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Judge slaps down defenses by operators of Tacoma immigration jail over \$1 a day paid to detainees for work

A federal judge has struck down defenses offered by the private company that runs the Northwest Detention Center (NWDC) in Tacoma, opening the way for the state to force The GEO Group to turn over profits to compensate immigration detainees and start to pay them minimum wage, rather than the \$1 a day the company has paid up until now. U.S. District Judge Robert Bryan granted a motion filed by the office of Attorney General Bob Ferguson to dismiss a series of so-called “affirmative defenses” posed by the company that would have blocked Ferguson’s lawsuit, ruling that the lawsuit was not untimely. Bryan also found that the attorney general did not act with “unclean hands” — meaning the lawsuit was not filed in bad faith — and said it was not a defense that the AG did not include Immigration and Customs Enforcement (ICE) or the Department of Labor & Industries (L&I) in the lawsuit. ICE is the agency that hired GEO to run the center, and L&I enforces the state’s Minimum Wage Act. The ruling, issued Monday, is the latest blow to the private company trying to defend itself against a lawsuit filed by Ferguson in 2017, asking the court to force GEO to comply with the state’s Minimum Wage Act. GEO has owned and operated the 1,575-bed NWDC since 2005 under a contract with ICE. Last year, Bryan ordered GEO to turn over financial information to the AG’s office, but stopped short of saying that information could be used at trial. The GEO Group, in a statement Monday, did not address the ruling. Instead, it attacked Ferguson for filing the lawsuit, claiming it was done for political gain. “The Attorney General’s claims are politically motivated,” the company said in a prepared statement. The so-called Voluntary Work Program is used in all ICE Processing Centers, the company said, and has “been in place for decades.” The program, GEO said, “became part of the ICE performance-based standards under the Obama Administration.” GEO said it has been abiding by “federally mandated standards and congressionally established guidelines.” Ferguson, a Democrat, filed his lawsuit after the 2016 election of President Donald Trump, whose anti-immigrant rhetoric has been a cornerstone of his administration. “Today’s decision puts us one step closer to ensuring GEO complies with state laws and doesn’t take advantage of Washington workers,” Ferguson said through a spokesman. The trial is set for Sept. 23. GEO pays detainees \$1 per day to volunteer for tasks such as janitorial or kitchen work. Washington’s minimum wage is now \$12 per hour. The state wants GEO to give up the profits it has made relying on detainee labor over the years, which would likely amount to millions of dollars. In an earlier ruling, the judge said GEO had failed to show that Washington state’s minimum wage law, to the extent it applies to detainees, is overridden by federal law prohibiting the employment of people who entered the county illegally. That law says it’s up to the federal government, not the states, to impose sanctions on those who hire people who entered the country illegally. In ruling on the timeliness of the lawsuit, the judge pointed out that while the state has known of the \$1-a-day practice since at least 2014, he said the company failed to show that waiting three and a half years to file the action amounted to an “unreasonable delay” that would have blocked it from going forward. GEO said that it had evidence that an unnamed state legislator was made aware of the practice in 2009. However, Bryan said that does not mean the governor, Ferguson, or other members of the executive branch, which is responsible for enforcing the law, could be imputed to have known about it. GEO argued that the state was acting in bad faith in filing the lawsuit against the \$1-a-day pay rate for immigration detainees while employing state prison inmates in a variety of jobs that also pay significantly below minimum wage. Bryan rejected that argument, finding it was not relevant since the state’s practice is authorized by statute, not policy.