

56 Fed.Appx. 393

This case was not selected for publication in the Federal Reporter.

Not for Publication in West's Federal Reporter See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also Ninth Circuit Rule 36-3. (Find CTA9 Rule 36-3)

United States Court of Appeals,
Ninth Circuit.

Vance R. CUNNINGHAM, Plaintiff,
and

Richard Garrett Turay; Joseph Aqui; Curtis Beard; Elmer Campbell; Herman Paschke; Randy Pedersen; Jerry Sharp; Gilberto Soliz; Rolando Aguilar; Paul Begay; Samuel W. Donaghe; Anthony Gallegos; John Hall; Ron Petersen; Joel Scott Reimer, Plaintiffs-Appellees,

v.

DAVID SPECIAL COMMITMENT CENTER,
Defendant,
and

John Taylor-Anderson, individually and his marital community and in his official capacity at the Special Commitment Center at Monroe, WA; Joan Kirchoff; Karen Sullivan; Pete Hazel, each in their individual capacity and in their official capacity as employees of the Dept of Social and Health Services; Richard Bosse, in his individual capacity and in his official capacity as an employee of the Dept of Corrections; Andre Simon; Mark Selig, Dr.; Dennis Braddock, Secretary of the Dept of Social and Health Services, Defendants-Appellants,

v.

Laura McCollum, Plaintiff-intervenor.
Vance R. Cunningham, Plaintiff,
and

Richard Garrett Turay; Joseph Aqui; Curtis Beard; Elmer Campbell; Herman Paschke; Randy Pedersen; Jerry Sharp; Gilberto Soliz; Rolando Aguilar; Paul Begay; Samuel W. Donaghe; Anthony Gallegos; John Hall; Ron Petersen; Joel Scott Reimer, Plaintiffs-Appellees,

v.

David Special Commitment Center, Defendant,
and

John Taylor-Anderson, individually and his marital community and in his official capacity at the Special Commitment Center at Monroe, WA; Joan Kirchoff; Karen Sullivan; Pete Hazel, each in

their individual capacity and in their official capacity as employees of the Dept of Social and Health Services; Richard Bosse, in his individual capacity and in his official capacity as an employee of the Dept of Corrections; Andre Simon; Mark Selig, Dr.; Dennis Braddock, Secretary of the Dept of Social and Health Services, Defendants-Appellants,

v.

Laura McCollum, Plaintiff-intervenor.

Nos. 01-35874, 02-35509. | D.C. Nos. CV-91-00664-WLD, CV-94-00121-WLD, CV-91-00664-BJR. | Argued and Submitted Feb. 10, 2003. | Decided Feb. 19, 2003.

Appeal from the United States District Court for the Western District of *394 Washington, William L. Dwyer, District Judge, Presiding, Barbara J. Rosthstein, District Judge Presiding.

Before BRUNETTI, T.G. NELSON and RAWLINSON, Circuit Judges.

Opinion

MEMORANDUM*

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

Because the district court modified its previously entered injunction, we have jurisdiction pursuant to 28 U.S.C. § 1292(a)(1). See *Cunningham v. David Special Commitment Ctr.*, 158 F.3d 1035, 1037 (9th Cir.1998).

We decide this case in light of the state's repeated and documented failures to rectify the constitutional shortcomings of its civil commitment facilities for sex offenders. Against this backdrop, the district court acted within its discretion when it relied upon the opinion of the court-appointed expert, and required the siting of a "less restrictive alternative" facility at a location other than McNeil Island. See *Youngberg v. Romeo*, 457 U.S. 307, 322-23, 102 S.Ct. 2452, 73 L.Ed.2d 28 (1982). The district court's ruling did not unduly interfere with the internal operation of the state's facilities. See *id.* at 322.

AFFIRMED.

Parallel Citations

2003 WL 462803 (C.A.9 (Wash.))

Footnotes