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WESTERN DISTRICT OF WASHINGTON  
DEPUTY

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON AT TACOMA

RICKEY PERALEZ, on behalf of himself and  
others similarly situated,

Plaintiff,

v.

THE WASHINGTON DEPARTMENT OF  
CORRECTIONS, HAROLD CLARKE,  
DOUGLAS WADDINGTON, BELINDA  
STEWART, KEVIN SHANAHAN, JEAN  
STEWART, and JOHN DOES 1-20,  
employees and officials of the Washington  
Department of Corrections and/or Stafford  
Creek Corrections Center,

Defendants

NO. **C06-5625 FOB**

CLASS ACTION COMPLAINT

(JURY DEMAND)



06-CV-05625-CMP

**INTRODUCTION**

1. This is a civil rights case against the Washington Department of Corrections ("DOC")  
and state employees and officials of the DOC and the Stafford Creek Corrections Center ("SCCC")

1 arising from their intentional discrimination against Rickey Peralez and other disabled inmates and  
2 former inmates.

### 3 4 **PLAINTIFF**

5 2. Rickey Peralez is a former inmate of the DOC and the SCCC. Mr. Peralez is a  
6 disabled individual. He suffers from a degenerative bone disease known as Hereditary Rheumatoid  
7 Arthritis. As a result of his physical impairment, Mr. Peralez is limited in certain major life activities.  
8 For example, he has substantial difficulty walking or standing, is sometimes confined to a wheelchair,  
9 and often requires the use of a cane. His physical impairments render him "disabled" under the  
10 Americans with Disabilities Act and the Rehabilitation Act of 1973.

### 11 12 **DEFENDANTS**

13 3. The State of Washington, under the auspices of the DOC, operates a vast network of  
14 prisons, other correctional facilities, and programs and institutions of various kinds throughout the  
15 state. The DOC operates the SCCC, a major prison located in Aberdeen, Washington. The DOC is  
16 charged not only with incarcerating offenders at its many facilities, but also with operating numerous  
17 programs and services designed to benefit offenders and the community by assisting offenders (both  
18 prior to and after their release) in their well-being and successful re-entry into society. Among other  
19 things, the DOC offers, operates and administers educational programs, employment and vocational  
20 programs, family support programs, recreational programs, and numerous other offender programs.  
21 Among these programs are the "work release" program and "camp" programs, which are discussed in  
22 more detail below.

23 4. The DOC receives federal financial assistance and, as such, is subject to the  
24 Rehabilitation Act of 1973.

1           5.       The individual defendants, Harold Clarke, Douglas Waddington, Belinda Stewart,  
2 Kevin Shanahan, Jean Stewart, and John Does 1-20 are United States citizens residing in the State of  
3 Washington. At all times relevant hereto, the individual defendants were employees and/or agents of  
4 the State of Washington working in connection with the official activities of the DOC and/or the  
5 SCCC. At all times relevant hereto, the individual defendants were acting within the course and  
6 scope of their official duties as an employees and/or agents of the State of Washington. All acts  
7 committed by the individual defendants were done under color of the laws of the State of Washington  
8 and under the authority of their positions as employees and/or agents with the DOC and/or the SCCC.  
9 Each of the individually-named defendants participated in the discrimination alleged in this  
10 complaint.  
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13           6.       At all relevant times, defendant Harold Clarke was the Secretary of the DOC. He is  
14 named in his individual capacity.  
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16           7.       Defendant Douglas Waddington is the former Superintendent of the SCCC and was  
17 the Superintendent of the SCCC at certain times relevant to plaintiff's complaint. He is named in his  
18 individual capacity.  
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20           8.       Defendant Belinda Stewart is the current Superintendent of the SCCC and was the  
21 Superintendent of the SCCC at certain times relevant to plaintiff's complaint. She is named in her  
22 individual capacity.  
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24           9.       Defendant Kevin Shanahan is the Correctional Program Manager for the Prisons  
25 Division of the DOC and held this position at certain times relevant to plaintiff's complaint. He is  
26 named in his individual capacity.  
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1 citizens, even while they are still serving their sentences. They are given financial assistance and  
2 numerous other forms of assistance, guidance and counseling in finding employment. They are  
3 permitted to come and go from the facility during the day and to interact with free citizens. They are  
4 permitted to search for and obtain the benefits of outside social programs. They are permitted to visit  
5 with family members and others and are thereby afforded the opportunity to re-establish familial and  
6 community ties. They are also entitled to obtain the advantages of educational programs, drug and  
7 alcohol programs, and numerous other programs to aid in their well-being and re-integration into free  
8 society. They are entitled to get a substantial "head start" on a new life by obtaining such things as  
9 identification, lining up a place to live on their release, starting a bank account, purchasing clothing  
10 and other necessities, and otherwise preparing for life as free citizens. In short, work release affords  
11 qualified offenders numerous advantages, financial and otherwise, over offenders who are not  
12 permitted to participate in the program. At any one time, the DOC has more than 650 offenders  
13 placed in various work release facilities around the state.

