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

CASANDRA BRAWLEY, an individual,

Plaintiff,

v.

STATE OF WASHINGTON; WASHINGTON
STATE DEPARTMENT OF CORRECTIONS;
HAROLD CLARKE, former Secretary,
Washington State Department of Corrections,
in his official capacity; ELDON VAIL,
Secretary, Washington State Department of
Corrections, in his official capacity; RUBEN
CEDEÑO, Deputy Secretary, Department of
Corrections, in his official capacity; ALICE
PAYNE, Prisons Administrator, in her official
capacity; DOUGLAS COLE, Superintendent
of Washington Corrections Center for Women,
in his official capacity,

Defendants.

NO.

COMPLAINT FOR DAMAGES AND
DECLARATORY RELIEF

JURY TRIAL DEMANDED

Plaintiff Casandra Brawley alleges as follows:

I. JURISDICTION AND VENUE

1.1 This action arises under the Constitution and laws of the United States,
specifically the Eighth Amendment, the Fourteenth Amendment, and 42 U.S.C. § 1983.

1.2 This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343(a)(4). Further,
this Court has jurisdiction to issue declaratory relief under 28 U.S.C. §§ 2201(a) and 2202.

1 This Court has supplemental jurisdiction over Washington State claims under 28 U.S.C. §
2 1367(a).

3 1.3 Venue is proper in the Western District of Washington under 28 U.S.C. §
4 1391(b) because the plaintiff resides in Kitsap County, Washington; some of the defendants
5 reside in or are located in Thurston County, Washington; and the events underlying this
6 action occurred in Pierce County, Washington.

7 II. PARTIES

8 2.1 Plaintiff Casandra Brawley is an individual residing in Kitsap County. Ms.
9 Brawley was incarcerated at the Washington Corrections Center for Women (“WCCW”)
10 from approximately December 16, 2006, until May 10, 2007.

11 2.2 Defendant Washington State Department of Corrections (“DOC”) is an
12 agency of the State of Washington.

13 2.3 Defendant Harold Clarke is the former Secretary of the DOC and was
14 Secretary at all times during the events described herein. In that capacity, Mr. Clarke had the
15 ultimate authority and responsibility for the administration of Washington prison facilities,
16 including the WCCW. On information and belief, Mr. Clarke had the authority to direct the
17 activities of subordinate officers and other employees of the WCCW. On information and
18 belief, he also had the power to create and implement policies and practices related to the use
19 of restraints on women incarcerated at the WCCW, including pregnant and laboring women.
20 Mr. Clarke is sued in his official capacity.

21 2.4 Defendant Eldon Vail is the Secretary of the DOC. In that capacity, Mr. Vail
22 has the ultimate authority and responsibility for the administration of Washington prison
23 facilities, including the WCCW. On information and belief, Mr. Vail has the authority to
24 direct the activities of subordinate officers and other employees of the WCCW. On
25 information and belief, he also has the power to create and implement policies and practices
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1 related to the use of restraints on women incarcerated at the WCCW, including pregnant and
2 laboring women. Mr. Vail is sued in his official capacity.

3 2.5 Defendant Ruben Cedeño is the Deputy Secretary of the DOC. In that
4 capacity, Mr. Cedeño has responsibility for the administration of Washington prison
5 facilities, including the WCCW. On information and belief, Mr. Cedeño has the authority to
6 direct the activities of subordinate officers and other employees of Washington prisons. On
7 information and belief, he also has the power to create and implement policies and practices
8 related to the use of restraints on women incarcerated at the WCCW, including pregnant and
9 laboring women. Mr. Cedeño is sued in his official capacity.

10 2.6 Defendant Alice Payne is the Prisons Administrator at Prisons Command
11 Central for the DOC. On information and belief, Ms. Payne, in that capacity, is responsible
12 for oversight of all DOC facilities in which women are incarcerated, including the WCCW.
13 On information and belief, Ms. Payne has the authority to direct the activities of subordinate
14 officers and other employees of Washington prisons. On information and belief, she also has
15 the power to create and implement policies and practices related to the use of restraints on
16 women incarcerated at the WCCW, including pregnant and laboring women. Ms. Payne is
17 sued in her official capacity.

18 2.7 Defendant Douglas Cole is the Superintendent of WCCW. On information
19 and belief, in that capacity, Mr. Cole has the authority to direct the activities of subordinate
20 officers and other employees of Washington prisons, including the WCCW. On information
21 and belief, he also has the power to create and implement policies and practices related to the
22 use of restraints on women incarcerated at the WCCW, including pregnant and laboring
23 women. Mr. Cole is sued in his official capacity.

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III. FACTS

3.1 In April 2007, Casandra Brawley was incarcerated at the Washington Corrections Center for Women near Gig Harbor, Washington. She was serving a fourteen-month sentence for second degree theft—a nonviolent crime.

