

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 MICHAEL
MACKAWGY IN SUPPORT OF
VERIFIED CLASS HABEAS
PETITION**

STATE OF NEW YORK)
COUNTY OF SULLIVAN) ss:

I, MICHAEL MACKAWGY, being duly sworn, depose and say:

Background

1. My name is Michael Mackawgy and my date of birth is August 20, 1997. I live in Middletown, NY. I am incarcerated at Sullivan County Jail. I have been incarcerated in the "G-Block" since March 5, 2020. I have tested positive for COVID-19.

Why I'm in Jail

2. I am incarcerated for a technical parole violation, for crossing the county line between Orange and Sullivan counties. I was also charged with possession of stolen property and violated for failure to report police contact. I was released on my own recognizance in the

criminal case for the stolen property charge, and that case has not yet gone to trial. I am in jail only on a parole hold. I am supposed to have a final parole hearing on June 3, 2020, but that hearing has been postponed several times.

My Medical Issues

3. I have stage 1 hypertension, high blood pressure, and a heart condition. I take Lisinopril and what I think is Hydrochlorothiazide every morning. I must take my blood pressure medication every day or my blood pressure will skyrocket. I also take Prozac for my mental health.
4. On May 14, I was tested for the coronavirus. I got a positive result on May 16. The symptoms began four days earlier. I had a chest and abdominal pain and an intermittent throbbing headache. I feel my heart beat stronger than usual, my skin is very sensitive and painful to the touch, and I have a rash. My nose is congested, I have a cough, nosebleeds, and clogged ears. I have no sense of smell and experienced a temporary loss of taste. I have had bad headaches in the last few days and bad diarrhea.
5. I have told the nurses about the symptoms. They have not given me anything for any of these symptoms except Tylenol.
6. I am worried that, given my heart condition, the jail will not be able to respond quickly enough to save my life if I suffer a medical emergency.
7. No one has taken any special precautions to protect me from serious illness or death from COVID-19 given my medical vulnerabilities.

COVID-19 at Sullivan County Jail

8. I am in G-Block on the fourth floor of the jail, where 18 out of the 20 men there tested positive for the coronavirus.

9. There were two men in G-Block who tested negative on May 16 and were transferred to another block. I think those men, one of whom is my cousin, may be or will become positive regardless since they had continuous close contact with all of us who are sick. My cousin and I had been sharing a drinking cup shortly before we were tested.
10. Prisoners on G-Block repeatedly expressed concerns to the COs (correctional officers) that coronavirus was spreading through the jail. The CO's response was dismissive, with remarks like, "It's flu season."

The Jail Conditions

11. We cannot social distance in the G-Block dorm. The beds are spaced about 3 feet apart and 18 out of 50 beds are occupied. However, we are still bunched together. Both of the beds adjacent to me are occupied. The beds are all bunched together and you are assigned a bed by the corrections officers.
12. There is no air circulation in the block. It is impossible to avoid breathing in the same air where others with the virus were recently present. The air vents are not functional. The standing fans on the block are the only means of circulation. The fans are not helping. There are about 16 windows, and one about 2 open a little, while the rest are caged up and can't be opened. Everyone is constantly hot and uncomfortable. We all feel like we are going to pass out from the heat.
13. There is black mold, mildew and rust all over the jail. It is especially bad in the sinks, showers and bathrooms.
14. Only one corrections officer monitors the entire dorm unit at a time. There is a different corrections officer on the block every day.

15. Medical comes up to block twice a day, around 9-9:30AM and again around 8:30-9PM. If there is an emergency, corrections officers will call medical up to the block. The medical staff rarely say anything other than “you’re fine” and give you an over-the-counter painkiller. The nurses are supposedly on call during off hours from 10PM to 8AM. They would have to be called in from home if there was an emergency. I have never seen or heard of this happening.
16. For Sick Call, you have to ask a corrections officer for a slip and then fill it out. The CO then takes it back and delivers it to medical. Medical is supposed to respond within 24 hours. But response has been slow. Nobody is being taken to the medical unit, and instead medical comes up to the block and always tells the caller that they’re fine. The sick call response typically consists of being given an over-the-counter painkiller. Sick calls related to COVID-19 consist of only a blood pressure check.
17. I received no response for a sick call I put in two weeks ago, when I had complained that I felt symptoms of COVID-19.
18. Some corrections officers have said they leave sick call slips on the table rather than delivering them to the medical unit.
19. The COs write down grievances. We tell them and they write them.

