

No. 18-1303

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

JUDITH GRAY,

Plaintiff-Appellant,

v.

THOMAS A. CUMMINGS; TOWN OF ATHOL, MASSACHUSETTS,

Defendants-Appellees.

On Appeal from the United States District Court
for the District of Massachusetts (No. 4:15-cv-10276-TSH)

**MOTION OF AMERICAN PSYCHIATRIC ASSOCIATION, AMERICAN
PSYCHOLOGICAL ASSOCIATION, AND THE JUDGE DAVID L.
BAZELON CENTER FOR MENTAL HEALTH LAW FOR LEAVE TO
FILE BRIEF AS *AMICI CURIAE* IN SUPPORT OF NEITHER PARTY**

Pursuant to Federal Rules of Appellate Procedure 27 and 29, the American Psychiatric Association, the American Psychological Association, and the Judge David L. Bazelon Center for Mental Health Law (together, “movants”) hereby respectfully move for leave to file the attached brief as *amici curiae* in support of neither party in the above-captioned appeal.

Counsel for *amici* has notified counsel for the parties of *amici*’s intention to submit this brief. Plaintiff-appellant and defendant-appellee Thomas A.

Cummings consent to the filing of this brief; defendants-appellee Town of Athol has not yet taken a position on this motion.

In support of their motion, movants state as follows:

The American Psychiatric Association, with more than 37,800 members, is the nation's leading organization of physicians who specialize in psychiatry. Members of the American Psychiatric Association are physicians engaged in treatment, research, and forensic activities, and many members regularly perform roles in the criminal justice system. The American Psychiatric Association has participated as *amicus curiae* in numerous cases in the United States Supreme Court and in the courts of appeals, including *City & County of San Francisco v. Sheehan*, 135 S. Ct. 1765 (2015).

The American Psychological Association is the largest association of psychologists in the United States. A non-profit scientific and professional organization, the American Psychological Association has approximately 115,000 members and affiliates, including the vast majority of psychologists holding doctoral degrees from accredited universities in the United States. Among the American Psychological Association's major purposes are to increase and disseminate knowledge regarding human behavior, to advance psychology as a science and profession, and to foster the application of psychological learning to important human concerns, thereby promoting health, education, and welfare.

The Judge David L. Bazelon Center for Mental Health Law (“The Center”) is a national public interest organization founded in 1972 to advance the rights of individuals with mental disabilities. The Center advocates for laws and policies that provide people with mental illness or intellectual disabilities the opportunities and resources they need to participate fully in their communities. Its litigation and policy advocacy is based largely on the Americans with Disabilities Act’s guarantees of non-discrimination and reasonable accommodation. The Center has long worked to promote the diversion of people with mental illness from the criminal justice system and for safer police practices.

These organizations and their members have dedicated substantial effort and resources to studying, analyzing, and developing practices to reduce the risks that arise from encounters between law enforcement and individuals with mental illnesses. Many such encounters arise from circumstances, like those present in this case, that involve primarily, if not exclusively, a police encounter with an individual who requires treatment and that should not lead to criminal justice system intervention. There is accordingly a pressing need for police and other law-enforcement personnel to be trained to intervene appropriately and safely during encounters with individuals who may need such treatment – just as they are trained to respond appropriately in other situations requiring medical treatment. Legal rules governing arrests, including involuntary detention that results from calls for

assistance in transporting individuals for medical treatment, should recognize and provide appropriate incentives for law-enforcement authorities to adopt available practices to mitigate risks to both officers and individuals with mental illnesses during arrests. *Amici* believe that such legal rules include the obligation, under the Americans with Disabilities Act of 1990 (“ADA”), to provide reasonable accommodations for individuals with serious mental illness.

For the foregoing reasons, movants respectfully request that the Court grant them leave to file the attached brief as *amici curiae*.

Dated: September 6, 2018

/s/ David W. Ogden

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT

This motion complies with the type-volume limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 27(d)(2) and 32(f), this motion contains 577 words.

This motion has been prepared in a proportionally spaced typeface using Microsoft Office Word 2013 in Times New Roman, 14-point font.

/s/ Aaron M. Panner
Aaron M. Panner

September 6, 2018

CERTIFICATE OF SERVICE

I hereby certify that, on September 6, 2018, I electronically filed the foregoing document with the United States Court of Appeals for the First Circuit by using the CM/ECF. I certify that the following parties or their counsel of record are registered as ECF Filers and that they will be served by the CM/ECF system:

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