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17 15. Another program and opportunity offered by the DOC is a program known as work  
18 ethic camp ("camp"). Camp is a highly-beneficial and desirable program offered to qualified  
19 offenders who have been sentenced to a total term of confinement between twelve and thirty-six  
20 months. It is a structured alternative to traditional prison that entitles qualified offenders to complete  
21 a comprehensive array of real-world jobs and vocational experiences, character-building work ethics  
22 training, life management skills development, substance abuse rehabilitation, counseling, literacy  
23 training, and adult education.

#### 24 25 **FACTS**

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27 16. Rickey Peralez is a former inmate of the DOC who had an expected release date of  
28 November 4, 2006. For the majority of his sentence, he was confined at the SCCC.

1 17. As of at least May 8, 2006, Mr. Peralez was qualified for work release and met all the  
2 criteria needed to participate in the work release program. Mr. Peralez very much desired to take part  
3 in the work release program at the earliest possible opportunity. Therefore, he actively sought to be  
4 transferred to work release as soon as he qualified. Despite the fact that he qualified for work release  
5 180 days before his expected release date, defendants refused to allow Mr. Peralez to participate in  
6 the work release program. The reason for defendants' refusal was Mr. Peralez's disability.  
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8 18. After being refused the right to participate in the work release program, Mr. Peralez  
9 made numerous additional efforts to be transferred to work release. He submitted written kites  
10 complaining that he was being denied work release because of his disability. Defendants failed and  
11 refused, despite these kites, to transfer Mr. Peralez to work release. Mr. Peralez filed a grievance  
12 complaining of the fact that he was being denied work release because of his disability. In response,  
13 officials at the SCCC advised him that his complaint was not a grieveable issue. He appealed this  
14 determination and was again refused. Mr. Peralez wrote respectful and appropriate correspondence  
15 to defendant Waddington in which he complained of the discrimination and asked that appropriate  
16 action be taken to transfer him to work release. However, he received no adequate response—in fact,  
17 correspondence from defendant Waddington confirmed that the only reason he was being denied the  
18 benefits of work release were because of his disability. Mr. Peralez wrote respectful and appropriate  
19 correspondence to defendant Clarke, but received no adequate response. In fact, defendant Shanahan  
20 responded on behalf of defendant Clarke by confirming that the only reason he was being denied the  
21 benefits of work release was because of his disability. Mr. Peralez wrote respectful and appropriate  
22 correspondence to defendant Belinda Stewart. Again, he failed to receive any adequate response. In  
23 fact, later correspondence from defendant Belinda Stewart admitted that “Offender Peralez was  
24 denied . . . Work Release due to his overall health status. . . .” Moreover, later correspondence from  
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1 defendant Jean Stewart again confirmed that the only reason he was being denied the benefits of  
2 work release were because of his disability.

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4 19. But for his disability, Mr. Peralez would have been transferred to a work release  
5 facility beginning in at least early May 2006. Instead, for the months of May through September  
6 2006, he remained confined at the SCCC and was wholly denied the many benefits of work release  
7 discussed above, including, but not limited to, the right to seek employment and earn an income.

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9 20. Mr. Peralez was forced to retain legal assistance in order to seek his transfer to a work  
10 release facility. Mr. Peralez obtained assistance from Columbia Legal Services. Columbia Legal  
11 Services wrote to officials at the DOC on Mr. Peralez's behalf. After discussions with legal counsel  
12 for the DOC, Mr. Peralez was finally transferred to a work release facility. However, as a result of  
13 defendants' intentional discrimination over the course of at least five months, the transfer to work  
14 release did not occur until October 2006—approximately three weeks before Mr. Peralez's release  
15 date.  
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17 21. Mr. Peralez was transferred to a work release facility in downtown Seattle known as  
18 Reynolds Work Release. Because of the intentional discrimination against him and the sustained  
19 refusal by defendants to transfer him earlier, Mr. Peralez learned upon his arrival at Reynolds Work  
20 Release that he would be unable to participate in and obtain many of the work release advantages that  
21 he would have received had he been transferred earlier, when he was eligible. For example, Mr.  
22 Peralez was advised that because he had only approximately three weeks of his sentence left to serve,  
23 he would receive none of the financial benefits or job counseling afforded to inmates who were being  
24 transferred with six months left to serve. As a result, Mr. Peralez was unable to establish a bank  
25 account, obtain identification, engage in a meaningful job search, and take advantage of the many  
26 other opportunities afforded to inmates who were transferred at the time they were eligible.  
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1 or activities, and/or otherwise discriminating against him because of his disability, is liable for  
2 violations of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794(a).

