

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

THE PEOPLE OF THE STATE OF NEW YORK Ex
Rel. Philip Desgranges, Esq., on behalf of JOHN
PACE, EARL COLEMAN, TONI DILAURO,
JOSHUA WHIDBEE, AND ALL OTHERS
SIMILARLY SITUATED,

Petitioners,

v.

MICHAEL SCHIFF, Sullivan County Sheriff; and
ANTHONY ANNUCCI, Acting Commissioner, New
York State Department of Corrections and Community
Supervision,

Respondents.

**AFFIDAVIT OF JOHN PACE IN
SUPPORT OF VERIFIED CLASS
HABEAS PETITION**

STATE OF NEW YORK)
COUNTY OF SULLIVAN) ss:

I, JOHN PACE, being duly sworn, depose and say:

1. I'm a 61-year-old man from Middletown, New York. I am incarcerated in the Sullivan County Jail. I have tested negative for COVID-19.
2. I am willing to serve as a class representative in this case and have no foreseeable conflicts of interest with other class members.

Why I'm In Jail

3. I've been in the jail for eight months. I'm here pre-trial. I've been accused of Burglary 2 and related charges. The Incident Report is attached.
4. I don't have violent crimes in my history.

My Medical Issues

5. I was tested for COVID-19 around May 15. The test came back negative.

6. I have chronic obstructive pulmonary disease (COPD) and a heart condition involving right bundle blockage, and I have two stents in my heart. Of my heart ventricles, one doesn't work properly. It doesn't squeeze the total amount.
7. I have two inhalers. One is a steroid inhaler that I use about once a day. The other one is a rescue inhaler.
8. I also have had melanoma. I had two cancers on my arm last year. I have two more that I need to have removed.

The Jail Conditions

9. The jail conditions are awful. The conditions are so bad that the state made them come up with a new jail. There is toilet water and shower water leaking in our cells from above. My cell is covered in bugs, and there is filth on the floor and black mold behind the mirrors and sinks. Everything is made of metal, not stainless steel. It's all rusted out. There are holes in the floor and ceiling. There is no hot running water, only cold water.
10. For us to clean, they give us a mop and cleaning supplies that other people from other units have touched.
11. There is no light in the cell, so I can't even read.
12. I am on A block, what they call the "medical wing." They call it that because we are on the first floor, so we are the closest to the nurse's station. They keep us together for the convenience of when they hand out medication, and supposedly in case you have a problem. The "medical" block is otherwise identical to the other blocks. I've been through the jail when they used to take us upstairs to the top floor to rec. I could see the floors were the same as I went up.

13. There are no medical staff here overnight. If someone had a heart attack, they would have to call an outside ambulance. Once, someone in his 80s who was on blood thinners bled from his nose for three to four hours at night. The COs kept giving him gauze and telling him to just use the gauze.
14. My room is a cell. The other three men on the block have diabetes, a heart condition, and a fracture in the face. This unit was not established to protect us from COVID, though we all have tested negative. We were placed here before the lock-down and before the pandemic. We have been in this unit since each of us have been here in the jail. I have been here since November 2019 when I came in the jail.
15. I put in for dental slip 2 to 3 times in the time I've been here but have never seen a dentist.
16. The air is not being filtered, it's just coming in from the men next door. The fan circulates the air coming in from upstairs and downstairs, including the other blocks where people have tested positive.

COVID-19 and the Jail's Response

17. The jail has issued two memos about COVID. Around April 9, they handed out a memo that said that we are getting masks, which are a one-time issue. The mask was paper thin and meant to be disposable. But we were told to hold onto it and not use it much because we had to make it last.
18. The other memo said they will follow other jails in stopping all visits and instead give us two free letters a week and two five-min phone calls.
19. Now, we are on lock-down. Everyone is isolated, and we can leave our cells for half an hour in the morning, half an hour at night. At that time, I use the phone or use the shower.

20. We have no law library and no outside rec.
21. The kitchen is now serving food on Styrofoam instead of the reusable trays and with Saran wrap on top of it. A correction officer comes and hands us the food.
22. No one has taken any special precautions to protect me from serious illness or death from COVID-19 given my medical vulnerabilities.
23. Though we are labeled a “clean” unit based on the sign on the outside of the unit door, there are still ways for us to have regular contact with people who could be positive. There are still people moving around jail, like the guards who go out of the jail and come back on their breaks. There are numerous breaks a day. They get an hour break at a time. They wear masks, but not all the time. They take off the masks when they’re at their desks.
24. They take our temperatures when they give our medication out. When the staff hand us medication, they can’t keep six feet away. On our unit, our tier is not even six feet wide outside our cells. When I use the phone, I’m right outside Mr. Barnett’s cell. He has to be inside the toilet in his cell to keep the distance from anyone using the phone.

I certify under penalty of perjury that the foregoing has been read to me in its entirety and is true and correct.

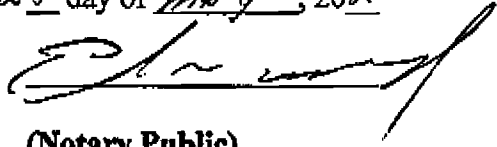
John A. Pace
JOHN A. PACE

Dated: May 28, 2020

Monticello, N.Y.

Sworn to before me this

28 day of may, 2020



(Notary Public)
ELWIN M. WOOD
Notary Public, State of New York
Sullivan County Clerk's # 2623
Commission Expires July 21, 2023