

FILED
ALAMEDA COUNTY

DEC 16 2021

CLERK OF THE SUPERIOR COURT

By  Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

STEPHANIE STIAVETTI, *et al.*,

Plaintiffs,

v.

STEPHANIE CLEDENIN, AS DIRECTOR
OF THE CALIFORNIA DEPARTMENT OF
STATE HOSPITALS, *et al.*,

Defendants.

CASE NO.: RG15779731

AMENDED JUDGMENT

ASSIGNED FOR ALL PURPOSES TO
JUDGE EVELIO GRILLO
DEPARTMENT 21

JUDGMENT

Plaintiffs Stephanie Stiavetti, Kellie Bock, Kimberly Bock, Rosalind Randle, Nancy Leiva, American Civil Liberties Union of Northern California, and American Civil Liberties Union of Southern California (“Plaintiffs”) filed a Verified Petition for Writ of Mandate (the “Petition”) and Complaint for Declaratory and Injunctive Relief against Defendants Stephanie Clendenin, in her position as Director of the California Department of State Hospitals (“DSH”) and Santi Rogers, in his position as Director of the California Department of Developmental Services (“DDS”) (together, “Defendants”) for constitutional violations under Article I, §§ 7 and 15 of the California Constitution, and under the 14th Amendment to the United States Constitution, and for violation of Section 526A of the California Code of Civil Procedure. The matter came for a hearing on Plaintiffs’ Petition on December 7, 2018 and March 15, 2019, Judge Winifred Smith presiding. The appearances of counsel for each hearing are noted in the record.

1 On March 15, 2019, the Court took the Petition under submission. The Court read and
2 considered Plaintiffs' and Defendants' points and authorities and the evidence, as well as the oral
3 argument of counsel. On March 22, 2019, the court issued an Order Granting in Part the Petition for
4 Writ of Mandate (the "Order"). On April 19, 2019, the court issued an Amended Order that corrected
5 typographical errors in the Order (the "Amended Order").

6 On 4/19/19, the court entered judgment in the case. The judgment set deadlines for compliance
7 that ran from 3/22/19.

8 The court approved a form of writ, but petitioners did not get the writ signed by the clerk and
9 serve the writ on the State.

10 The State sought appellate review. On 6/15/21 the Court of Appeal decided the matter.
11 (*Stiavetti v. Clendenin* (2021) 65 Cal. App. 5th 691.) On 8/25/21, the California Supreme Court denied
12 review.
13

14 On 8/27/21, the Court of Appeal issued its remittitur. At a series of CMCs, the parties have been
15 proposing how to proceed.
16

17 On 12/1/21, the trial court issued an order on a proposed amended judgment and a proposed
18 amended writ. This amended judgment gives effect to the court's inclinations in the 12/1/21 Order.

19 NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT

20
21 **I. DUE PROCESS UNDER UNITED STATES AND CALIFORNIA CONSTITUTIONS (FIRST
22 AND THIRD CAUSES OF ACTION)**

23 Judgment is entered in favor of Plaintiffs for the reasons stated in the Order and Amended Order.

24 If a person has been charged with a criminal offense and is found to be incompetent to stand trial
25 ("IST") and then committed to DSH or DDS solely on account of his or her incapacity to proceed to
26 trial, then under the California and United States Constitutions the person may not be "confined more
27 than a reasonable period of time necessary to determine whether there is a substantial likelihood that he
28

1 will recover that capacity in the foreseeable future.” (*In re Davis* (1973) 8 Cal.3d 798; *Jackson v.*
2 *Indiana* (1972) 406 U.S. 715, 738.) Further, “due process requires that the nature and duration of
3 commitment bear some reasonable relation to the purpose for which the individual is committed” and
4 the commitment’s purpose is to enable the IST defendant to regain his or her competence to stand trial.
5 (*Davis*, 8 Cal.3d at 804; *Jackson*, 406 U.S. at 738.)

6 To conduct the due process analysis presented in this case, for the reasons stated in the Order and
7 Amended Order, the Court: (1) identified the point in time when responsibility for an IST defendant
8 transfers to DSH or DDS and (2) determined the maximum constitutionally permissible delay between
9 the transfer of responsibility and when DSH or DDS must commence substantive services reasonably
10 designed to restore the IST defendant to competency.
11

12
13 **II. SPEEDY TRIAL UNDER CALIFORNIA CONSTITUTION (SECOND CAUSE OF ACTION)**

14 Judgment is entered in favor of Defendants for the reasons stated in the Order and Amended
15 Order. The evidence in this case does not support Plaintiffs’ speedy trial claim.
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17 **III. TAXPAYER CLAIM (FOURTH CAUSE OF ACTION)**

18 Judgment is entered in favor of Plaintiffs for the reasons stated in the Order and Amended Order.
19 Plaintiffs Stephanie Stiavetti, Kellie Bock, Kimberly Bock, Rosalind Randle, American Civil Liberties
20 Union of Northern California, and American Civil Liberties Union of Southern California are California
21 taxpayers. Judgment on the First and Third Claims that Defendants are violating the due process rights
22 of IST defendants supports a taxpayer claim under the “illegal” standard of CCP 526a.
23

24 **IV. RELIEF ORDERED**

25 For the reasons stated in the Order and Amended Order, and as directed by the Court of Appeal
26 in *Stiavetti v. Clendenin* (2021) 65 Cal. App. 5th 691, the Court orders the following relief:
27

28 Constitutional due process requires that DSH must commence substantive services to restore an
IST defendant to competency within 28 days of the transfer of responsibility for an IST defendant to

1 DSH. For DSH, the “transfer of responsibility” date is the date of service of the Penal Code 1370(a)(3)
2 commitment packet. The service date is extended by the means of service.

