



PENNSYLVANIA INSTITUTIONAL LAW PROJECT

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March 26, 2021

Via Email (orlando.harper@alleghenycounty.us)

Warden Orlando Harper
Allegheny County Jail
950 Second Avenue
Pittsburgh, PA 15219

RE: Jerome Maynor #3282, Medication-Assisted Treatment for Opioid Use Disorder

Dear Warden Harper:

On behalf of the Pennsylvania Institutional Law Project and the Abolitionist Law Center, we write to bring a matter of grave concern to your attention. Our client, Jerome Maynor, a 71-year-old man diagnosed with depression and opioid use disorder, has been receiving medication-assisted treatment¹, methadone, under the supervision of his prescribing physician since January 2019. He has been abruptly removed from this necessary medication upon his incarceration at Allegheny County Jail on March 15, 2021, causing him serious harm with potentially dire consequences. We urge you to take immediate action to fix this situation.

For over two years, as part of his medication-assisted treatment prior to his incarceration, Mr. Maynor has been attending counseling sessions and takes a prescribed-dose of methadone at his clinic. Opioid use disorder (“OUD”) is a chronic disease which causes a person to have a compulsive need of opioids and an increasing need for additional doses over time that becomes damaging to a person’s life.² Mr. Maynor has been in active recovery, successfully managed by MAT since January 2019. He has been able to maintain employment as a community outreach worker.

On March 15, 2021, Mr. Maynor, was arrested and brought to Allegheny County Jail. During intake, he informed the intake medical staff and the POD 4 medical staff that he had a prescription and needed to continue his methadone. Instead the medical staff stated, “We don’t give methadone here. We give detox meds.” We understand that Allegheny County Jail currently does not permit individuals in its custody to receive methadone or buprenorphine to treat OUD (except for pregnant women). We request that you immediately provide Mr. Maynor his daily prescribed methadone medication.

¹ Commonly referred to as MAT.

² Kyle Kampman & Margaret Jarvis, *American Society of Addiction Medicine (ASAM) National Practice Guideline, for the use of Medications in the Treatment of Addiction Involving Opioid Use*, 9 J. Addiction Med. 1, 4-6 (2015). <https://www.asam.org/docs/default-source/practice-support/guidelines-and-consensus-docs/asam-national-practiceguideline-jam-article.pdf>.

This letter notifies you that by failing to provide methadone, your facility puts Mr. Maynor into a “forced withdrawal” which has been linked to individuals suffering painful physical consequences, increased risk of relapse, overdose and death.³ Mr. Maynor is actively experiencing symptoms of detox including nausea, pain, difficulty eating, difficulty sleeping, diarrhea, tremors, an inability to focus, feelings of impending doom, fear of his life, and he fears that “he might not make it.” Mr. Maynor’s opioid use disorder has been successfully managed by MAT, and his “withdrawal is a counterproductive and a painful experience.”⁴ Further, forced withdrawal does not eliminate symptoms, as symptoms can last for days.

MAT is the medical standard of care for treatment of OUD.⁵ There are three FDA approved medications for OUD: methadone, buprenorphine, and injectable naltrexone. Scientific evidence shows that MAT reduces illicit drug use, overdose deaths and crime. The U.S. Substance Abuse and Mental Health Services Administration, a division of the federal Department of Health and Human Services, has concluded that “just as it is inadvisable to deny people with diabetes the medication they need to help manage their illness, it is also not sound medical practice to deny people with OUD access to FDA-approved medications for their illness.”⁶ As with any medical condition, the choice of medication is a clinical decision. For some patients, only one of these medications may prove effective.

While Mr. Maynor is in your custody, it is your duty to provide Mr. Maynor with adequate medical care. It has been well-settled law for decades that the Fourteenth Amendment to the United States Constitution and the Americans with Disabilities Act imposes a duty on jailers to ensure the safety and well-being of those whom they imprison.⁷ This duty requires you to provide MAT to

³ NAT’L INSTITUTE OF DRUG ABUSE: Principles of drug addiction treatment: A research-based guide (3rd ed. 2018). <https://www.drugabuse.gov/publications/principles-drug-addiction-treatment-research-based-guide-third-edition>

⁴ See *Smith v. Aroostock Cty.*, 376 F. Supp. 3d 146, 161 (D. Me. 2019).

