

**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-00190-DNH-ATB

**DECLARATION OF ANTONY P.F. GEMMELL  
IN SUPPORT OF TEMPORARY RESTRAINING ORDER**

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 M.C. and T.G. 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 Plaintiff M.C.'s Order to Show Cause for a Temporary Restraining Order and a Preliminary Injunction.
4. I have been informed by M.C.'s counsel in a pending criminal matter in Jefferson County that M.C. is scheduled to be sentenced this morning. I understand that M.C. is expected to enter a plea deal pursuant to which he faces immediate incarceration at the Jefferson County Correctional Facility.

***Without Intervention, M.C. Will Suffer Excruciating Withdrawal Within Approximately 24 Hours and Therefore Cannot Move by Notice of Motion.***

5. As set forth herein, the NYCLU has serious concerns that the jail will forcibly remove M.C. from his prescribed and medically necessary methadone treatment upon his incarceration at the jail on March 2. If so, within approximately 24 hours, he will suffer excruciating withdrawal effects that expose him to a potential risk of relapse. As set forth in the Declaration of Dr. Richard Rosenthal, dated February 28, 2022, the withdrawal effects from his medication will be immediate and devastating.

6. Due to the imminent nature of M.C.'s incarceration and the immediate effects of being withdrawn from his prescribed methadone medication, Plaintiff M.C. cannot proceed by notice of motion and has good cause and a sufficient basis to move by Order to Show Cause.

***Defendants Have Ignored Plaintiff M.C.'s Disability Accommodation Request to Continue Prescribed Methadone Treatment for OUD During His Impending Incarceration.***

7. In a letter dated February 24, 2022, the NYCLU requested that Defendants permit Plaintiff M.C. to continue his prescribed methadone treatment during his impending incarceration at the Jefferson County Correctional Facility as a disability accommodation for his opioid use disorder ("OUD"). Because of the imminence of M.C.'s impending incarceration, the letter requested that Defendants confirm on or before February 28 that they would permit M.C.'s prescribed methadone treatment to continue uninterrupted during his incarceration in the jail's custody. A true and accurate copy of the NYCLU's February 24 disability accommodation request is attached hereto as **Exhibit A**.

8. Enclosed with the February 24 disability accommodation request was a letter from Daniel Pisaniello, M.D., the addiction specialist at Credo Community Center in Watertown, New York, who is currently treating M.C.'s OUD. Dr. Pisaniello's letter confirms M.C.'s diagnosis with OUD, identifies daily methadone treatment as "medically necessary," and states

that M.C. will experience “severe and extended” withdrawal symptoms if his methadone treatment is interrupted, placing him at a “greater risk of dangerous overdose and jeopardiz[ing] his recovery from opioid use in the long term.” The letter also confirms Credo’s willingness and ability to continue treating M.C. with methadone during his incarceration in Defendants’ custody. A true and accurate copy of Dr. Pisaniello’s letter is attached hereto as **Exhibit B**.

9. Neither Defendants nor their counsel have responded to the February 24 disability accommodation request.

***Defendants Recently Denied a Similar Disability Accommodation Request of Another NYCLU Client, M.S.C.***

10. This is not the first time in recent months that Defendants have failed and refused to grant a disability accommodation request by the NYCLU on behalf of a client who sought continued access to prescribed, medically necessary methadone treatment for OUD during his incarceration at the Jefferson County Correctional Facility.

11. In a letter dated December 3, 2021, the NYCLU requested that Defendants accommodate M.S.C.’s disability by confirming that they would permit M.S.C. to continue his prescribed, medically necessary methadone treatment for OUD during his impending incarceration at the Jefferson County Correctional Facility. In a letter dated December 13, 2021, Defendants’ counsel rejected the NYCLU’s request to confirm that M.S.C.’s treatment would be permitted to continue during his incarceration. Instead, Defendants’ counsel stated, “When [M.S.C.] is in the County’s custody, the County would be happy to address your accommodation request.”

12. Yet rather than consider M.S.C.’s request, when M.S.C. entered the jail’s custody on January 7, 2022, Defendants—without notice to the NYCLU—abruptly ended his prescribed methadone treatment, exposing him to weeks of dangerous and agonizing withdrawal symptoms.

13. As described in M.S.C.'s declaration, dated February 25, 2022, submitted in conjunction with this Temporary Restraining Order request, M.S.C. pleaded "again and again" with jail staff to resume his prescribed methadone treatment. His pleas were repeatedly and consistently rebuffed.

