

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 TONI DILAURO
IN SUPPORT OF VERIFIED
CLASS HABEAS PETITION**

STATE OF NEW YORK)
COUNTY OF SULLIVAN) ss:

I, TONI DILAURO, being duly sworn, depose and say:

1. My name is Toni Dilauro and my date of birth is May 27, 1985. I'm from Livingston Manor, NY. I am currently incarcerated at the Sullivan County Jail in Monticello, NY. I am being held in a single cell in modular unit M5, which along with M3 and M4 comprise the women's unit of the jail. I have tested positive 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 have been incarcerated since March 11, 2020 for a technical parole violation. I pled guilty to a parole violation, failure to report a change of address, on April 22, 2020. My current sentence should end on August 24, 2020.

My Medical Conditions

4. I believe I began to show symptoms of COVID-19 in early May. I developed a painful cough, loss of appetite, vomiting, a high fever, a high heart rate, constant headaches, and body aches. I have felt sick and unable to leave my bed most of the time ever since. On May 14, I was tested for the coronavirus. On May 16, the jail gave me a letter informing me that I had tested positive for the coronavirus.
5. I received no medical treatment for COVID-19. The letter was delivered by a correctional officer and I did not even see a nurse until she came by on her rounds the next morning. I was not offered any new medications and I was not asked about my symptoms. This behavior has continued ever since and the only changes I have noticed is daily temperature checks and increased social distancing.
6. I have numerous underlying health issues and take several medications. I am taking Neurontin twice daily for sciatic nerve damage, Kepra twice daily for epileptic seizure prevention, Effexor once daily for anxiety and depression, and an albuterol inhaler for asthma. I also have Hepatitis C, HPV, a history of pneumonia on multiple occasions, and a family history of diabetes, but I am not currently taking medication for any of these issues.
7. My asthma is very severe. About once a year, I need to be put on a machine-assisted breathing treatment that administers high doses of albuterol and opens up my airways. The last time I needed and received this treatment was about 6 months ago, while I was at

the Bedford Hills Correctional Facility. I had to be put on this machine several hours a day for about a month, which is typical for this kind of treatment. I am not aware of the jail possessing one of these machines. If I do not receive this treatment during an asthma attack, and my inhaler isn't enough to treat it, my airways would close up and I would die.

8. COVID-19 has made it much more difficult for me to breathe. I have been using my albuterol inhaler a lot more frequently than normal since I became infected. On or about the evening of May 22, 2020, I suffered an asthma attack and requested medical attention. Officer Mastertone told me that the nurses were already out for the night and that there was nothing they could do for me. As the asthma attack progressed and got worse, the woman in the next cell began screaming for help. Officer Mastertone responded that he was waiting for his supervisor. But neither she nor a supervisor responded to the call for help, not even to check on me. Luckily, after inhaling Albuterol multiple times, my asthma attack calmed down.
9. I have been denied emergency medical attention on other occasions. On or about May 2, 2020, I became ill and repeatedly coughed up blood into a tissue for several hours. I showed the bloodied tissues to Officers Lawrence and Turner. Officer Lawrence tried to call the medical unit several times and said it was an emergency. She was told that a sick call slip needed to be filled out, so she gave me one to complete. I was then told that due to HIPAA regulations, officers are not permitted to deliver sick call slips and they need to be handed to nurses during their twice-daily rounds. I waited and gave the slip to the nurse to during her rounds that evening, and she left without conducting any checks on

me. About an hour later, a correctional officer delivered me a small cup of cough syrup from the medical unit. I did not receive any other form of medical attention.

10. On or about May 26, 2020 at 6:30AM, I once again began to cough up blood. I showed the tissues to Officer Diaz and requested medical attention. She offered me a sick call slip and did not call the medical unit, saying that it was too early to do so. I declined the sick call slip because it can only be handed in during nursing rounds, and waited for a nurse to come by for morning rounds. I told Nurse Lynn about my symptoms and she replied, "Welcome to the COVID." She suggested it was a blood vessel that burst causing the bleeding. She did not administer any medication and did not conduct any medical checks of any kind.
11. 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 the Jail

12. To my knowledge, the coronavirus has spread all throughout the jail and many men in the dorm blocks including trustees (incarcerated workers) are infected. I can say for sure that three women tested positive, including myself. In the mod next to mine are two women who tested negative for the coronavirus; they are a very short distance from me and I am able to talk to them from my cell. There is a window with bars and no glass between my unit and the hallway. We share the same cleaning supplies. The COs told me the women who tested negative are locked in all day.
13. One of the women who tested positive, Paulette Williams, was recently released. She told me that a judge had ordered her release because she had tested positive.