⁵ NAT’L INSTITUTE OF DRUG ABUSE: Advancing addiction science, effective treatment for opioid addiction (2016). <https://www.drugabuse.gov/publications/effective-treatments-opioid-addiction/effective-treatments-opioid-addiction>

⁶ SAMHSA, Medications for Opioid Use Disorder for Healthcare and Addiction Professionals, Patients, and Families, Treatment Improvement Protocol Tip 63, at ES-2 (2020). <https://store.samhsa.gov/product/TIP-63-Medications-for-Opioid-Use-Disorder-Executive-Summary/PEP20-02-01-005>

⁷ *Estelle v. Gamble*, 429 U.S. 97, 106 (1976); *West v. Atkins*, 487 U.S. 42, 56-57 (1988); *DeShaney v. Winnebago Cty. Dep’t of Soc. Servs.*, 489 U.S. 189, 199-200 (1989); see also *Morgan-Mapp v. George W. Hill Corr. Facility*, No. 07-2949, 2008 U.S. Dist. LEXIS 69434, at 46-47 (E.D. Pa. Sep. 2008).

those in custody diagnosed with opioid use disorder. “Where knowledge of the need for medical care is accompanied by the intentional refusal to provide that care,” the Constitution is violated.⁸

Further, the denial of MAT to Mr. Maynor implicates Allegheny County Jail’s obligations under the Americans with Disabilities Act (“ADA”) and Rehabilitation Act (“RA”). County jails are subject to Title II of the ADA and Section 504 of the RA,⁹ which prohibit covered entities from precluding an individual with a disability from participating in a program, service or activity because of their disability and require them to provide “reasonable accommodations” to individuals with disabilities.¹⁰ Mr. Maynor is unquestionably an individual with a disability for the purposes of ADA and RA and is entitled to their broad protections.¹¹ Denying Mr. Maynor MAT without providing him with reasonable accommodations, thus violates the ADA and RA. Here, reasonable accommodations include the provision of methadone either directly at ACJ or taking other action to ensure he has access to methodone.

Several federal courts have now required facilities to provide this treatment and have found that the failure to do so likely violates the ADA and Constitution.¹²

The denial of methadone to Mr. Maynor violates his rights under the U.S. Constitution, the ADA and the RA. This has denial has already caused Mr. Maynor to experience symptoms of painful withdrawal and this continued denial exposes him to an unacceptable risk of even greater harm. We therefore urge you to immediately take one or more of the following steps:

- a) Provide the medication to Mr. Maynor at the Allegheny County Jail;
- b) Transport Mr. Maynor off-site daily to a treatment center to receive his medication;
- c) Transfer Mr. Maynor to another facility capable of providing the medication; or
- d) Release Mr. Maynor on a medical leave if the jail is otherwise unable to accommodate his needs.

⁸*Spruill v. Gillis*, 372 F.3d 218, 235 (3d Cir. 2004).

⁹ See *Pa. Dep’t of Corr. V. Yeskey*, 524 U.S. 206, 210 (1998); *Geness v. Cox*, 902 F.3d 344, 361 (3d Cir. 2018); 29 U.S. § 794(b)(1)(A).

¹⁰ See 42 U.S.C. § 12132; 29 U.S.C. § 794; *Furgess v. Pa. Dep’t of Corr.*, 933 F.3d 285, 287 (3d Cir. 2019).

¹¹ See e.g., *Taylor v. Phoenixville Sch. Dist.*, 184 F.3d 296, 306 (3d Cir. 1999).

¹² *Pesce v. Coppinger*, 355 F. Supp. 3d 35, 47-48 (D. Mass. 2018) (granting motion for preliminary injunction because a blanket policy denying prescribed methodone treatment was likely to violate both the ADA and Eighth Amendment); *Smith*, 376 F. Supp. at 160-162 (granting motion for preliminary injunction under the ADA when Jail refused to provide plaintiff with buprenorphine “without regard to her medical needs and without any true justification”).

We trust that we share an interest in ensuring that Mr. Maynor is provided with safe and humane conditions of confinement, including adequate medical care, and we hope that you will recognize that these requests will further this shared goal. Given the seriousness of these issues, please respond in writing by Wednesday, March 31, 2021. In your response, please explain in detail how you will the concerns we have raised here and whether you intend to ensure that Mr. Maynor has access to his medically necessary methadone prescription.

If you do not agree to take immediate steps to remedy the denial of methadone for Mr. Maynor, or if we do not receive a response by the appointed time, we may seek relief in federal court. If you would like to discuss this further you can reach Alexandra Morgan-Kurtz at amorgan-kurtz@pailp.org, by phone at 412-434-6175, or Adrienne Abner at aabner@pailp.org, 215-925-2966.

Thank you for your attention to this matter.

Sincerely,

/s/ Alexandra Morgan-Kurtz

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Adrienne R. Abner

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