14. After first learning that Defendants had forcibly withdrawn M.S.C.'s methadone treatment, the NYCLU contacted Defendants' counsel on January 15, 2022 to request again that Defendants resume M.S.C.'s methadone treatment.

15. Defendants, through counsel, confirmed that they would refuse to do so.

16. On or around February 14, 2022, M.S.C. was transferred to the custody of the New York State Department of Corrections and Community Supervision, before the NYCLU could take further steps to restore M.S.C.'s access to his prescribed methadone treatment.

17. Because of the NYCLU's inability to send and receive mail from M.S.C. in time for this emergency filing, on February 25, 2022, Terry Ding, one of the NYCLU counsel on this case, read the contents of the Declaration of M.S.C., dated February 25, 2022, verbatim to M.S.C. via telephone. Having confirmed the accuracy of the contents of the declaration, M.S.C. then authorized Plaintiffs' counsel to affix an electronic signature to the declaration in lieu of his physical signature.

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

18. 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.

19. 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.

20. 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.

21. These individuals include M.S.C., as well as Plaintiff T.G., 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.

22. 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.

23. Based on each of these reports, the NYCLU has serious concerns that, absent a Temporary Restraining Order, M.C.’s prescribed and medically necessary methadone treatment will be abruptly discontinued upon his incarceration at the jail.

***Availability of Continued Methadone Treatment***

24. Among other options for ensuring that M.C.'s treatment does not lapse upon his incarceration at the Jefferson County Correctional Facility, Defendants can transport M.C. for daily treatment at outside treatment providers. On Mondays through Saturdays (other than holidays), Defendants can transport M.C. to Credo in Watertown, his current methadone treatment provider. Representatives of Credo have confirmed they are ready, willing, and able to continue M.C.'s treatment during his incarceration. And on Sundays and holidays, when Credo is closed, Defendants can transport M.C. to Crouse Hospital in Syracuse. A representative of Crouse has stated that providing treatment to M.C. on Sundays and holidays during his incarceration would be possible. Notably, this is the same method by which Defendants are currently providing access to methadone treatment to the plaintiff in *P.G. v. Jefferson County*, No. 21-cv-388-DNH-ML (N.D.N.Y. Sept. 7, 2021), ECF No. 47.

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

Dated: March 2, 2022

New York, New York

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

# **EXHIBIT A**



**New York Civil Liberties Union**  
One Whitehall Street  
New York, New York 10004  
212.607.3300  
www.nyclu.org

Antony Gemmell  
Senior Staff Attorney  
212.607.3320  
agemmell@nyclu.org

February 24, 2022

Via email

David J. Paulsen, Esq.  
Jefferson County Attorney  
175 Arsenal Street  
Watertown, New York 13601  
davidp@co.jefferson.ny.us

Re: Disability Accommodation Request for M [REDACTED] C [REDACTED]

Dear Mr. Paulsen:

We represent [REDACTED] and write to request that Jefferson County accommodate [REDACTED] disability during his impending incarceration at the Jefferson County Correctional Facility (the “jail”). [REDACTED] is diagnosed with severe opioid use disorder (“OUD”), a life-threatening disability for which he requires daily treatment with methadone. Given that [REDACTED] incarceration at the jail may begin as soon as next Wednesday, March 2, 2022, we ask that you confirm by no later than Monday, February 28, 2022, that the jail will grant this request to continue his methadone treatment.

As the enclosed letter from his treating physician confirms, [REDACTED] is diagnosed with severe opioid use disorder for which daily methadone therapy is medically necessary. If the jail discontinues [REDACTED] current methadone therapy, within a matter of hours, he will face an array of severe withdrawal symptoms and a markedly heightened risk of relapse and death.

We have serious concerns that Jefferson County will end [REDACTED] methadone therapy upon his incarceration at the jail. These concerns are not without foundation: As you know, the jail’s practice of denying methadone treatment for OUD is the subject of active litigation in the Northern District of New York, in which the court found a “substantial” likelihood that the jail’s practices with respect to methadone treatment violate the Constitution and the Americans with Disabilities Act. *P.G. v. Jefferson Cnty.*, No. 5:21-CV-388, 2021 WL 4059409, at \*4–5 (N.D.N.Y. Sept. 7, 2021).

Based on these concerns, we ask you to confirm immediately that Jefferson County will



David Paulsen, Esq.

February 24, 2022

permit [REDACTED] to continue daily methadone therapy for OUD while he is incarcerated at the jail.