3 Constitutional due process requires that DDS commence substantive services to restore an IST
4 defendant to competency within 28 days of the transfer of responsibility for an IST defendant to DDS.
5 For DDS, the “transfer of responsibility” date is the date of service of the Penal Code 1370.1(a)(2) order
6 directing the IST defendant be confined in a DDS facility or placed on DDS outpatient status. (*Stiavetti*
7 *v. Clendenin* (2021) 65 Cal. App. 5th 691, 731-737 [“For *all* IST defendants committed to DDS pursuant
8 to section 1370.1, the transfer of responsibility date is the date of service of the commitment order”].)
9

10 Substantive services are services and medication reasonably designed to promote the defendant’s
11 restoration to mental competence. The baseline medical services provided by county jails under Penal
12 Code 6030 and 15 CCR 1200 *et seq.* are not substantive services.

13 The court will phase in the requirement that DSH and DDS meet the constitutional due process
14 standard based on the 8/27/21 date of the remittitur:

- 15 1. Within 12 months of 8/27/21, DSH and DDS must commence substantive services for all IST
16 defendants within 60 days from the transfer of responsibility date.
- 17 2. Within 18 months of 8/27/21, DSH and DDS must commence substantive services for all IST
18 defendants within 45 days from the transfer of responsibility date.
- 19 3. Within 24 months of 8/27/21, DSH and DDS must commence substantive services for all IST
20 defendants within 33 days from the transfer of responsibility date.
- 21 4. Within 30 months of 8/27/21, DSH and DDS must commence substantive services for all IST
22 defendants within 28 days from the transfer of responsibility date.
- 23
- 24

25 The court does not constrain the discretion of the DSH or the DDS regarding how they might
26 meet the constitutional minimum due process standard. DSH or DDS may provide substantive services
27 through a state hospital, treatment facility, outpatient program, jail based competency program, or other
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1 facility or program under their supervision. DSH and DDS will not be in violation of the Judgment if
2 they show good cause for not admitting a few IST defendants within the required timeframes.

3 DSH and DDS must file status reports to the Court two months after each progress point
4 identified above. The status reports must contain:

- 5 1. Number of IST defendants for whom DSH and DDS have responsibility at the start of the period
6 with breakdown of how many were:
 - 7 a. In a state hospital
 - 8 b. In a state treatment facility
 - 9 c. In an outpatient program
 - 10 d. In a jail based competency program
 - 11 e. In other identified facilities or programs under DSH or DDS supervision
 - 12 f. Not yet receiving substantive services.
- 13 2. Number of IST defendants for whom DSH and DDS have responsibility at the end of the period
14 with the same breakdown as above.
- 15 3. Number of new IST defendants for whom DSH and DDS have responsibility added during the
16 period.
- 17 4. Mean (average) wait time during the period.
- 18 5. Median wait time during the period.
- 19 6. Minimum wait time during the period.
- 20 7. Maximum wait time during the period.

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25 **V. OTHER MATTERS**

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27 This Judgment applies to Defendants, their successors in office, agents and employees. (CCP
28 368.5; *Ross v. Superior Court* (1977) 19 Cal. 3d 899, 906.)

1 Petitioners or the State may in the future file motions to amend the judgment and the writ for
2 good cause. (Civil Code 3424; CCP 533; *Union Interchange, Inc. v. Savage* (1959) 52 Cal.2d 601, 604
3 [court has power to modify preventive injunction, whether permanent or preliminary]; *Palo Alto-Menlo*
4 *Park Yellow Cab Co. v. Santa Clara County Transit Dist.* (1976) 65 Cal.App.3d 121, 130 [“court of
5 equity has inherent power to modify an injunction in adaptation to changed conditions”].)

6 Plaintiffs must submit a Writ of Mandate to the clerk of the court with a \$25 filing fee. (Gov.
7 Code 70626(a)(1).) Plaintiffs must serve the writ. Plaintiff may serve counsel for DSH and DDS.
8 Plaintiffs must file a proof of service. (CCP 1096.)
9

10 DSH and DDS must file a return to the writ of mandate within 60 days of service of the writ.
11 The return on the writ must state whether DSH and DDS complied with the writ and, if not, state what
12 efforts they have made to comply with the writ.

13 Any party may file a memorandum of costs at an appropriate time. (CCP 1032 and 1033.5; CRC
14 3.1700.)

15 Any party may file a motion for an award of attorneys’ fees at an appropriate time. (CCP
16 1033.5(c)(5); CRC 3.1702.)
17

18
19 Dated:

DEC 16 2021


EVELIO GRILO
Judge of the Superior Court