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BC woman launches challenge for right to legal representation in *Mental Health Act* detentions

VANCOUVER, B.C. – On Friday, August 12, 2016, Z.B., a woman currently detained in hospital as an involuntary patient under the *Mental Health Act*, launched a legal challenge in the B.C. Supreme Court, arguing that she has the constitutional right to a government-funded lawyer at an upcoming review of her detention.

Z.B. has asked the Court to grant an injunction requiring the Province to provide her with a lawyer for her Mental Health Review Board hearing on August 23, 2016. Her full constitutional arguments will be heard at a later date.

Z.B. cannot afford to hire a lawyer and had requested legal aid representation from the Community Legal Assistance Society (CLAS), which contracts with the Legal Services Society to provide legal aid for Review Panel hearings. Despite her eligibility for legal aid, CLAS denied her request because it did not have a lawyer available to represent her at the time of her hearing. Since 2009, it is well-documented that CLAS has been chronically under funded by the provincial government in this critical area, such that it is not able to meet the demand for its services.

Mark Underhill, a partner with Underhill Gage Litigation and lead counsel for Z.B., states “Z.B. has a constitutional right to a fair hearing to challenge her detention. In her case, there is no serious question that she requires legal representation to have any chance at a fair hearing.”

Kate Feeney, a staff lawyer at the BC Public Interest Advocacy Centre (BCPIAC) and counsel for Z.B., states, “the BC government’s ongoing failure to meet its legal aid obligations to involuntary patients has put Z.B. in the unacceptable position of having to fight for her right to lawyer during an exceptionally difficult time in her life.”

Grace Pastine, Litigation Director at the BC Civil Liberties Association, stated: “Most involuntary patients do not have the capacity to represent themselves at Mental Health Review Board hearings. These hearings are complex and almost all involuntary patients have or are perceived to have mental health problems. Many are also dealing with the side effects of psychiatric treatments such as mind-altering psychotropic drugs and electroconvulsive shock therapy.”

As Commissioner Leonard T. Doust, QC said in his 2011 report “Foundation for Change: Report of the Public Commission on Legal Aid in British Columbia,” for those individuals trying to navigate the *Mental Health Act* hearing process without legal representation, “[i]t **almost goes without saying that this is a profound violation of the rights of one of the most vulnerable segments of our community**”. [emphasis added]

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