

BC woman's *Charter* challenge forces provincial government to provide legal representation to all people detained under the *Mental Health Act*

VANCOUVER, B.C. – A BC woman known as Z.B. has won an important legal victory ensuring that everyone detained under the *Mental Health Act* has access to legal representation when their continued detention is under review. The BC government has settled Z.B.'s *Charter* challenge by agreeing to adequately fund legal aid for individuals detained under the *Mental Health Act*.



In August 2016, Z.B., who was then involuntarily detained and hospitalized, launched a *Charter* challenge arguing that she had a constitutional right to legal representation at her review hearing. Z.B. could not afford a lawyer and had requested legal aid from the Community Legal Assistance Society (CLAS), which contracts with the government to provide legal aid to involuntary patients. Although Z.B. was eligible to receive legal aid, CLAS had no choice but to deny her request solely because it did not have capacity to provide her with representation at the time of her hearing. It is well documented that the BC government has chronically underfunded legal aid for many years, such that CLAS has been forced to deny legal aid to hundreds of eligible involuntary patients every year since approximately 2009.

On the same day that Z.B. launched her *Charter* challenge, the BC government agreed to provide her with legal aid for her review hearing. However, Z.B. was determined to help other involuntary patients, who can be not only detained against their will but also forcibly medicated, and demanded a systemic response to her case. In December 2016, after months of negotiations,

the BC government agreed to provide CLAS with additional annual funding to enable them to provide legal representation without delay to all involuntary patients who want legal aid for their review hearings and are financially eligible to receive it.

Kate Feeney, a staff lawyer at the BC Public Interest Advocacy Centre (BCPIAC) and counsel for Z.B., states, “We want to thank Z.B. for taking on this case and for sharing her very personal story with the public. Her courage during a difficult time in her life resulted in a remarkable systemic solution after years of government inaction.”

Caily DiPuma, Acting Litigation Director at the B.C. Civil Liberties Association (BCCLA), which has been a supporter of this case, states: “Few rights are more fundamental to human liberty than freedom from unconstitutional or arbitrary detention – including the right to be free from forcible medical interventions. The outcome in this case ensures that British Columbians involuntarily detained under the *Mental Health Act* receive adequate legal representation as guaranteed by the *Charter of Rights and Freedoms*.”