14. I am worried that people who previously tested negative may soon become infected due to the way the jail staff are acting. For example, the women in M4 who are negative recently requested books, which are normally shared among the inmate population. Around May 22, I saw Officer Jones take several books from my cell and walk them over to M4, the unit right next to mine with the women who tested negative. I did not see the officer wipe down or disinfect these books prior to handing them over to the women in M4.
15. As another example, today jail staff escorted a woman who tested negative for COVID-19 to the phones just outside the window of my housing cell. The woman came in front of my window to say hello and we spoke briefly. She was less than a foot away from me.
16. People who tested negative a week or two ago may have become infected since then. A CO told me that one inmate named Richard Vogel had tested negative, but that he was previously housed in a dorm where almost everyone else was positive. But I am not aware of any plans the jail has to re-test anyone and I have not heard of anyone being tested a second time.
17. I have previously been housed in Mods 2, 4, 5, and 6. I tested positive for the coronavirus while I was located in M4. I was moved out of this mod after this test and it now houses women who have tested negative. In addition, I believe a man who tested negative for the coronavirus was moved to M6 where I resided before the test. I do not think they cleaned M6 before moving him there. We were sick in M2 too, and I do not think they cleaned that unit either before moving people there.

Conditions in the Jail

18. I am located in a very small modular unit, M5, that was added onto the jail. The unit consists of a row of 4 cells, and itself comprises one part of a set of three identical “mods” consisting of M3, M4, and M5. M3, M4, and M5 are all located adjacent to one other in the same single hallway.
19. There is a total of nine modular units in three clusters in this jail. Mods 1, 8, and 9 have been used for administrative segregation to my knowledge. The remaining mods have all been used as women’s cells for most of the time that I have been incarcerated at this jail. Since the coronavirus outbreak, the jail staff designated the mod cluster comprised of M2, M6, and M7 as a coronavirus-negative men’s unit, and the cluster comprised of M3, M4, and M5 as a women’s unit that contains women who are both positive and negative. Normally, the doors between mod clusters are open, but they have been closed ever since the jail imposed a lockdown.
20. My mod, M5, has its own phone, shower, TV, and day room. I share a recreation room with everyone else in the jail, but that room has been shut down since around May 16.
21. The conditions are unclean. There is black mold in the M5 shower. An inmate used to work as a porter in this mod, but ever since lockdown began she can no longer do this work and nobody else does it. All cleaning of this mod is now expected to be done voluntarily. There have been people in this jail who don’t even shower and don’t get penalized for it as far as I know.
22. I estimate that my cell is between 8’x8’ and 8’x11’ in size. It contains a bed, combined sink/toilet, 2 standing shelves, and one wall shelf. Three sides of the cell are stone or concrete walls, but the door is an open-air metal bar door. Air passes freely between my cell, the hallway, and other nearby cells, and a single air vent serves my entire cluster of

mods. I know this because we used to pass M4 to get to legal visits. I used to frequently see others passing through my mod in order to get to the visiting part of the jail.

Medical System at the Jail

23. There is a small medical unit in this jail. It is located on the first floor and officer permission is required to go there, but ever since the lockdown began, the nurses come to our cells instead. I have been told that there is no nurse on duty between about 11PM and 7AM. I have been denied medical care during a late-night asthma attack, and an unknown early-morning illness where I was coughing up blood.
24. Correctional officers rarely ever enter M5, usually coming by just once at 6AM and otherwise only visiting to deliver food via a slot in the door. Nurses visit twice daily for morning temperature checks and medication distribution around 9AM and 10PM. The nurse hasn't come inside for a week at night. I could be dying in my cell at night and the jail wouldn't even know it.
25. The medical unit operates on a sick call system. During the day, officers can call the nurse for us. They will usually make the call, but medical has the discretion to ignore sick call requests. I would estimate that they ignore about half of the sick calls that they receive. They are not checking on us regularly, either.