The Jail’s Response to COVID-19

20. The jail has locked us in on the block. The dorm is a big death box. When we ask for help, we don’t get it. Another man on my unit named Justin Ellis was having severe chest pains and couldn’t breathe. The medical staff used a stethoscope to monitor him and told him he was fine.

21. The staff tries to avoid prisoners, but no distancing between prisoners is possible or enforced.
22. We get our temperatures checked every day with a gun-style wand thermometer. I think the wand thermometer doesn't work well because there is a huge variance in the results every day - as much as a 5 degree difference on the same person in the same morning.
23. During sick calls, we are asked if we are okay without being asked any specific questions about symptoms. The only medical interventions we are receiving that I know of are Tylenol, temperature checks, and blood oxygen level checks.
24. Food is served to the entire dorm through a slot in the entrance door. We all line up to receive food. Social distancing is not enforced for food line-ups and everyone bunches up together. The corrections officers serving the food are wearing masks and gloves, but they use the same gloves from person to person.
25. Social distancing is also not enforced for medical line-ups to receive daily medications.
26. The recreation room is closed, and the law library has been shut down and is inaccessible to prisoners. The most you can do now is request copies of specific documents. My lawyer has not been able to see me. I believe the jail is not allowing legal visits.
27. On May 14, along with their coronavirus test results, everyone on my block was given a packet containing information about how to prevent and reduce the spread of the coronavirus. The packet indicates that prisoners that have positive for coronavirus will be quarantined for 14 days or possibly longer. The packet explains the symptoms of COVID-19 and says to wash your hands and keep good hygiene. However, the jail doesn't provide antibacterial soap, so we cannot properly disinfect our hands. The jail only provides deodorant soap free of charge. I would have to buy antibacterial soap from

the commissary. The packet also included some advice for social distancing, but those methods are not possible here. There is always somebody near you.

28. They turned off the water for about five hours the day the results came in. They said the pipe was broken downstairs, but we didn't believe it. The way they turn off the water is through the block. I know that because they came through one day when the toilet was clogged, they had to come into the block to turn off the water. They turn the water off when they're doing searches.
29. A memorandum dated March 18, 2020 was put up on the wall in G-Block describing how the jail staff is responding to the virus and how the incarcerated men can prevent the spread of the virus. The memo contains many falsehoods. It says that extra toilet paper has been distributed and surfaces like door handles are being cleaned. This is not happening.
30. On May 18 a coronavirus tracking form was given out, but it was not followed up on and many people ended up throwing it in the garbage.
31. All of this could have been avoided if they had told us back in April that one of the officers had been infected with the coronavirus. We could have taken steps to protect ourselves. If I knew, I would have covered my face, washed my hands more, and socially distanced more.
32. On May 26, 2020, they took my block off of quarantine. Some of the men in here still have coronavirus symptoms. They didn't give any reason for taking us off of quarantine. We were in quarantine for 12 days from May 14 until May 26. This change was made two days before the end of the declared 14 day quarantine. They made us turn in all of our blankets, jumpsuits, state-issued T-shirts, and underwear. They passed out new

blankets and jumpsuits. We had to wipe down the walls, mattresses, windows, TVs, and phones. The COs threatened to put us in solitary confinement if we didn't help clean. The end of this quarantine just happened so I don't know what all of the changes will be.

33. On May 28, 2020, the staff called me down to the medical station. They tried to get me to sign a refusal form for my heart and blood pressure medication. I did not sign it. I never wanted to refuse my heart and blood pressure medications, and I never gave permission to stop giving me those medications.

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

Michael Mackawgy
MICHAEL MACKAWGY

Dated: May th 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