As you know, the jail is already providing methadone treatment to at least one other individual in its custody—including the plaintiff in the *P.G.* case—through the Credo Community Center in Watertown and Crouse Hospital in Syracuse. [REDACTED] currently receives daily methadone therapy at Credo. It would therefore be a minimal burden on the jail to accommodate his disability by allowing him to continue his treatment. Such an accommodation is necessary for the jail to comply with the Constitution and Americans with Disabilities Act.<sup>1</sup> See *P.G.*, 2021 WL 4059409, at \*3–6 (ordering defendants to provide plaintiff with opioid use disorder “with his daily prescribed methadone during his period of incarceration at the Jefferson County Jail”).

The sentencing hearing in [REDACTED] current criminal case is scheduled to take place on March 2, 2022, meaning that [REDACTED] faces the likelihood of incarceration at the Jefferson County Correctional Facility that day. Because dangerous methadone withdrawal will follow within a matter of hours of any lapse in [REDACTED] treatment, we ask that you confirm on or before next Monday, February 28, 2022, that Jefferson County will accommodate [REDACTED] disability by permitting his methadone treatment to continue uninterrupted during his incarceration in the jail’s custody.

We thank you for your attention to this important matter and look forward to your response.

Sincerely,

*/s/ Antony Gemmell*  
Antony Gemmell  
Senior Staff Attorney

*/s/ Terry Ding*  
Terry Ding  
Staff Attorney

Encl.

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<sup>1</sup> To the extent the jail would accommodate [REDACTED] disability by transporting him for off-site treatment we ask that the jail vary its policies and practices as necessary to ensure [REDACTED] is not subjected to prolonged or indefinite quarantine or segregated confinement.

# **EXHIBIT B**

**Credo Community Center  
for the Treatment of Addictions, Inc.**

www.credooc.com  
credo@credooc.com



**WE CELEBRATE LIFE**

**ADMINISTRATIVE OFFICES:**

595 West Main Street  
Watertown, New York 13601  
Phone: (315) 788-1530  
Fax: (315) 755-2538

**OPIATE TREATMENT SVCS:**

595 West Main Street  
Watertown, New York 13601  
Phone: (315) 755-2033  
Fax: (315) 755-2037

**OUTPATIENT SERVICES:**

595 West Main Street  
Watertown, New York 13601  
Phone: (315) 788-1530  
Fax: (315) 788-3794

7714 Number Three Road  
Lowville, New York 13367  
Phone: (315) 376-5958  
Fax: (315) 376-5953

**RESIDENTIAL SERVICES:**

*Intensive*  
 24180 County Route 16  
Evans Mills, New York 13637  
Phone: (315) 629-4441  
Fax: (315) 629-5473

**Women's**

1130 State Street  
Watertown, New York 13601  
Phone: (315) 779-1772  
Fax: (315) 782-0609

**COMMUNITY RESIDENCES:**

*Men's*  
 417 Washington Street  
Watertown, New York 13601  
Phone: (315) 788-3833  
Fax: (315) 788-9155

*Aftercare*

138 Winthrop Street  
Watertown, New York 13601  
Phone: (315) 788-6881

February 24, 2022

To Whom It May Concern:

I write to confirm the pressing need of my patient M [REDACTED] C [REDACTED] (date of birth 8/14/1992) for methadone medication to treat his opioid use disorder. I am the medical director of the Opioid Treatment Program at Credo Community Center and [REDACTED] treating physician. [REDACTED] is diagnosed with opioid use disorder, for which he is currently prescribed methadone as medically necessary treatment.

I strongly recommend that [REDACTED] continue his daily methadone treatment if he should be incarcerated. His current dose of methadone—185 mg per day—is rather large. As a result, he would experience severe and extended withdrawal symptoms if he is not allowed to continue taking his medication. This severe withdrawal would likely set in within 24 to 48 hours of any interruption in his dosing. Discontinuing [REDACTED] treatment would also put him at greater risk of dangerous overdose and jeopardize his recovery from opioid use in the long term. Thus, it is very important that he be allowed to continue his daily methadone treatment without interruption during his incarceration. If [REDACTED] is incarcerated at the Jefferson County Jail, the Credo Community Center is willing and ready to continue his treatment. Credo is located a short drive from Jefferson County Jail, and the jail has transported other patients in its custody to Credo for methadone dosing.

I would be happy to discuss the matter further with you if you wish.

Sincerely,

*Daniel Pisaniello, M.D.*

Daniel Pisaniello, M.D.  
Medical Director, Opioid Treatment Program

