy and treatment, use of force, diminished quality and enjoyment of life, and psychological trauma and distress.

CLASS ACTION ALLEGATIONS

25. Plaintiff brings this action on behalf of himself and all others similarly situated, pursuant to Minnesota Rules of Civil Procedure 23.

26. Plaintiff seeks to represent a class defined as: all past, current, and future civilly committed inmates in Minnesota who DHS failed to transfer to a state-operated treatment facility within 48 hours of their civil commitment under Minn. Stat. § 253B.10.

27. The proposed class is so numerous that joinder of all members is impracticable.

28. There are questions of law and fact common to members of the plaintiff class. These questions include, but are not limited to, the following:

- Whether Minn. Stat. § 253B.10 (“Patients described in this paragraph must be admitted to a state-operated treatment program within 48 hours.”) requires DHS to transfer a civilly committed inmate within 48 hours of their civil commitment;
- Whether Minn. Stat. § 253B.10 creates a liberty interest for people who are incarcerated in Minnesota; and
- Whether Defendants’ policy, practice, or custom of routinely not transferring civilly committed inmates to a state-operated treatment program within 48 hours of their civil commitment violates due process under the United States Constitution.

29. The claims of the representative party, the named plaintiff O’Shea Chairse, are typical of the claims of the members of the class.

30. The representative party, the named plaintiff O'Shea Chairse, will fairly and adequately protect the interests of the class.
31. Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive and/or monetary relief with respect to the class as a whole.

CLAIMS FOR RELIEF

COUNT 1

42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process Violations Against Both Defendants

32. Plaintiff and class members restate the allegations contained in the previous paragraphs as if fully set forth herein.
33. Based on the above factual allegations, Defendants, through their actions, acting under the color of state law, violated Plaintiff's and class members' constitutional right to substantive due process under the Fourteenth Amendment to the United States Constitution by failing to transfer Plaintiff and class members to a state-operated treatment facility within 48 hours of their civil commitment. *See, e.g., Hall v. Lombardi*, 996 F.2d 954, 958 (8th Cir. 1993) ("There are many Supreme Court and Eighth Circuit cases that support the 'general, well-developed legal principle' that regulations which contain 'particularized substantive standards or criteria that guide the exercise of discretion . . . create a protectible liberty interest. . . . Moreover, when these regulations contain language of a mandatory nature (shall, will, must), they are interpreted as creating a protectible liberty interest.").
34. As a result of this due process violation, Plaintiff and class members suffered damages.

COUNT 2**42 U.S.C. § 1983 – Fourteenth Amendment Procedural Due Process
Violations Against Both Defendants**

35. Plaintiff restates the allegations contained in the previous paragraphs as if fully set forth herein.
36. Based on the above factual allegations, Defendants, through their actions, acting under the color of state law, violated Plaintiff's and class members' constitutional right to procedural due process under the Fourteenth Amendment to the United States Constitution by failing to provide notice or an opportunity to be heard regarding their decision not to transfer Plaintiff and class members to a state-operated treatment facility within 48 hours of their civil commitment.
37. As a result of this due process violation, Plaintiff and class members suffered damages.

COUNT 3**Negligence and Negligence Per Se Against Both Defendants**

38. Plaintiff and class members restate the allegations contained in the previous paragraphs as if fully set forth herein.
39. Based on the above factual allegations, Defendants owed Plaintiff and class members a duty of care to follow Minnesota state law.
40. Defendants breached this duty of care by failing to transfer Plaintiff and class members to state-operated treatment facilities within 48 hours of their civil commitment.
41. DHS is vicariously liable to Plaintiff and class members for the negligence of its employees, including but not limited to Defendant Harpstead.
42. As a direct and proximate result of this negligence, Plaintiff and class members suffered damages.

PRAYER FOR RELIEF

Plaintiff requests that the Court:

1. Certify this matter as a class action under Minnesota Rules of Civil Procedure Rule 23.03;
2. Define the certified class as “all past, current, and future civilly committed inmates in Minnesota who DHS failed to transfer to a state-operated treatment facility within 48 hours of their civil commitment.”
3. Issue a judgment declaring that Defendants violated and continue to violate the right to due process enshrined in the Minnesota and United States Constitutions when they fail to transfer civilly committed inmates to state-operated treatment facilities withing 48 hours of their civil commitment.
4. Appoint Zorislav Leyderman and Tim Phillips as class counsel pursuant to Minnesota Rule of Civil Procedure 23.07;
5. Schedule a jury trial on the claims of Plaintiff and class members;
6. Award injunctive relief and/or damages compensating Plaintiff and class members for the harm they have suffered against each Defendant, jointly and severally, in an amount greater than \$50,000;
7. Award punitive damages against Defendant Jodi Harpstead pursuant to *Smith v. Wade*, 461 U.S. 30 (1983);
8. Award prejudgment interest;
9. Award reasonable attorneys’ fees and costs pursuant to 42 U.S.C. § 1988; and
10. Provide any additional relief the Court deems just and proper.

JURY DEMAND

Plaintiff and class members request a jury trial for all matters so triable by a jury.

THE LAW OFFICE OF ZORISLAV R. LEYDERMAN

Dated: January 23, 2023

By: s/ Zorislav R. Leyderman

ZORISLAV R. LEYDERMAN

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ATTORNEYS FOR PLAINTIFF

ACKNOWLEDGEMENT REQUIRED BY MINN. STAT. § 549.211

Plaintiff, through undersigned counsel, acknowledges that sanctions, attorneys' fees, and witness fees may be imposed under Minn. Stat. § 549.211.

THE LAW OFFICE OF ZORISLAV R. LEYDERMAN

Dated: January 23, 2023

By: s/ Zorislav R. Leyderman

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