

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

TAMARA M. LOERTSCHER

Plaintiff,

CIVIL ACTION

v.

Case No. 14-cv-870

J.B. VAN HOLLEN, in his official capacity as
ATTORNEY GENERAL OF THE
STATE OF WISCONSIN, and

ELOISE ANDERSON, in her official capacity as
SECRETARY OF THE DEPARTMENT OF
CHILDREN AND FAMILIES

Defendants.

DECLARATION OF TAMARA M. LOERTSCHER

I, Tamara M. Loertscher, the plaintiff in this action, do hereby swear and affirm that I make the following declaration, under penalty of perjury, from my personal knowledge.

1. My name is Tamara (“Tammy”) M. Loertscher. I am 30 years old and live in Taylor County, Wisconsin.

2. I am in the third trimester of my first pregnancy, and my baby is due on January 29, 2015. According to my obstetrician gynecologist, the pregnancy is developing normally.

3. This is a great relief to me, because I suffer from hypothyroidism, a condition I have had since I was a teenager. At the age of 15, and then again later, at either age 19 or 20, my thyroid functioning was totally and intentionally eliminated by radiation treatment, so I need regular thyroid medication for my own health and for the health of this pregnancy.

4. My doctors have always told me that one of the symptoms of untreated hypothyroidism is depression. Severe depression is something I have also struggled with, particularly recently.

5. In February of 2014, I left my job as a certified nurse's aide at Clark County Health Care Center, a nursing home in Owen, Wisconsin. I was depressed and I found it extremely hard to care for dying, elderly patients. It made me very sad and heartsick.

6. Unfortunately, upon leaving my job I could not afford to continue my thyroid medication and the blood tests required to monitor thyroid stimulating hormone (TSH) levels. Doctors would not prescribe me medication if I could not pay for the lab expenses, and I did not have health insurance.

7. I attempted to apply for BadgerCare, but was told by officials there was a waiting list of more than one year to process applications.

8. Without the medication, I fell into a deep depression. It was hard even to face the day, or get out of bed in the morning.

9. In late February or early March of 2014, I began using methamphetamine approximately two or three times a week, to help me get out of bed in the morning.

10. I also used marijuana during this time period, but very intermittently. I used marijuana on fewer than 10 occasions in the year preceding the end of July 2014.

11. I did not, however, feel much like drinking alcohol during this time period. In fact, I remember only having a beer on a few occasions in early 2014, and then did not drink alcohol at all, except for one half of one glass of wine I had at a birthday celebration at the end of July 2014.

12. In approximately the beginning of July of 2014, I thought I might be pregnant, but I was not sure, because not having the thyroid medication affects my menstrual cycle. I took a pregnancy test, and it appeared to be positive, but I still was not sure that the test was accurate, because of my thyroid condition. I had what appeared to be a spotty, light period at that time also, so I assumed I wasn't pregnant.

13. I also assumed that I wasn't pregnant because I understood that hypothyroidism would make it difficult for me to ever get pregnant.

14. I used methamphetamine again approximately two or three times after that test.

15. On approximately July 30, 2014, I took another pregnancy test, just to make sure. When that test came up positive, I believed for the first time I might really be pregnant.

16. I have not used any methamphetamine, marijuana, or any other illegal drug, nor have I had any alcohol to drink, since the day I took that second pregnancy test on approximately July 30, 2014.

17. Two days later, feeling deeply depressed, concerned that I might actually be pregnant and wanting confirmation of that pregnancy, and feeling extremely sick and fatigued and wanting help for my thyroid condition, I went to the Taylor County Department of Human Services to ask for help.

18. I also was experiencing extreme pain in my neck and back, and my head often hurt severely. A social worker there made some calls, and informed me that there was a bed available at the Behavioral Health Unit at the Eau Claire Mayo Clinic Hospital.

19. That day, August 1, 2014, I voluntarily admitted myself in to the Eau Claire Mayo Clinic hospital in Eau Claire, Wisconsin. As instructed by the social worker at Taylor County Department of Human Services, I went to the emergency room to be admitted.

20. While at the emergency room, I spoke with medical personnel and explained that I needed medical and psychiatric care, and explained my symptoms. I told them that I believed I was pregnant but wanted them to confirm that, and make sure that, if I was pregnant, the baby was okay.

