

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

M.C. and T.G., on behalf of themselves and all similarly situated individuals,

Plaintiffs,

v.

JEFFERSON COUNTY, NEW YORK;  
COLLEEN M. O'NEILL, as the Sheriff of  
Jefferson County, New York; BRIAN R.  
McDERMOTT, as the Undersheriff of Jefferson  
County; and MARK WILSON, as the Facility  
Administrator of Jefferson County Correctional  
Facility,

Defendants.

Case No. 6:22-cv-190 (DNH/ATB)

**DECLARATION OF ANTONY P.F. GEMMELL  
IN SUPPORT OF MOTION FOR CLASS CERTIFICATION**

I, Antony P.F. Gemmell, hereby declare:

1. I am an attorney at the New York Civil Liberties Union Foundation (“NYCLU”) and am admitted to practice law in the State of New York and before this Court.
2. I serve as counsel for Plaintiffs in this putative class action and am fully familiar with the facts and circumstances of this proceeding.
3. I submit this declaration in support of Plaintiffs’ motion for class certification.

***The NYCLU’s Adequacy as Class Counsel***

4. The NYCLU has extensive class-action litigation experience, including in the prison and jail litigation context, and has successfully sought class-wide injunctive relief in

numerous federal forums. *See, e.g., V.W. v. Conway*, 236 F.Supp.3d 554, 577 (N.D.N.Y. 2017) (Hurd, J.); *Peoples v. Annucci*, 180 F.Supp.3d 294, 308 (S.D.N.Y. 2016).

5. The attorneys litigating this matter also have significant experience serving as class counsel in federal litigation. I serve or have served as class counsel in *Peoples* and *Lewis-McCoy*, as well as *Duchitanga v. Lloyd*, 1:18-cv-10332 (S.D.N.Y.); *L.V.M. v. Lloyd*, 1:18-cv-1453 (S.D.N.Y.); and *Jorge v. N.Y.C. Transit Auth.*, 1:14-cv-9946 (S.D.N.Y.). Molly Biklen, the NYCLU's Deputy Legal Director, served as class counsel in *Lewis-McCoy v Wolf*, 1:20-cv-1142 (S.D.N.Y.). Terry Ding, a staff attorney at the NYCLU, serves as putative class counsel in *Velasaca v. Wolf*, 1:20-cv-1803 (S.D.N.Y.).

6. The NYCLU is committed to serving the interests of the class and has the resources and expertise to do so.

7. Before moving for class certification, counsel spent significant time identifying and interviewing people affected by the treatment ban at issue in this litigation.

***The NYCLU's Contact with Numerous Putative Class Members in the Past Month.***

8. Following the Court's preliminary injunction decision in *P.G v. Jefferson County*, No. 5:21-CV-388, 2021 WL 4059409 (N.D.N.Y. Sept. 7, 2021), the NYCLU has made contact with numerous individuals at the Jefferson County Correctional Facility who report being diagnosed with opioid use disorder for which they were receiving prescribed treatment with agonist medication for opioid use disorder ("MOUD")—either methadone or buprenorphine—at the time they entered Defendants' custody.

9. Without exception, each of these individuals reports that the jail denied them access to their prescribed MOUD, triggering painful and protracted withdrawal. Those who report having specifically requested to continue their treatment, which accounts for most such

individuals, invariably report that jail staff, including medical staff, have told them the jail neither provides nor allows access to treatment with agonist MOUD.

10. In the last month alone, the NYCLU has spoken with almost a dozen individuals who report the jail has denied them access to prescribed agonist MOUD for the duration of their confinement in Defendants' custody at the jail.

11. These individuals include Plaintiff T.G.; J.C., as well as M.S.C., R.G., and S.G., all of whom are referenced in the Complaint; and four others. And this does not account for several individuals identified as having been denied access to prescribed MOUD but with whom the NYCLU has not yet been able to make contact.

12. Of the individuals identified above, three—M.S.C., R.G., and S.G.—were released or transferred from the Jefferson County Correctional Facility before the NYCLU could consider further advocacy on their behalf, reflecting the significant barrier to identifying and speaking with individuals with untreated OUD detained at the jail in time to obtain relief on their behalf.

13. The accounts of these individuals are consistent with data the NYCLU previously received from Jefferson County, attached hereto as **Exhibit A**, reflecting that more than one hundred people at the jail were identified as having OUD between 2018 and 2019.

***Jail Officials' Thwarting of NYCLU's Legal Correspondence with Detained Individuals.***

14. Another significant barrier to the NYCLU's ability to assist individuals who have been denied access to prescribed MOUD at the jail—including Plaintiff T.G.—has been apparent efforts by jail officials to intercept, monitor, and withhold confidential legal correspondence between the NYCLU and individuals detained at the jail.

15. Because in-person legal visitation is currently suspended at the jail, the only means by which the NYCLU and its prospective clients at the jail can transmit confidential legal correspondence—including documents to be signed—is by mail identified on the exterior as confidential legal mail.

16. Beginning in early February, the NYCLU has experienced a series of unanticipated delays in its written correspondence with individuals detained at the jail. On multiple occasions, confidential legal correspondence that the NYCLU sent via overnight mail has not been received by individuals at the jail, including Plaintiff T.G., until weeks later.

17. Recently, the NYCLU discovered the cause of at least some of these delays: As reported by multiple individuals detained at the jail, including Plaintiff T.G., Defendants have been intercepting, opening, photocopying, and delaying the delivery of the NYCLU's confidential legal mailings.

- a. On February 11, S.G. reports that he and two other individuals were called into a hallway by Officer Patterson and provided photocopies of confidential legal mailings that each had received from the NYCLU. S.G. reports that Sergeant Larkin, who was also present, stated that all three legal mailings—opened by jail staff and photocopied one after the other—had been misidentified as non-legal mail.
- b. On February 2, the NYCLU sent confidential legal correspondence, marked as such, via overnight mail to J.C. J.C. reports that he did not receive the mailing until around February 18. He reports the mailing had been opened without his consent and photocopied, and that an enclosed return envelope was missing.

- c. On February 2, the NYCLU sent confidential legal correspondence, marked as such, via overnight mail, to Plaintiff T.G. T.G. reports that she did not receive the mail until around February 24. She reports that she usually receives mail at the jail without incident. But on this occasion, T.C. reports that Officer Patterson gave her the mail only when she went to his office to request a legal call. She reports the mailing had been opened without her consent and photocopied, and that an enclosed return envelope was missing.

18. These incidents raise serious concerns that jail officials at the Jefferson County Correctional Facility are intercepting, monitoring, and delaying confidential legal correspondence between the NYCLU and individuals detained at the jail—including Plaintiff T.C.—as a means to thwart putative class members access to counsel.

19. On February 28, 2022, based on these concerns, Terry Ding, one of the counsel on this case, read the contents of the Declaration of T.G., dated February 28, 2022, verbatim to T.G. via telephone. Having confirmed the accuracy of the contents of the declaration, T.G. then authorized Plaintiffs' counsel to affix an electronic signature to the declaration in lieu of her physical signature.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 1, 2022  
New York, New York

/s/ Antony P.F. Gemmell  
Antony P.F. Gemmell