IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

Oregon Advocacy Center, Metropolitan Public Defender Services, Inc., and A.J. Madison,	Civ. No. 02-339-PA
Plaintiffs,	JUDGMENT
Bobby Mink, Director of the Department of Human Services, in his official capacity, and Stanley Mazur-Hart, Superintendent of Oregon State Hospital, in his official capacity,	
Defendants.	

PANNER, Judge:

Based on this court's findings of fact and conclusions of law, judgment is entered for plaintiffs. This court retains continuing jurisdiction to enforce the injunction entered.

This court orders defendants to ensure that persons who are declared unable to proceed to trial pursuant to ORS § 161.370(2) be committed to the custody of the superintendent of a state hospital designated by the Department of Human Services as soon as practicable. This shall be fulfilled by providing full admission of such persons into a state mental hospital or other treatment facility so designated by the Department of Human Services, in accordance with Oregon's existing

applicable statutory provisions. These admissions must be done in a reasonably timely manner, and completed not later than seven days after the issuance of an order determining a criminal defendant to be unfit to proceed to trial because of mental incapacities under ORS § 161.370(2).

DATED this 15 day of May, 2002.

Owen M. Panner
United States District Court Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

Oregon Advocacy Center, Metropolitan Public Defender Services, Inc., and A.J. Madison,	)	CV. NO. 02-339-PA
Plaintiffs,	)	ORDER
Bobby Mink, Director of the Department of Human Services, in his official capacity, and Stanley Mazur-Hart, Superintendent of Oregon State Hospital, in his official capacity,	)	
Defendants.	)	

PANNER, Judge:

Defendants move to stay the issuance of the judgment and the enforcement of the injunction in this action pending defendants' appeal to the United States Court of Appeals for the Ninth Circuit. Defendants also move for clarification and modification of the injunction. I deny the motions.

1 - ORDER

BACKGROUND

Plaintiffs brought this action on behalf of criminal defendants who have been determined by the Circuit Courts within Oregon to be unfit to proceed to trial and in need of hospitalization because they suffer from mental incapacities. After a trial on the merits, this court concluded the indefinite imprisonment of persons deemed unfit to proceed and in need of treatment is unjust, and that there is no rationalization that passes constitutional muster for unreasonably detaining such persons in county jails and depriving them of hospitalization. This court further concluded the treatment received by persons found unfit to proceed while incarcerated instead of hospitalized is constitutionally inadequate, and that such persons must be transferred as soon as practicable to a treatment facility, and should be detained only for that period of time necessary to identify the person, determine the appropriate legal status, and effectuate transport. I ordered admissions to be done in a reasonably timely manner, and completed not later than seven days after the issuance of an order determining a criminal defendant to be unfit to proceed to trial because of mental incapacities under ORS § 161.370(2).

DISCUSSION

I. Motion to Stay

Defendants move to stay enforcement of this ruling pending their appeal. The motion is brought under Rule 62(c) of the Federal Rules of Civil Procedure, which permits this court to "suspend, modify, restore, or grant an injunction" during the pendency of an appeal "upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party." "This Rule grants the district court no broader power than it has always inherently

possessed to preserve the status quo during the pendency of an appeal . . . ." *Natural Resources Defense Council, Inc. v. Southwest Marine Inc.*, 242 F.3d 1163, 1166 (9th Cir. 2001).

Plaintiffs and defendants rely upon the same authority for determining the standards employed to evaluate a motion to stay a civil judgment. In *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987), the Supreme Court identified the factors regulating the issuance of a stay: (1) whether the stay applicant has made a strong showing that the applicant is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) determining where the public interest lies.

I conclude that defendants have failed to make a strong showing that their appeal is likely to succeed on the merits or that they will be irreparably injured absent a stay. Moreover, a stay would substantially injure other parties, specifically, those persons who have been identified by state courts as being in need of hospitalization and yet are nevertheless being deprived of admission and treatment. The public interest favors denial of a stay. Accordingly, I deny defendants' motion for a stay.

II. Motion for Clarification

Defendants also move for clarification and modification of this court's previous ruling. Defendants request an interpretation of the court's ruling that the admission of a person determined to be unfit to proceed be completed "not later than seven days after the issuance" of the order finding the person unfit to proceed. Defendants ask that the "seven days" be calculated from the date the Oregon State Hospital receives a copy of the court order, rather than from the date the court issues the ruling.

Plaintiffs oppose this proposed interpretation, arguing defendants' desire for administrative convenience should not trump the needs and rights of the persons requiring hospitalization. I agree. Defendants' motion for clarification and modification is denied. The hospitalization of persons determined to be unfit to proceed shall be completed not later than seven days after the issuance of the order finding the person unfit to proceed, as previously ordered by this court.

CONCLUSION

Defendants' motions to stay (#49) and for modification and clarification (#58) are DENIED.

DATED this 27 day of May, 2002.

Owen M. Panner
United States District Court Judge