21. That day, hospital personnel asked me for a urine sample, which I gave. No one at the hospital informed me that my urine would be tested for drugs.

22. Because I had stopped using drugs and had no intention of using them any longer, I was not seeking addiction treatment. I had never used methamphetamine or any other illegal drugs – besides very occasionally using marijuana – in my life before February of 2014. I have had serious medical problems in my life, but I never struggled with drug addiction.

23. I was not craving methamphetamine or any other drug when I entered the hospital, nor did I feel urges to use methamphetamine. It was not at all difficult for me to seek hospital care where I knew I would have no access to methamphetamine.

24. I understand that people can become addicted to methamphetamine, but I do not believe I was addicted. As stated above, I have not used it, or any other illegal drugs, at all – despite not having any drug treatment – since the day I took the second pregnancy test.

25. Shortly after taking the urine test, an emergency room doctor informed me that they had found “trace amounts” of methamphetamine and marijuana in my urine. No one showed me the results of the test.

26. The emergency room doctor also informed me that a pregnancy test was positive, and that I would be scheduled for an ultrasound.

27. I cannot remember quite how he put it, but the emergency room doctor told me that the drugs were very bad for the baby, but if I stopped now everything should be okay. I

expressed to him that what I wanted more than anything for my baby to be okay. I felt very emotional and thought that my baby might be hurt. The emergency room doctor comforted me and told me that we could “turn things around” and it would be okay.

28. While I was still in the emergency room and not yet admitted to the hospital, an ultrasound tech performed an ultrasound on me. I was incredibly nervous and worried about the pregnancy, especially because of my hypothyroidism and depression. I did not know what effect those conditions might have on the baby, and I was worried too about my previous drug use and its impact on the baby.

29. As much as I was not intending to get pregnant, and didn't believe that I could, I wanted to have this baby and wanted to take care of myself and this pregnancy as best I could. So, when the ultrasound tech said that she couldn't say anything to me about what she was observing, I felt very scared and frightened for my pregnancy, and even more distressed than I had been when I arrived at the hospital.

30. After the ultrasound, I was told to wait in an emergency room examination room. At one point, I opened the door and asked to use the bathroom; a hospital worker rudely told me to that I wasn't allowed to leave the room.

31. Finally, late in the evening, around 8:00 or 9:00 p.m., I was admitted to the Behavioral Health Unit by a nurse. I did not see another doctor that evening.

32. The next morning, I was given levothyroxine, the thyroid medication that I needed. I then saw Dr. Filza Hussain, a psychiatrist. She informed me that my TSH levels were very high; I believe she's the doctor who said that she had never seen TSH levels that high. She explained to me that healthy thyroid functioning is very important for a healthy pregnancy.

33. She also asked me about my drug use, and I explained that I had been self-medicating my depression with occasional marijuana but mainly with methamphetamine. I told her that I did this before I knew I was pregnant and I made that very clear. I told her very honestly about my use. I felt that if I was truthful and told them everything, that the doctors could help my baby somehow.

34. Later that evening, Dr. Jennifer Bantz met with me. She brought me into her office and had the ultrasound disc on her computer and showed me pictures of the baby. She told me the baby looked fine. I was so relieved I started to cry. I was so happy that someone had finally told me that the baby was okay.

35. She then told me about some studies, including one in Sweden, about drug use and the impact on children exposed to drugs during pregnancy, and she told me that studies show that there is not much conclusive evidence about the impact of methamphetamine and marijuana on children whose mothers used these drugs.

36. Dr. Bantz asked me about alcohol use, and I told her that during the time I was pregnant – but didn't know it – I had had a half of a glass of wine. She then talked with me about the harmful effects of alcohol on developing pregnancies, something I already knew because I know two people with fetal alcohol syndrome.

37. She also examined me because I shared with her some other concerns about my gynecological health. She asked me what I was thinking about for follow-up care for the pregnancy. I told her that I didn't know who was a good obstetrician in the Medford area. At one point, I even asked her whether she would be willing to take me on as a patient, because I thought at the time that she seemed nice and understanding. She suggested that Eau Claire was a little far for traveling, but that she would make a recommendation for me in the Medford area.

