

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

DEBRA DARRINGTON, as next friend)
for M.R., et al., *on behalf of themselves*)
and others similarly situated,)
Plaintiffs,) Case No. 2:25-cv-04268-BP
v.)
MISSOURI DEPARTMENT OF)
MENTAL HEALTH, et al.)
Defendants.)

PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

COME NOW Plaintiffs, represented by Next Friends, by and through their undersigned counsel and pursuant to Fed. R. Civ. P. 23, respectfully request that this Court certify two plaintiff classes for the reasons set forth in the accompanying suggestions filed contemporaneously herewith. In support, Plaintiffs state as follows:

1. Plaintiffs file this class action lawsuit to address systemic constitutional deficiencies with the provision of competency services through the Department of Mental Health (“DMH”). More specifically, Plaintiffs challenge DMH’s use of waitlists and unreasonable delays in conducting competency evaluations and providing competency restoration treatment. *See Doc.*

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2. At last count, 489 people with serious mental illness diagnoses and pending criminal proceedings were suffering in county and city jails across the state, often in solitary confinement, for months without adequate, or any, mental health treatment.

3. As of January 2025, the average time these individuals would wait in jail before receiving restoration treatment was 14 months, although some people have been held in excess of

two years waiting for their court-ordered restoration treatment.¹ On average, individuals wait approximately six months to receive a competency evaluation once has been ordered by the court.

4. Plaintiffs M.R., K.M., M.T., O.J., and C.T. have criminal charges pending in state court and, in the course of their prosecution, have been evaluated, deemed not competent to stand trial, and ordered to the DMH for treatment. Yet each remains in jail, without treatment. Collectively, they have served **1,619 days** in jail waiting for court-ordered treatment. These named plaintiffs seek to represent a class of hundreds of individuals who are similarly situated.

5. Plaintiffs M.R., K.M., M.T., O.J., and C.T. seek prospective relief on behalf of a class of similarly situated persons defined as follows:

All people who are now, or will be in the future, charged with a crime in Missouri state court and are: (a) declared not competent to proceed to trial by the state court; (b) currently detained in a county or city jail or similar facility; (c) court-ordered to receive restoration services by DMH; and (d) awaiting, beyond a constitutionally-acceptable time, court-ordered competency restoration services to be provided by DMH or its designees (the “Restoration Class”).

6. Plaintiff D.W. has criminal charges pending in State court, and DMH has been ordered to evaluate his competency to stand trial. A mental examination of D.W. was ordered on November 3, 2025. As of the date of this motion, D.W. has not been evaluated. In fact, as of the date of this motion, DMH has not even scheduled for an evaluation. And, on average, people wait six months for a competency evaluation after it has been ordered.

7. Plaintiff D.W. seeks prospective relief on behalf of a class of similarly situated persons defined as follows:

All people who are now, or will be in the future, charged with a crime in Missouri state court and for whom a court has ordered or

¹ Clara Bates, *Missourians waiting in jail for court-ordered mental health care reaches all-time high*, MISSOURI INDEPENDENT, Jan. 27, 2025, <https://missouriindependent.com/2025/01/27/missourians-waiting-in-jail-for-court-ordered-mental-health-care-reaches-all-time-high/>.

granted a request for a competency evaluation and who are: (a) currently detained in a county or city jail or similar facility, and (b) placed on a waitlist for competency evaluation services by DMH but who have not received evaluation services within a constitutionally-acceptable time (the “Evaluation Class”).

8. For the reasons discussed in the accompany Suggestions, Plaintiffs are entitled to certification of both the Evaluation Class and the Restoration Class.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that this Court:

(i) certify an Evaluation Class, defined as:

All people who are now, or will be in the future, charged with a crime in Missouri state court and for whom a court has ordered or granted a request for a competency evaluation and who are: (a) currently detained in a county or city jail or similar facility, and (b) placed on a waitlist for competency evaluation services by DMH but who have not received evaluation services within a constitutionally-acceptable time.

(ii) certify a Restoration Class, defined as:

All people who are now, or will be in the future, charged with a crime in Missouri state court and are: (a) declared not competent to proceed to trial by the state court; (b) currently detained in a county or city jail or similar facility; (c) court-ordered to receive restoration services by DMH; and (d) awaiting, beyond a constitutionally-acceptable time, court-ordered competency restoration services to be provided by DMH or its designees.

(iii) appoint Plaintiff D.W. to represent the Evaluation Class;

(iv) appoint Plaintiffs M.R., K.M., M.T., O.J., and C.T. to represent the Restoration Class; and

(v) appoint undersigned counsel as class counsel.

Dated: November 24, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and that I will serve a copy of the foregoing document on all defendants along with the Complaint and summons issued in the above-captioned case.

By: /s/ Amy Malinowski
Attorney for Plaintiffs