

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION (at Pikeville)

Electronically Filed

STEPANIE WATSON

PLAINTIFF,

v.

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

COMMONWEALTH OF KENTUCKY
c/o Jack Conway, Attorney General
700 Capital Ave., Suite 118
Frankfort, Kentucky 40601

and

ADMINISTRATIVE OFFICE OF THE
COURTS
1001 Vandaley Drive
Frankfort, Kentucky 40601

and

LORIE K. DUDGEON,
In her Official Capacity as Director of the
Administrative Office of the Courts
1001 Vandaley Drive
Frankfort, Kentucky 40601

DEFENDANTS.

COMPLAINT

The Plaintiff, STEPHANIE WATSON, by and through undersigned counsel, brings this action pursuant to Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq., and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, for relief based on the unlawful

discrimination which results from the disparate application of the drug treatment policies of the Defendants.

JURISDICTION AND VENUE

1) This Court has jurisdiction of this action pursuant to 42 U.S.C. § 12131 et seq., and 42 U.S.C. § 2000e-16(c).

2) Venue is proper in the Eastern District of Kentucky in that all of the allegations set forth herein occurred in the Eastern District of Kentucky.

INTRODUCTION

3) On January 10, 2012, Stephanie Watson is a 38 year old Registered Nurse who like countless individuals in the Commonwealth of Kentucky has developed a serious opiate addiction.

4) This litigation is primarily focused on the fact that individuals in the Kentucky Court System, such as Stephanie Watson in battling their addictions have run into unconstitutional interference by persons employed by the Monitored Conditional Release Program (MCR), administered by the Administrative Office of the Courts who have wrongfully interfered with their right to be treated by competent Kentucky physicians in a manner deemed medically appropriate. This lawsuit is not very complicated, it is whether or not the Court System has a right to interfere with the doctor/patient relationship and prohibit individuals such as Stephanie Watson from receiving competent medical care.

5) This litigation alleges that the rights of Stephanie Watson and other opiate addicted addicts in the Kentucky Court System have had their rights under the Americans with Disabilities Act, the Rehabilitation Act of 1973 and their rights under the Equal Protection Clause violated by

the actions of the various individuals in MCR in the Kentucky Court System who are supervised by the Defendant, Administrative Office of the Courts.

6) As will be subsequently described in this Complaint, Stephanie Watson and other opiate addicts similarly situated have been arbitrarily and unconstitutionally denied the opportunity to receive certain medications that the medical community unanimously believes is vital and necessary to care for individuals such as Stephanie Watson.

7) At the time this lawsuit is being filed, there is currently a raging heroin epidemic in this Commonwealth. As will be subsequently discussed in this lawsuit there are certain medications that allow those who are caught in this epidemic to be able to reach safe harbor and receive medications that will improve their ability to survive. The actions of the Defendants have denied them access to certain medications that are necessary for their survival.

CAUSE OF ACTION

8) The Plaintiff, Stephanie Watson is 38 years of age and acknowledged upon her arrest that she has been a long term opiate addict having developed the addiction in 2012.¹ Currently Stephanie Watson has a pending criminal charge in Floyd District Court. Her arrest involved her taking drug remnants from a bio hazardous disposal box at the Highlands Regional Medical Center located in Prestonsburg, Floyd County, Kentucky. The actions of Stephanie Watson were a direct result of her long standing opiate addiction.

9) Currently Stephanie Watson is under certain bond conditions imposed by the Defendants. These bond conditions include being placed on MCR or Monitored Conditional Release. Monitored Conditional Release is a program administered by the Defendant,

¹ Affidavit of Stephanie Watson is attached hereto and made a part hereof of her Complaint as Exhibit A.

Administrative Office of the Courts hereinafter, "AOC". The policy of the Defendants under the Monitored Conditional Release program prohibit the use of certain drugs namely Methadone, Suboxone and Vivitrol to treat drug addiction.

10) Stephanie Watson has consulted with Dr. Stephen Lamb, a board-certified psychiatrist and clinical assistant professor of psychiatry at the University of Kentucky. Dr. Stephen Lamb has been working in the field of addictions since 1991.² Dr. Lamb is a consultant with the Kentucky Board of Nursing where he evaluates and treats impaired nurses. Dr. Lamb is also a consultant to the Kentucky Board of Medical Licensure where he evaluates adequacy of care and assists in rehabilitating certain physicians. Dr. Lamb has mentored dozens of practicing physicians in the treatment of opiate dependence.

11) Dr. Stephen Lamb has been participating in medication assisted treatment of opiate dependent patients with methadone since 1991. Dr. Lamb has been using Suboxone and its analogs for office based medication assisted treatment of addiction since 2003. Dr. Lamb's experience evidences that the effectiveness of medication assisted treatment of opiate dependence done by competent physicians on patients who are motivated to adhere to the requirements of a treatment program is overwhelming. When a person with opiate dependence is treated in an abstinence based program the frequency of relapse to street drug use often reaches 90% or more.

12) Dr. Stephen Lamb finds it very worrisome when a judge or probation officer requires that an opiate dependent person not participate in medication assisted treatment as a condition of their freedom. Under the circumstances the chances of that person's relapsing are very high.

² Affidavit of Dr. Stephen Lamb is attached hereto and made a part hereof of her Complaint as Exhibit B.

13) Upon information and belief, Stephanie Watson is abstinent at this moment. It is the belief of Dr. Stephen Lamb that her risk of relapse is very high. Should she relapse she will likely lose her freedom, her career and possibly her family. She may even lose her life.

14) Upon information and belief, Dr. Stephen Lamb is of the opinion that if Stephanie Watson were allowed medication assisted treatment with Vivitrol, or if absolutely necessary with Methadone or Suboxone, that if she satisfactorily participated in a treatment program her chances of relapse and its sequelae would dramatically diminish.