38. On approximately the third or fourth day of my hospital stay, I met with a social worker named Corinne Everson. I felt that the questions she was asking me were not helpful, and were focused on drug use. I told her and my nurse that I didn't want to speak with Corinne again, as she was so unhelpful and judgmental towards me.

39. Around that time, I began to feel very frustrated with the care I was receiving. I felt that everyone was very focused on the drug use instead of my health conditions. They said that they were doing all of this for my baby, but I felt like they didn't care about him (I know now that I'm having a boy) at all.

40. So, on approximately the fourth day of my stay, I told all my nurses and health care providers that I wanted to leave. I packed the few possessions I had with me and said "I checked myself in for care and I'm not getting care. You're hurting me more than helping me, and I don't want to be in this facility anymore. I want to leave."

41. At that point, the nursing manager told me that I couldn't leave, that there was a "hold" on me, and threatened to call security if I didn't get away from the door to the unit. I felt like they were treating me like a criminal, when all I wanted was someone to help me.

42. At that point, I called my boyfriend, Dondi Ellner, to tell him what was happening. He contacted a lawyer in Wausau for me.

43. On August 5th, Corinne Everson came into my room and told me there was a judge on the phone for me, and she told me I had to come with her to a conference room. I went with her, but she wouldn't really explain what was going on. As I sat down, I realized from all the talking on the phone that this was a formal thing, but I had no idea what was going on. So I said I didn't want to talk without representation.

44. When I first got to the conference room, Corinne put some kind of legal papers on the table in front of me, but I did not understand them. I did not have the phone number for the lawyer in Wausau, but I had his name and so I explained that I didn't have his phone number, but wrote down Dondi's phone number for her to call him and get the information.

45. Corinne was rude to me after I said that I wanted an attorney, and I told her I was going back to my room and I didn't want any part of this until I had a lawyer. I went to the nurse's station and asked them to keep the social worker away from me.

46. Corinne proceeded to follow me into my room and closed the door behind her. She tried to continue the phone call with the judge in my room. I knew my rights were being violated, so I picked up the hospital room phone and I tried calling my boyfriend because I wanted a witness. I wanted him to hear what was going on. Corinne took the phone out of my hands.

47. I finally laid down on my bed and faced away from her and said "just please leave, just leave me alone." She told me she was going to let the court know that I "refused to be in a hearing." I did not understand what "hearing" she was talking about, although I understood enough to know that it was about the baby and the drug use.

48. This was particularly upsetting because Dr. Anwar, a psychiatrist whom I had met with earlier, told me that there would be "no legal repercussions" for my prior drug use.

49. After that incident, I called the lawyer that Dondi had talked to, and I asked for help. I was hysterically crying and he said he was going to see what he could do and get back to me. In the end, I never hired him because I could not afford his \$1500 retainer fee.

50. At some point after this, Corinne Everson asked me to sign a release of my medical information for Human Services. I was so tremendously upset, and it is hard for me now

to remember the timelines of when this request was made, but I know that I refused to sign it. It seemed pointless since they had already apparently given my private medical information to Human Services anyway without my consent.

51. On approximately August 6th, still in the hospital receiving treatment, I was informed by a hospital social worker named Jarred Duellman that a judge had ordered me to stay in the hospital, and then go directly to an inpatient drug treatment program called the Fahrman Center.

52. I was shocked. I had not been told that there was any kind of court case against me. I had not understood that the phone call with a judge was actually a court hearing, and I do not remember receiving any papers of any kind until Jarred showed them to me that day.

53. I was also shocked that my private medical information and the confidences I placed in the doctors were shared with a court and social workers. I felt like my health care had been entirely abandoned and I no longer trusted these health care providers.

54. On August 7th, the same hospital social worker told me that I would need to take a blood test for tuberculosis before I could be admitted to the inpatient treatment program. I told him and the doctors that I would take a skin test for tuberculosis, but I was not going to let them draw blood from me and I was not going to stay in the hospital any longer. My trust in the hospital staff had been completely betrayed.

55. Before they let me leave, Dr. Anwar asked to meet with me. My mom and my boyfriend were visiting me at that time so I asked to have them accompany me to the meeting. Dr. Anwar asked if he could meet with me alone for a minute, and I agreed.