3.2 Ms. Brawley had never been convicted of a violent crime. She was an exemplary inmate who was never disciplined for any infraction. She was released after less than seven months, without the need for probation, because her crime was non-violent and she was given credit for good time served.

3.3 In April 2007, Ms. Brawley was also nine months pregnant.

3.4 At 4:00 a.m. on April 13, 2007, Ms. Brawley’s amniotic sac ruptured, causing a slow leak. She immediately asked to be taken to the prison clinic. Instead, she was permitted to talk to a clinic nurse by phone. The nurse told her to go back to bed and report to “sick call” in the morning.

3.5 At “sick call” three and a half hours later, the clinic nurse tested Ms. Brawley to determine whether she was in labor, and decided to send her to St. Joseph Hospital in Tacoma, Washington. During her transportation to St. Joseph, DOC agents kept Ms. Brawley shackled with a chain around her belly (known as a “waist chain”) attached to hand cuffs. At the hospital, a certified nurse midwife asked a DOC agent to remove Ms. Brawley’s waist chain and handcuffs for the examination. The DOC agent agreed and removed the restraints, but chained Ms. Brawley to a hospital bed by a metal chain ankle restraint, where she remained throughout the examination. After examining her, the certified nurse midwife discharged Ms. Brawley with instructions to return if she had significant water leakage, excessive bleeding, or quick contractions. Ms. Brawley was again restrained with the waist chain and handcuffs and transported back to WCCW.

3.6 Because she continued to experience water leakage and believed she was in labor, Ms. Brawley returned to the prison clinic on Saturday, April 14, 2007, where she was

1 allowed to stay overnight—at her insistence—for observation. At 3:00 a.m. on April 14,
2 2007, Ms. Brawley began to have contractions in her lower back and abdomen every eight
3 minutes. She was told – repeatedly and without explanation – that these were the “wrong”
4 kind of contractions. She was released seven hours later.

5 3.7 At 4:00 p.m. on April 15, 2007, Ms. Brawley’s contractions were five minutes
6 apart. Because she feared that her reports of her labor would be treated dismissively once
7 again, she waited an hour and a half, then reported her contractions to a corrections officer
8 and asked to be taken to the clinic. She was taken to the clinic and monitored by clinic
9 personnel. After being subjected to what she was told was a routine strip search, she was
10 shackled with a waist chain attached to hand cuffs and transported to the hospital by DOC
11 agents.

12 3.8 When she arrived at St. Joseph Hospital, DOC agents shackled Ms. Brawley
13 to the hospital bed by one leg, using a metal ankle restraint attached to a metal chain. During
14 this time, Ms. Brawley was having painful and frequent labor contractions. After five hours
15 of laboring—in shackles the entire time—she was given an epidural. She was shackled
16 throughout that medical procedure. After the epidural, Ms. Brawley’s temperature was
17 elevated above 100 degrees Fahrenheit. She was given antibiotics, Tylenol and cold
18 compresses, which failed to reduce her temperature. Eventually she was given oxygen.
19 During this process, DOC agents kept Ms. Brawley shackled to a hospital bed.

20 3.9 A physician then attempted to induce labor by breaking the amniotic sac, but
21 found the sac empty. Left leaking and untreated for two days, her uterus had become
22 infected. The fetal heartbeat was dangerously accelerated, as well. During this process, Ms.
23 Brawley remained shackled to a hospital bed.

24 3.10 At 1:30 a.m. on April 16, 2007, an on-call physician determined that a
25 caesarean section was necessary for the health of both mother and child, and Ms. Brawley
26 consented. It was only then that she was freed from the restraints, because the physician

1 insisted that her restraints be removed before he would perform the surgery. Once the
2 surgery was completed and the baby was delivered, a DOC agent shackled Ms. Brawley to
3 the bed once again by the metal leg restraint.

4 3.11 Ms. Brawley remained in the hospital for an additional three days, to recover
5 from her c-section surgery and to undergo antibiotic treatment for the infection in her uterus.
6 During her entire hospitalization – even though walking is extremely difficult in the first few
7 days after a caesarean section – Ms. Brawley was kept shackled to a hospital bed by the
8 metal leg restraint and guarded by a DOC corrections officer 24 hours per day. Her baby, a
9 boy, was also treated with antibiotics in the neo-natal intensive care unit for seven days. Ms.
10 Brawley was able to see him periodically. When she needed to hold her baby or respond to
11 his cries, she had to request that the DOC corrections officer release her restraints. If she
12 needed to use the bathroom or take slow walks as was recommended by her physician for
13 appropriate recovery from a caesarean section, DOC agents shackled her ankles together by
14 an ankle chain. Other than those brief periods, DOC officers kept her shackled to a hospital
15 bed throughout her hospital stay.

16 3.12 Ms. Brawley was released from the WCCW on May 10, 2007. She currently
17 lives with her son, his father, and their new baby born in November of 2008.

