



Legal Organizations Seek Preliminary Injunction in NC DHHS Lawsuit *Lawsuit Alleges Illegal Prolonged Jailing of People with Mental Health Disabilities*

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Three legal organizations who filed [a lawsuit \(link\)](#) on April 18 challenging the prolonged jailing of people with mental health disabilities late yesterday asked the federal court to immediately order the NC Department of Health and Human Services (DHHS) to ensure timely evaluations and treatment and stop the ongoing severe harm to disabled pretrial detainees who now languish for months in local jails awaiting these services.

The [motion for preliminary injunction \(link\)](#) comes in the case that alleges DHHS is violating the rights of disabled pretrial detainees in NC jails by failing to ensure timely evaluations and treatment for people who lack capacity to understand the legal proceedings against them. The lawsuit was filed by attorneys with the ACLU of North Carolina Legal Foundation (ACLU-NC), Disability Rights North Carolina (DRNC), and the law firm of Arnold & Porter.

The motion seeks specific limits on how long a pre-trial detainee can be forced to wait for court-ordered assessment and treatment while the case is pending. As this lawsuit moves forward, these limits are crucial to protecting the rights and safety of people with disabilities who currently spend months or years sitting in county jails awaiting treatment before they can stand trial, according to the filing. Making matters worse, poor conditions and inadequate mental health treatment can exacerbate mental health symptoms while they wait.

“It is unfortunate that we had to take this step, but it is absolutely necessary,” **said Susan Pollitt, a supervising attorney with DRNC.** “The many conversations and written communications we have had with DHHS about this over the past year have not led to a resolution or even a firm commitment to shorten the excessive time that people with serious mental health disabilities are languishing in jails.”

The urgency of the conditions propelled the filing of the motion.

“We cannot fail to act while our clients’ rights are egregiously violated and their very lives are in jeopardy. We cannot ask the detainees and their families to keep waiting,” **said Michele Delgado, a staff attorney with the ACLU of North Carolina.** “Now, we are asking the court to take this immediate step to protect the rights of people with disabilities who are at risk for serious mental and physical harm as they sit in local jails waiting on the assessment and care guaranteed to them by law.”

The motion asks the judge to order DHHS to evaluate pretrial detainees within fourteen days of an order for evaluation, and to begin restoration services within fourteen days of the order directing the mental health services.



The motion is accompanied by [a 37-page sworn declaration \(link\)](#) from a nationally recognized expert in forensic mental health evaluation and services. The declaration provides context for *“many steps North Carolina can begin promptly to make meaningful system changes and improve conditions for people with SMI (serious mental illness) ordered to receive capacity-related services.”*

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About the ACLU of North Carolina Legal Foundation

[The ACLU of North Carolina](#) is the state affiliate of the American Civil Liberties Union (ACLU), a nationwide organization dedicated to defending and preserving the individual rights and liberties guaranteed by the Constitution and laws of the United States. The ACLU of North Carolina Legal Foundation (ACLU-NC/LF) brings together litigation, legislative advocacy, communications, and organizing strategies to empower communities and achieve our objectives in major issue areas including criminal law reform, racial justice, LGBTQIA+ equality, reproductive freedom, and the rights of immigrants.

About Disability Rights North Carolina

Disability Rights North Carolina is the federally mandated protection and advocacy system in North Carolina, dedicated to advancing the rights of all people with disabilities, of all ages, statewide. DRNC is an independent, 501(c)(3) nonprofit organization and a member of the National Disability Rights Network. Learn more about Disability Rights NC at disabilityrightsncc.org

About Arnold & Porter

[Arnold & Porter](#) combines sophisticated regulatory, litigation, and transactional capabilities to resolve clients' most complex issues. With over 1,000 lawyers practicing in 15 offices worldwide, we offer deep industry experience and an integrated approach that spans more than 40 practice areas. Through multidisciplinary collaboration and focused industry experience, we provide innovative and effective solutions to mitigate risks, address challenges, and achieve successful outcomes.