56. While just the two of us talked, Dr. Anwar asked me what was going on. I told him that “you told me there would be no legal repercussions, but I am being punished, and I want

my family to be present.” Dr. Anwar agreed but asked if Jared Duellman could be present. I agreed.

57. We all met and Dr. Anwar asked me what I wanted. I said I wanted to stay on thyroid medication, get a prescription for prenatal vitamins, to choose my own health care providers, and leave the hospital immediately to be with my family. I told him I wanted to continue to care for my pregnancy. Dr. Anwar agreed and told me that I was released from the hospital.

58. He never told me that if I left I would be doing something wrong, or that there would be a warrant out for my arrest. They released me with a prescription for levothyroxine and iron and I thought this whole thing was over.

59. On August 7th, 2014, I left the Mayo Clinic in Eau Claire, and went to the home of my mother, Marge Loertscher, in Medford, with my boyfriend Dondi. Dondi is also currently unemployed and we are struggling financially. My mother, our friends, and my grandparents have been kind enough to offer us places to stay while we try to get back on our feet.

60. The rest of my family has heard rumors that I am using drugs while pregnant, and have told me and Dondi that we are not welcome. My grandparents tell me to ignore them but this has caused sadness, resentment and tension within the whole family.

61. After I left the hospital, I located an obstetrician gynecologist’s office in Marshfield, Wisconsin and scheduled appointments for prenatal care. I continued to take my thyroid medication, prescribed during my hospital stay.

62. I did not use any alcohol, methamphetamines, or any other drug besides my thyroid medication, and the anti-depressant (Prozac) I had been prescribed while in the hospital, which I took for about a month.

63. I had been home for about a week at the home of my grandparents, Lucille and Allyn Loertscher, when someone came to the house and served me with papers. The documents had an August 25th court date on them. I did not understand the documents, so I tried to hire a lawyer and get advice. I actually met in person with the lawyer from Wausau, but could not hire him because of the cost of his retainer.

64. The next afternoon, a police officer came to my grandparents' home looking for me. I was upstairs in the bedroom and didn't come down. The police officer came back three times, and told my grandparents and my boyfriend that he had come to arrest me pending a court date, scheduled for a week later.

65. My grandfather was able to convince the officer not to arrest me, and told me that I could come downstairs while the officer was here, that it was okay, and that we would be at the scheduled hearing. The officer left then without arresting me.

66. I was horrified and humiliated that I could have been arrested. I did not understand what was happening, and felt extremely frightened and distressed. I had no way to come up with the money to hire an attorney to help me in that week between being served with the papers and having to go to the hearing.

67. Even though I did not have a lawyer and did not understand what was happening, on August 25th, I went to the scheduled hearing. My boyfriend, my mother, and my mother's boyfriend came with me. I did not have a lawyer and I did not understand what the hearing was about or what my rights were.

68. I asked for a different judge and so the judge stopped the hearing and said I would get notice of the next hearing date once a different judge was assigned.

69. That evening, another police officer came to my grandparents' home. The officer came to the door and said that there was a warrant out for my arrest. We explained that we had just been in court that very day and had a new hearing coming up. The police officer said "I don't know anything, I just know that there's a warrant."

70. My boyfriend Dondi asked the officer to please check and explained that we would be at the next hearing. Dondi explained to the officer that I was pregnant and stressed, and didn't need to be in jail.

71. The officer did try to make some calls; he then said that the only person he could reach to confirm the warrant was Courtney Graff, and the officer said she told him that the warrant out for me was valid. But we continued to plead with the officer, who finally agreed not to arrest me and left.

72. With my boyfriend, my grandmother, my mother, and her boyfriend, I went to court on the scheduled date, September 4, 2014. I had very little understanding of what was happening. I knew that I was accused of being addicted to illegal drugs, which I am not. There was no lawyer there to represent me. I had not met the people that were in the courtroom who were talking about me to the judge. No one explained to me my rights. The judge ordered me to go to jail or take a blood test and then go to the Fahrman Center.

73. Right after the hearing, I was taken into a room with Julie Clarkson and Liza Delaiden, social workers from Taylor County Department of Human Services. I asked what they wanted from me and they told me that they just wanted a healthy baby. I told them that was exactly what I wanted, too.