The Jail's Response to Coronavirus

26. The jail imposed a 23-hour lockdown and began referring to it as a quarantine. But I don't consider the conditions I am in to be a quarantine. I have been on a medical quarantine before and it involves no contact whatsoever with other people. But here in the jail, I am in a cell right next to another woman with whom I can easily interact and

come into contact with, in addition to the jail staff that I am often in close proximity with. There are women who tested negative for the coronavirus in the modular unit next to mine; I am able to speak with them through the window. Now, during lockdown, the only way to communicate to someone on another floor is through writing them a letter that a CO gives them.

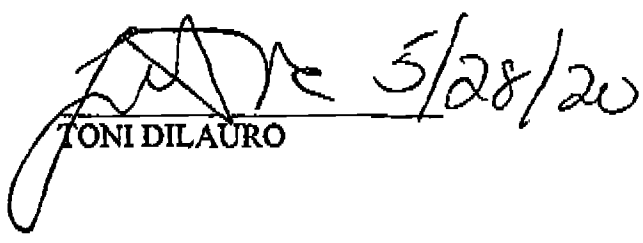
27. I have had my temperature checked every morning with a gun-style thermometer ever since the “quarantine.” In previous months, an oral thermometer was used. I do not believe the gun thermometer is accurate because it gives inconsistent readings.
28. On May 23 I filed a grievance against Nurse Wendy Moore because I requested that she take my temperature a second time in the evening, and she refused, saying that she is not permitted to bring the thermometer down on nighttime rounds. I have not received a response to that grievance and a CO told me that they do not know what is going on with it.
29. The COs have to write down formal grievances. We don’t write them down ourselves. We can “accept” or “disagree” with what the CO wrote.
30. The medical staff does not take COVID-19 or other emergency medical symptoms seriously. In addition to the COVID-related asthma attack I experienced that went untreated, in either late April or beginning of May 2020, I became very dizzy and started shaking, so I requested and managed to receive medical attention. Nurse Wayne came to my cell and took a pulse reading, which came out to about 117-118. The nurse treated it like a joke and implied that I had intentionally caused my own pulse to go this high. He told me to breathe and sit still, and said I was “messing with the thing” he was using to read my pulse. I was not offered a treatment or medication to stabilize my pulse, or any

further tests to determine its cause. Nurse Wayne came to my cell a second time during his regularly-scheduled rounds. He gave me only my regular medications and took my pulse a second time, and it was still high. He told me, "I don't know what you're doing, but you're doing something," and "I think you're messing around." He did not undertake medical interventions and said another nurse would check on me the next day.

31. I have received 4 masks from the jail. I have two washable cloth masks, one blue surgical mask, and one white KN95 mask, which we got after we tested positive. I also received a packet of papers containing information about the coronavirus on May 16, alongside the test results indicating that I had tested positive. The packet talked about how to prevent spreading COVID, like washing your hands.
32. Around the evening of May 19, the jail distributed surveys about our coronavirus symptoms that we were supposed to fill out. But I have not been asked to turn in that survey or otherwise seen follow up on it.
33. Six or seven COs have told me that the jail administration is not testing jail staff if they are not showing symptoms of the coronavirus. They have told me that they do not do so because the administration needs them to work, and jail staff who are tested for the coronavirus are required to stay at home until the results come in. Two officers have told me that they went to get coronavirus tests on their own. Another officer said she won't get tested because she doesn't want to pay for it.
34. A CO said that he had COVID. I don't know if he was joking, but he was only out for a few days. To me, COVID is not a joke.

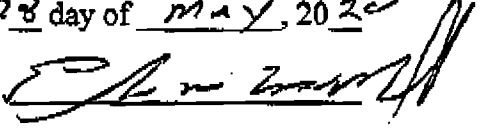
35. The jail could be a lot stricter and more consistent about quarantine and medical measures to address the outbreak of COVID-19 here. The rules are not consistent at all here, and they should be.

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


TONI DILAURO

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