18 3.13 Washington State Department of Corrections policy states: "a female offender
19 shall not be restrained during labor or delivery of an infant."¹

20 3.14 This policy is in apparent recognition that is it dangerous and unnecessary to
21 shackle laboring incarcerated women. The American College of Obstetricians and
22 Gynecologists (ACOG) is the foremost national professional association for physicians
23 practicing obstetrical care. ACOG states: "Physical restraints have interfered with the ability
24 of physicians to safely practice medicine by reducing their ability to assess and evaluate the
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26 ¹Amnesty International, State by State Survey of Policies and Practices in the United States,
citing Wash. Dep't of Corrections, Policy on "Use of Restraints," 420.250 (page 5,D),
available at <http://www.amnestyusa.org/women/custody/states/washington.pdf>.

1 physical condition of the mother and the fetus, and have similarly made the labor and
2 delivery process more difficult than it needs to be; thus, overall putting the health and lives of
3 the women and unborn children at risk. . . [t]he practice of shackling an incarcerated woman
4 in labor may not only compromise her health care but is demeaning and unnecessary. Most
5 women in correctional facilities are incarcerated for non-violent crimes and are accompanied
6 by guards when they are cared for in medical facilities. Testimonials from incarcerated
7 women who went through labor with shackles confirm the emotional distress and the
8 physical pain caused by the restraints. Women describe the inability to move to allay the
9 pains of labor, the bruising caused by chain belts across the abdomen, and the deeply felt loss
10 of dignity.”²

11 3.15 Similarly, the American Public Health Association has declared that “women
12 must never be shackled during labor and delivery.”³

13 IV. CLAIMS FOR RELIEF

14 First Claim for Relief—Violation of the United States Constitution

15 The allegations of paragraphs 2.1 through 3.15 above are incorporated herein.

16 4.1 The Eighth Amendment to the United States Constitution prohibits cruel and
17 unusual punishment. This prohibition is extended to state actors by the Due Process Clause
18 of the Fourteenth Amendment.

19 4.2 Defendants’ agents shackled Plaintiff Casandra Brawley in her ninth month of
20 pregnancy, while she was in labor, while she was laboring before delivery of her baby, and
21 immediately after delivery of her baby by caesarean section.

22 4.3 Defendant Department of Corrections’ own policy against shackling pregnant
23 women in labor and delivery demonstrates that the DOC, the other named Defendants, and
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25 ² Ralph Hale, M.D., Executive Vice President, American College of Obstetricians and
26 Gynecologists, *Letter supporting federal legislation to prohibit shackling incarcerated
pregnant women in labor*, June 12, 2007, available at
http://www.acog.org/departments/dept_notice.cfm?recno=18&bulletin=4631.

³ APHA *Standards for Health Services in Correctional Institutions*, 3rd, 108 (2003).

1 Defendants' agents showed deliberate indifference for the safety and health of Casandra
2 Brawley and her child.

3 4.4 The Defendants' actions toward Casandra Brawley constitute cruel and
4 unusual punishment, prohibited by the Eighth and Fourteenth Amendments to the United
5 States Constitution.

6 4.5 Casandra Brawley suffered damages as a result of the Defendants' violation of
7 her right to be free from cruel and unusual punishment.

8 Second Claim for Relief – Violation of Washington State Constitution

9 The allegations of paragraphs 2.1 through 3.15 above are incorporated herein.

10 4.6 The Defendants inflicted cruel punishment on Casandra Brawley in violation
11 of Article 1, Section 14 of the Washington State Constitution.

12 4.7 Casandra Brawley suffered damages as a result of the Defendants' infliction
13 of cruel punishment.

14 **V. JURY DEMAND**

15 5.1 Plaintiff hereby demands that this matter be tried to a jury.

16 **VI. PRAYER FOR RELIEF**

17 6.1 A declaratory judgment under 28 U.S.C. § 2201 that the Defendants violated
18 Casandra Brawley's rights under the Eighth and Fourteenth Amendments of the United
19 States Constitution.

20 6.2 A declaratory judgment under 28 U.S.C. § 2201 that the Defendants violated
21 Casandra Brawley's right under Article 1, Section 14 of the Washington State Constitution to
22 be free of cruel punishment;

23 6.3 Damages in an amount to be proven at trial;

24 6.4 Reasonable attorneys' fees and costs under 42 U.S.C. § 1988;

25 6.5 That this matter be tried to a jury; and

26 6.6 For such other relief as the Court deems just and proper.

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DATED this 25th day of June, 2009.

PETERSON YOUNG PUTRA

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CERTIFICATE OF SERVICE

I hereby certify that on the date shown below I electronically filed the foregoing to the following e-mail address:

newcases.tacoma@wawd.uscourts.gov

Dated: June 25, 2009

s/Elizabeth Chandler
Elizabeth Chandler
Peterson Young Putra
Paralegal