15) Upon information and belief, Dr. Stephen Lamb believes that when the question of medication assisted treatment arises the decision should be made by a physician and patient, not by members of the criminal justice system. Under most circumstances, allowing a patient to obtain treatment with the care of a physician increases the chances of successful treatment. Prohibiting the use of medications for affected individuals endangers the lives of Stephanie Watson and other opiate addicts similarly situated.

16) The Defendant, Laurie Dudgeon, administers the Administrative Office of the Courts and has direct supervision for the Monitored Conditional Release Program. On February 25, 2015, the Plaintiff Stephanie Watson spoke with representatives of the Administrative Office of the Courts and was specifically told that she could not take Methadone or Suboxone or similar substances as a condition of her release. It was explained to Stephanie Watson that if she takes such drugs she is likely to have her bond revoked which will result in incarceration. As is indicated in the attached affidavits of Stephanie Watson and Stephen Lamb, Ms. Watson has a serious medical condition that prohibits her from having a

normal functioning life, is considered to be disabled under the Americans with Disabilities Act and is entitled to services under the Rehabilitation Act of 1973.

17) The restrictions placed upon her by the MCR Program, which the Defendants administer, improperly interferes with her right to receive appropriate treatment for opiate addiction.

18) A possible if not likely resolution of her case is a referral to Drug Court. Based upon information and belief, many Drug Courts including the Drug Court in Floyd County, Kentucky receive federal funding. However, based upon information and belief that the office of the Drug Control has advised the Kentucky Drug Court System they are likely to lose federal funding if they continue their unconstitutional ban on the use of medications such as Suboxone and Methadone.³

19) Upon information and belief, there are various locations in the Commonwealth of Kentucky where other Drug Courts currently permit use of Methadone, Suboxone, and Vivitrol.

20) The Plaintiff alleges a separate and distinctive claim that her civil rights have been violated under 42 U.S.C. 1983 in that the Defendants acting under color of state law will not allow her to use Suboxone, Methadone, or Vivitrol either in the MCR Program or in a possible Drug Court referral, thus violating her civil rights under the Due Process Clause and Equal Protection Clause of the United States Constitution.

21) The Defendants are a state government agency and other instrumentality of state government. Accordingly Defendants are public entities as defined in 42 U.S.C. § 12131(1). Title II of the ADA 42 U.S.C. §12132 provides that no qualified individual with a disability

³ Copy of article is attached hereto and made a part hereof of Stephanie Watson's Complaint as Exhibit C. http://www.huffingtonpost.com/2015/02/05/drug-courts-suboxone_n_6625864.html.

shall, by reason of such disability, be excluded from participation in or denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

22) The Defendants have and continue to discriminate against opiate individuals by the prohibition denying them access to certain medications as described elsewhere in this complaint. Section 504, the Rehabilitation Act 29 U.S.C. 794 provides that no qualified individual with a disability solely by the reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance.

23) The Defendants insistence that Suboxone, Methadone, Vivitrol, or other appropriate drugs are being prohibited from treating drug addiction is inconsistent with the weight of medical opinion including the Federal Office of Drug Policy which indicates that Suboxone, Methadone, Vivitrol, and similar drugs are proper treatment drugs for opiate addicts.

24) The Plaintiff seeks injunctive relief that she should be allowed to rely on competent medical advice and appropriate prescriptions, including the access to Suboxone, Methadone, and Vivitrol without interference from the Kentucky Court System. The Kentucky Court System has arrogantly wrongfully and unconstitutionally interfered with her right to rely on competent medical care from licensed medical practitioners in the Commonwealth of Kentucky, all in violation of her rights under the Americans with Disabilities Act, Rehabilitation Act of 1973, Equal Protection Clause, and the Due Process Clause under the Federal Constitution. In this action, the Plaintiff is not seeking any monetary damages, but seeking prompt injunctive relief to

hopefully cure the addiction she is experiencing, as well as other countless individuals in the Kentucky Court System who are similarly situated.

25) The Plaintiff also pleads a separate and distinct claim for a declaration of rights pursuant to KRS 418.040, *et seq.*, and Rule 57 of Kentucky Rules of Civil Procedure, the Kentucky Declaratory Act Law.

26) The Plaintiff alleges that the policies of the Administrative Office of the Courts violate her rights under § 2 of the Kentucky Constitution in that it has caused suffering as previously referenced in this Complaint, and that the Policies of the Administrative Office of the Courts violate the United States Constitution and the Kentucky Constitution.

WHEREFORE, the Plaintiff seeks relief as follows:

- 1) Judgment against the Defendants;
- 2) Prompt Injunctive relief enjoining the Administrative Office of the Courts from unilaterally refusing to approve the prescription of any medication written by competent doctors;
- 3) Assessment of attorney fees and costs pursuant to 42 U.S.C. 1988;
- 4) Declaratory relief stating that the Defendant Administrative Office of the Courts shall limit its interference with the prescribing of drugs for drug addiction by Kentucky doctors.

JURY DEMAND

The Plaintiff respectfully request a trial by jury on all causes of action to which he is entitled.

Respectfully Submitted,

/s/ Ned Pillersdorf

Ned Pillersdorf

pillersn@gmail.com

Pillersdorf, DeRossett & Lane

124 West Court Street

Prestonsburg, Kentucky 41653

Office: (606) 886- 6090

Facsimile: (606) 886-6148

/s/Mark A. Wohlander

Mark A. Wohlander

mark@wohlanderlaw.com

Caitlin Wohlander

caitlin@wohlanderlaw.com

Wohlander Law Office, PSC

P.O. Box 910483

Lexington, Kentucky 40591

Telephone: (859) 361-5604

Facsimile: (859) 309-1698