74. I asked them if this would all go away if I had an abortion. They said "yes." I was shocked.

75. The social workers then told me that police would escort me to the Fahrman Center, but I asked them to let my family take me later so I could get go home and pack my things. They agreed but insisted that I take a urine test.

76. I did take the test; the social workers told me that the test “looks like it’s slightly positive for THC” but they also said “it’s a faint line” and said “there’s a trace.” They talked back and forth about what to make of the result. I told them that I had not smoked any marijuana. Julie asked me “when was the last time you had THC.” I told her the truth – “it’s been so long I don’t even remember.” Once again, I felt like the worst was assumed about me and I was treated horribly. After that, they let me leave with my family and ordered me to go right to the Fahrman Center.

77. I was on my way to go to the Farhman Center, but I knew that I was not addicted to drugs, and so I refused to go to the treatment center. Instead, I presented myself to the Taylor County Jail.

78. I had no idea I would be treated the way I was treated in jail.

79. When I arrived at the Taylor County Jail, I was handcuffed and brought to a cell block with two other women. In addition to the terrible experience of just being in jail, several things happened there that increased my fear and depression, and put me in fear for my pregnancy.

80. First, the jail did not give me my thyroid medication on two separate occasions. They did not give it to me the first day I was there because my family was trying to bring it to me, but the jail staff wasn’t helpful, so it took some time for them to get it to me.

81. And then later on during my stay, when they were waiting on a refill of my prescription, jail staff refused to give it to me when the medicine arrived, and said it was okay for me to miss a dose and would keep the medicine on a schedule. I have always been advised by doctors to take the medicine as soon as possible after a missed dose; it is not okay to miss a dose.

82. While I was in jail, I missed two prenatal care appointments I had previously scheduled. I asked to be taken to these appointments but was told that it was my own fault for being in jail.

83. During the whole time I was in jail I did not get to see an obstetrician or get any prenatal care.

84. I was having cramping and pain throughout my stay in jail, probably because of stress, but the cramping became really severe around the end of the first week in jail and I was frightened that I might have a miscarriage. I asked repeatedly to see an obstetrician, and was finally told I could see the jail doctor.

85. That night, to monitor my symptoms, I was put in a solitary observation room. I had to sleep on a hard, inclined plastic exam table, with bright lights from the booking office shining in all night. I asked to go back to my cell because I was so uncomfortable, but they refused until I was able to see the jail doctor the next day.

86. At that point I had already missed the prenatal care appointment that I had previously scheduled. The jail physician was not an obstetrician gynecologist. Rather than examine me, other than feeling my stomach, she said "if you're going to miscarry while you're here, there's nothing I can do about it." This response made me extremely upset and frightened for my pregnancy.

87. She then asked me to take a urine test to confirm the pregnancy. Since everybody already knew I was pregnant – that was what I was in jail for! – I refused and was put back in the observation cell.

88. Because I refused to take a pregnancy test, two guards came to the exam room and insisted I take the urine test. When I again refused, a guard named Judy Daney threatened to keep me in solitary confinement for 30 days, and then suggested she was going to use a Taser on me: she loudly asked the other guard, in front of me, “where’s the Taser?” and he quietly said to her, “you’re not going to do that.” I started yelling “you’re going to threaten to tase a pregnant woman?”

89. At that point, those two guards escorted me to solitary confinement. I was put in a cell with nothing but a filthy toilet, a roll of toilet paper, and a metal bed frame without a mattress, and was kept there for a full day and night. At some point in the night, a guard brought me a mattress pad and a thin blanket, but then another guard took them away the next morning.

90. Several times during the day, a guard would open the door and ask me if I was going to take the urine test. Each time I said no.

91. Finally, the next morning, a guard took me to the jail doctor. The doctor and a guard named Jennifer Johnson told me that if I was not compliant, I would have to stay in jail and deliver my baby in jail, with guards accompanying me to the prenatal care appointments. But then the doctor seemed to change her mind, and finally told me that I did not have to take the pregnancy test, and no one would bother me about it again.

