



PRISON LAW OFFICE

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NOTE: This handout is not intended to be legal advice about the facts in your case, but it will give you more information about your rights and what you can do to help yourself.

CONFIDENTIAL LEGAL MAIL

Parsons v. Ryan Case Update Revised February 2019

I. BACKGROUND ON *PARSONS V. RYAN*

Parsons v. Ryan is a federal class action lawsuit against the Arizona Department of Corrections' (ADC) medical, mental health, and dental care system. The lawsuit also challenges inhumane conditions in isolation units. This case is a "class action" and covers all people housed in the ten Arizona state prisons. The lawsuit sought only changes to the policies and practices of ADC, and did not seek money damages. The case was filed in March 2012 by the Prison Law Office, the ACLU and other lawyers.

◆ Am I covered by the *Parsons* lawsuit?

Every person housed in Arizona's ten state-run prisons is a *Parsons* class member: ASPC-Douglas, ASPC-Eyman, ASPC-Florence, ASPC-Lewis, ASPC-Perryville, ASPC-Phoenix, ASPC-Safford, ASPC-Tucson, ASPC-Winslow, and ASPC-Yuma.

◆ What does the Arizona Department of Corrections have to do?

On February 18, 2015, Judge David Duncan approved the case's settlement. The settlement agreement requires ADC to fix its health care system and meet more than 100 health care outcome measures, including medical care, mental health care, and dental care. ADC also must overhaul the rules for isolation units. If you would like a free copy of the settlement agreement (called "Stipulation"), please write to us and ask.

Since the settlement was approved, the federal court has issued a series of orders directing ADC to take additional steps to comply with the settlement.

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◆ **How can you help me?**

The Prison Law Office and ACLU continue to represent all people in the *Parsons* class. Our work is focused on making sure that ADC does everything required by the Stipulation. We do this through document review and monitoring trips to the prisons, where we interview class members and staff. When necessary, we go to court and ask the federal judge to issue further orders directing ADC to comply with the Stipulation.

To monitor ADC more effectively, we have divided monitoring duties with our co-counsel. The Prison Law Office monitors problems with medical and dental care. We may be able to notify ADC attorneys if we learn of people with serious and urgent untreated health care needs that could lead to death or permanent injury or that are seriously affecting activities of daily living, including eating, bathing, dressing, toileting, walking, transferring, and continence. Other than notifying ADC, we cannot assist with your individual health care concern.

The ACLU National Prison Project monitors problems with mental health care and the maximum custody units. You can write to them directly via confidential Legal Mail at:

ACLU National Prison Project
Attn: David Fathi, Attorney at Law
915 15th Street, NW, 7th Floor
Washington, DC 20005

The *Parsons* lawsuit did not seek money damages. If you want to file an individual lawsuit, we cannot represent you. We have some free self-help material we can send you on how to exhaust your administrative remedies, how to file a lawsuit, and attorney referrals. If you would like this information, please write to us and ask.

We also have self-help handouts on other topics, including Commutation and Compassionate Release, Hepatitis C, Medical Charges, Innocence, Legal Mail, LGBT Resources, Medical Diets, Pain Management, Pardons, and Community Resources for People Leaving Prison. Please write to us if you would like a free copy of these handouts. You can also write and ask for any of the documents referenced below.

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II. RECENT CASE DEVELOPMENTS

◆ Change of Health Care Contractor

On January 18, 2019, ADC issued a press release stating, among other things: “The Arizona Department of Corrections (ADC) has awarded a contract to deliver inmate correctional healthcare services to Centurion of Arizona, LLC. . . . The contract with Centurion to assume its correctional healthcare responsibilities is effective July 1, 2019. ADC’s current inmate healthcare provider, Corizon, will continue to perform its existing contractual obligations, and is expected to work with ADC, and Centurion, to ensure a smooth transition of existing services.”

By letter dated January 30, 2019, we told ADC that it is important to make sure there is a process for a smooth transition from Corizon to Centurion. We do not want any lapses in care.

◆ Change of Federal Judge

In June 2018, Magistrate Judge David Duncan, who oversaw settlement negotiations and post-judgment litigation, retired from the bench. District Court Judge Roslyn Silver now is assigned to *Parsons*.

◆ Monitoring Methodology and Appointment of Court Expert

In 2017, the federal judge held a multi-day evidentiary hearing about ADC’s monitoring process. The federal judge observed that “we still have . . . a chilling amount of failures” and that “the best that can be said overall is that we’re treading water.” Doc. 2038, 4/17/17 Tr. at 637:6-7, 17-18. The federal judge further noted that there are “great chasms of competence” in, and expressed “serious concerns about the quality and dependability of,” ADC’s monitoring process. *Id.* at 671:11-13, 18.

On June 22, 2018, the federal judge issued an order regarding problems with how ADC is monitoring its compliance with the Stipulation. Doc. 2900. On December 11, 2018, the federal judge appointed Dr. Marc Stern as an independent expert to investigate and address these problems. Doc. 3089. Dr. Stern will conduct two areas of inquiry: (1) irregularities and errors in the monitoring process, and (2) substantial noncompliance with critical aspects of health care delivery. Dr. Stern will propose written recommendations of any problems he discovers. We do not yet know how long his review will take. *Id.*

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◆ **HNR Boxes and Open Clinic**

On June 22, 2018, the federal judge ordered ADC to reinstall HNR boxes on all prison yards where they had been removed. Doc. 2901. This was because the Court found that “not all inmates are able to attend an open clinic, wait to be seen, and submit an HNR without difficulty,” that some people are “too ill or disabled to get to and wait at the open clinic,” and that the open clinic sometimes requires waiting “outside in temperatures exceeding 100 degrees.”

The federal judge said that ADC could also continue to run the open clinic system. Doc. 2901 at 4 (permitting ADC to “continue the open clinic procedures for accepting HNRs”); *id.* at 2-3 n.2 (noting that open clinic process has “positive attributes”).

◆ **Civil Contempt and Sanctions**

On June 22, 2018, the federal judge found ADC in civil contempt of court for its failure to comply with the Stipulation. Doc. 2898. The federal judge ordered ADC to pay \$1,445,000 for violations of the court’s order in December 2017, January 2018, and February 2018. The federal judge has not yet decided what to do with that money.

◆ **Need for Increased Staffing**

We believe that ADC must increase its medical staff in order to comply with the Stipulation. The federal judge appointed an expert to evaluate existing staffing levels and make recommendations. On June 22, 2018, the federal judge ordered ADC to submit a plan on how to recruit and retain health care staff. Doc. 2904. On December 20, 2018, the U.S. Court of Appeals for the Ninth Circuit ruled that the federal judge “may, in the future, consider ordering Defendants to develop and implement a plan to increase staffing in general as a remedy for Defendants’ non-compliance.” *Parsons v. Ryan*, 912 F.3d 486, 505 (9th Cir. 2018).