



Lawsuit Claims that Persons Found Incompetent to Stand Trial May Spend Months in Jails Rather than Receive Restoration Services

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The Indiana Protection and Advocacy Services (IPAS) Commission, represented by the American Civil Liberties Union (ACLU) of Indiana and Indiana Disability Rights (IDR), filed a lawsuit today against the Indiana Family and Social Services Administration (FSSA) and the Division of Mental Health and Addictions (DMHA) for failing to provide within a reasonable time, court ordered competency restoration services to people who are found incompetent to stand trial resulting in these individuals sitting in jails without access to necessary services.

If an Indiana court finds that a criminal defendant lacks the capacity to stand trial, the law requires that these individuals be committed to DMHA, within FSSA, to receive competency restoration services. These are usually provided in one of the institutions operated by DMHA.

The lawsuit asserts that DMHA has grossly insufficient capacity to provide restoration services to those committed for that purpose. As a result, defendants who lack the capacity to stand trial in Marion and other Indiana counties are held in jail for months waiting for access to appropriate restoration services. The resulting improper confinement violates due process, Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.

“These are individuals who the courts have found to lack the capacity to stand trial due to mental illness or disability, yet they are being left to languish in county jails, a completely inappropriate placement.” said Ken Falk, Legal Director at the ACLU of Indiana. “Leaving these folks in county jails for extended periods of time, without access to restorative services, is not only a violation of the law but is also immensely harmful to their health.”

The IPAS Commission is the governing board of Indiana Disability Rights (IDR), the state’s protection and advocacy organization. IDR represents, advocates with, and protects the rights of individuals with disabilities. The IPAS Commission brought this case on behalf of its constituents, including the numerous

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individuals who are currently committed to DMHA but are suffering indefinite confinement in county jails without access to restoration services.

“I am a person who has been through the competency restoration process. I am proof that treatment can be effective, and recovery is possible. Simply sitting in jail is not treatment and allows mental health conditions to fester or worsen,” said Ray Lay, IPAS Commissioner, founder and owner of SMI Enterprises, LLC, and mental health advocate. “The individuals currently not receiving treatment are someone’s child, father, mother, brother, or sister. We need to do better and the time to do this is now!”

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Indiana Disability Rights (IDR) is the designated Protection and Advocacy (P&A) System and Client Assistance Program (CAP) for the State of Indiana. The mission of Indiana Disability Rights is to protect and promote the rights of individuals with disabilities through empowerment and advocacy. For more information, visit www.IndianaDisabilityRights.org.