92. I was escorted back to solitary confinement. I was finally returned to my regular cell later that day.

93. A few days later, while in jail, I did agree to take a urine test to test for gynecological infection. The doctor called me back and said I didn't have an infection or anything, saying "it [the test] came back really good." I didn't quite know what that meant, but thought maybe I was tested for drugs.

94. Julie Clarkson of Taylor County Department of Human Services came to the jail and met with me sometime after that test. She claimed that there were "slight traces" of THC in that urine test – a test that no one told me would be used to test for drugs.

95. I told her that was impossible, I hadn't used any drugs, and the jail doctor hadn't said anything about it either. At this point, I didn't know what to believe from anyone; all I knew was that I hadn't used any illegal drugs since finding out I was pregnant before I went to the Eau Claire hospital. This whole experience felt absolutely nightmarish.

96. While I was in jail, I found a list by the phone of all the public defenders in the county. I called the number, and talked to an intake worker, and explained that I needed representation. A lawyer named Justin Wolff was appointed to represent me.

97. Mr. Wolff met with me a few times in the jail. Upon his advice, I signed a consent decree that would ensure my release from jail.

98. The consent decree required me to take drug tests at my own expense, and to have a drug and alcohol evaluation. I was willing to do this because I knew I wasn't using and did not have a problem with drug use.

99. I was released from jail after 18 days. I have followed the terms of the consent decree since that time.

100. In the over two months that I have been out of jail, I have taken numerous drug tests, all of them negative, and have completed an alcohol and drug assessment. The assessment

recommends that I get engaged in mental health counseling and continue to take drug tests, but does not state that I have a substance use disorder nor does it recommend inpatient treatment.

101. About ten days after I was released from jail, I received a letter saying that the Taylor County Human Services Department had made a finding that I committed “child maltreatment.” I was, again, completely shocked, dismayed, and extremely distressed at this letter.

102. I appealed the finding, which was upheld in a “desk review” by the Taylor County Department of Human Services.

103. I understand that if that finding is upheld again on appeal, I will be permanently added to the Wisconsin Central registry of child abusers. This will prevent me from getting work as a nurse’s aide, in addition to any work I would want to do in the future in the health care profession, as a daycare worker, in education, or as a volunteer with children.

104. Once out of jail, I immediately saw an obstetrician gynecologist in Marshfield. However, I wanted a different provider, one that would provide the facilities for a water birth, which is the kind of birth I’m hoping to have. I am now regularly attending prenatal care at a midwifery practice at the Marshfield Clinic in Eau Claire, where I plan to deliver.

105. At this stage in my pregnancy, I attend weekly appointments. They have told me that everything is fine. The baby’s heartbeat is strong and even, and I am measuring right on track. I know from ultrasound that I am having a boy, whom my boyfriend and I have already named Harmonious Orion, because we both love music.

106. It is a struggle to prepare for my baby’s arrival without a home and employment, but we have been staying with friends and family, and friends from other states are helping us out by sending car seats and baby clothes. We feel that we can’t leave Medford because of all

these legal proceedings, but there are few employment opportunities here. My boyfriend has received a job offer in Pennsylvania, and we would like to move, but we can't because of these legal proceedings.

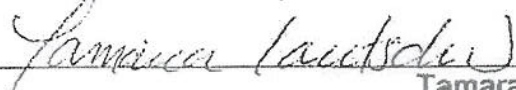
107. I also feel that my reputation has been seriously damaged by having been sent to jail. Within a short time of my hospital stay, many people in our small community knew of the accusations against me. My mom says that people who know me post negative things about me on Facebook, although I don't read it. This has been hard on my family's reputation too, and I feel like a burden on my grandparents, with whom I am very close.

108. I try to remain hopeful through all of this, but it is hard. I still feel depressed, although not as severely as I did before I was able to get thyroid medication. My thyroid levels are still higher than they are supposed to be, and I will be seeing an endocrinologist in Eau Claire soon.

109. I am doing everything I can to take care of myself for the sake of my baby, and I can't wait to meet him and hold him. The stress of these legal proceedings has been terrible, and I worry a lot about the impact this has had on my pregnancy. I firmly believe that the hospital and the social workers and the courts have harmed me, not helped me, at a time when I my health was at its lowest and I was asking for help.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct to the best of my knowledge.

Dated this 5th Day of January, 2015.



Tamara Loertscher