3 27. Violations of 42 U.S.C. § 1983. The individual defendants, having denied Mr.  
4 Peralez's rights to equal protection under the law in contravention of the Fourteenth Amendment to  
5 the United States Constitution, are liable for violations of 42 U.S.C. § 1983.  
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### 7 CLASS ACTION ALLEGATIONS

8 28. Plaintiff seeks to maintain this action as a class action because, as discussed below,  
9 plaintiff believes that many current and former disabled offenders have been discriminated against in  
10 that they have been excluded from the benefits of work release and camp activities. Plaintiff asks this  
11 Court to certify as a class at least two categories of class members: (1) all disabled inmates who, in  
12 the three years prior to the filing of this complaint, have been excluded from or denied the benefits of  
13 the work release program described herein, and (2) all disabled inmates who, in the three years prior  
14 to the filing of this complaint, have been excluded from or denied the benefits of the camp program  
15 as described herein.  
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18 29. There are questions of law and fact common to all members of the class or classes.  
19 Defendants have acted on grounds generally applicable to the class or classes as a whole, such that  
20 class-wide relief is appropriate. The prosecution of separate actions would create a risk of  
21 inconsistent or varying adjudications with respect to individual members of the class which would  
22 establish incompatible standards of conduct for defendants. Questions of law or fact common to the  
23 members of the class predominate over any questions affecting only individual members, such that a  
24 class action is superior to other available methods for the fair and efficient adjudication of this case.  
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27 30. The class is so numerous that joinder of all members is impracticable. There are  
28 dozens or hundreds of potential class members. In the short time that plaintiff was confined at the

1 SCCC (just one of many prisons operated by the DOC), he came to know many other disabled  
2 inmates. The sheer size of the disabled offender population at the DOC shows that joinder of  
3 individual class members will be impractical or impossible. The DOC has, at any one time, an  
4 offender population of 16,000 or more. The number of offenders who have been in the custody of the  
5 DOC in the past three years will greatly exceed this amount. It is anticipated that the number of  
6 disabled inmates entering and leaving the DOC during the past three years will number at least in the  
7 hundreds. Moreover, inmates are frequently released and/or transferred to other facilities, making  
8 membership in the class or classes too fluid to permit individual joinder of all members. Because the  
9 DOC has 650 work release inmates at any one time (and because inmates are eligible for work release  
10 for only six months before their release), it is estimated that nearly 4000 inmates have passed through  
11 the work release program in the past three years. Even assuming that only a small percentage of the  
12 qualified inmate population is disabled, there would be dozens or hundreds of potential class  
13 members who may have been discriminated against in work release opportunities and at least the  
14 same amount who may have been discriminated against in camp opportunities.  
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18 31. The claims of the representative plaintiff are typical of those of the class or classes.

19 32. Potential members of the class are easily identifiable and include all disabled inmates  
20 otherwise qualified for work release or camp who have been denied those opportunities.  
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22 33. The class representative will adequately and fairly protect the interests of the class or  
23 classes. The class or classes will be represented by counsel from the law firm of Budge & Heipt,  
24 PLLC. Budge & Heipt, PLLC is familiar with and experienced in litigating civil rights violations,  
25 class action and collective action litigation, and litigation against jail and law enforcement personnel  
26 for violations of constitutional rights. Budge & Heipt, PLLC has successfully prosecuted such cases  
27 to conclusion and has repeatedly obtained verdicts and settlements in other cases in excess of \$1  
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1 million for civil rights actions alleging unconstitutional conduct by jail and/or law enforcement  
2 personnel.

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4 **JURY DEMAND**

5 A trial by jury is hereby demanded.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, the plaintiff prays that the Court grant the following relief:

8 A. Certification of this action as a class action;


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10 B. All damages available to Mr. Peralez and the class members under federal law,  
11 including, but not limited to, general damages for violations of their rights under Title II of the ADA,  
12 the Rehabilitation Act of 1973 and 42 U.S.C. § 1983, damages for emotional distress, economic  
13 damages, and punitive damages.

14 C. Attorneys' fees and costs; and

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16 D. Any such other relief that this Court deems just and equitable.

17 DATED this 26 day of October, 2006..

18 **BUDGE & HEIPT, P.L.L.C.**

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21 \_\_\_\_\_  
22 Edwin S. Budge, WSBA # 24182  
23 Erik J. Heipt, WSBA # 28113  
24 Attorneys for Plaintiff and the Class Members  
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