



PENNSYLVANIA INSTITUTIONAL LAW PROJECT

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November 16, 2021

Via First Class Mail

Michelle Overmyer
Superintendent
SCI Cambridge Springs
451 Fullerton Avenue
Cambridge Springs, PA 16403

Simeon K. Obeng, M.D
Medical Director
SCI Cambridge Springs
451 Fullerton Avenue
Cambridge Springs, PA 16403

RE: Nicoletta Robinson # PEO999

Dear Superintendent Overmyer and Dr. Obeng:

We are writing on behalf of Nicoletta Robinson, a person who has been incarcerated at SCI Cambridge Springs since June 7, 2021. She is being denied methadone, a medication for opioid use disorder (“MOUD”) which has forced Ms. Robinson to continue withdrawing from methadone, causing her painful and intense withdrawal symptoms. Even as of a few days ago, she is still experiencing the effects of withdrawal including muscle aches and pains, difficulty concentrating, cravings, and difficulty concentrating. Furthermore, when Ms. Robinson arrived at SCI Cambridge Springs, her psychiatric medications Topamax and Seroquel were substituted by medications that provide less or inadequate control of her major depression, anxiety, post-partum depression, PTSD, Bipolar disorder and insomnia. To date, she has not been reinstated to her prescribed medications of Topamax and Seroquel, thus exacerbating the suffering she already is experiencing due to being denied MOUD.

We urge you to take immediate action on these two issues: (1) to provide Ms. Robinson access to medications for opioid use disorder, and (2) resume the prescribed Topamax and Seroquel.

Since December 2014, Ms. Robinson has been in active recovery, without relapse in a medication-assisted treatment program (“MAT”) for opioid use disorder. On May 7, 2021, the day Ms. Robinson was incarcerated at Mercer County Jail, she received her daily dose of methadone 90 mg at Pinnacle Treatment center in Youngstown, Ohio. 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.¹ While in treatment and active recovery, Ms. Robinson, has been able to take care of her children, maintain stable housing, and maintain volunteer activities at a clinic.

Mercer County Jail, not having a MOUD/MAT program, did not provide Ms. Robinson methadone. Abruptly stopping Ms. Robinson’s methadone while at Mercer County jail caused her to experience “forced withdrawal,” which resulted in painful symptoms including intense body pain, nausea, vomiting diarrhea, anxiety, and sleeplessness. Upon transfer to SCI Cambridge Springs, on June 7, 2021, the “forced withdrawal” continued as Ms. Robinson again was denied MOUD at SCI Cambridge Springs and was still experiencing withdrawal symptoms. “Forced withdrawal” can lead to long-term negative outcomes such as the increased risk of relapse, overdose, and death.²

Moreover, the continued denial of MOUD continues to cause Ms. Robinson to suffer. MOUD is the medical standard of care for treatment of OUD.³ There are three FDA approved medications for OUD: methadone, buprenorphine, and injectable naltrexone. Scientific evidence shows that MOUD reduces illicit drug use, overdose deaths and crime. Providing MOUD is especially critical in carceral settings, where people with OUD face a dramatically heightened risk of relapse, overdose and death in weeks immediately following release. The U.S. Substance Abuse and Mental Health Services Administration (SAMHSA), 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.”⁴

We have grave concerns that a person under treatment in the community for OUD who is transferred to SCI Cambridge Springs from a county jail that does not offer MOUD is ineligible to receive MOUD at SCI Cambridge Springs. **Ms. Robinson was only incarcerated at Mercer County Jail for 30 days. Yet despite this short county jail incarceration, Ms. Robinson was informed that she was ineligible for MOUD at SCI Cambridge Springs because she did not receive MOUD medications at Mercer County jail and she was not pregnant.**

¹ 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-concensus-docs/asam-national-practiceguideline-jam-article.pdf>.

² Samuel L. Macomber, *The Right to Medication-Assisted Treatment in Jails and Prisons*, 51 *U. Mem. L. Rev.* 963, 073 (2021).

³ 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>

⁴ 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>

According to the MOUD Policy on the Pennsylvania Department of Corrections (PA DOC) website, if Ms. Robinson started her incarceration at SCI Cambridge Springs instead of Mercer County jail, she would meet the criteria for methadone, buprenorphine or suboxone that is offered. Ms. Robinson was receiving 90 mg of methadone regularly as of May 7, 2021, before her incarceration.

The PA DOC policy regarding the MOUD program states:

“Beginning June 1, 2019, inmates received into institutions (PV or new intakes) who are enrolled in a verified MOUD Program (community or county jail) will continue MOUD. Suboxone and oral naltrexone will be available immediately and will also be offered to those on methadone until it can be added at a later date. Any instances of an inmate entering our system on MOUD that is not available, or who does not meet criteria for continuing MOUD, will be forwarded to the Bureau of Health Care Services (BHCS) for review on a case-by-case basis.”

“Medication Assisted-Treatment “Pennsylvania Department of Corrections Website Accessed: August 18, 2021. <https://www.cor.pa.gov>.

It was out of Ms. Robinson’s control that she had a prescription for methadone but was initially sent to a jail that did not have a MOUD program. While we appreciate that SCI Cambridge Springs was one of the initial Opiate Therapeutic treatment communities with a commitment to evidenced-based treatment, this commitment must extend to all who suffer from OUD.

In keeping with the spirit of the Department of Corrections’ mission “to better equip reentrants as they return to their communities,” we urge you to reconsider the eligibility of individuals with prescriptions for MOUD from the community who transfer to SCI Cambridge Springs from jails or prisons that do not offer MOUD. Since individuals are transferred to your prison instead of being directly admitted, including Ms. Robinson, under the current PA DOC policy, it is unlikely that any individuals with OUD coming from a county jail or prison that does not offer MOUD will be eligible for your MOUD program. Even if the individual is reviewed by BHCS, that could result in undue delay that prolongs suffering.

While Ms. Robinson is in your custody, it is your duty to provide her with adequate medical care. It has been well-settled law for decades that the Eighth 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.⁵ Several federal courts have found that the failure to do so likely violates the ADA and Constitution and required prison to provide

⁵ *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).

MOUD treatment.⁶ Given Ms. Robinson’s medical history and ongoing suffering, the denial of MOUD to Ms. Robinson likely violates her rights under the U.S. Constitution, the ADA, and the RA. This denial has already caused Ms. Robinson to experience symptoms of painful withdrawal and this continued denial exposes her to an unacceptable risk of even greater harm. The Third Circuit has found that a prison is deliberately indifferent when a “prison official knows of a prisoner’s need for medical treatment but intentionally refuses to provide the medical care, delays necessary medical treatment for non-medical reasons, prevents an individual from receiving needed or recommended medical treatment” and that denial results in suffering or risk of injury.⁷

Further, the denial of MOUD to Ms. Robinson implicates SCI-Cambridge Springs’s obligations under the Americans with Disabilities Act (“ADA”) and Rehabilitation Act (“RA”). Prisons are subject to Title II of the ADA and Section 504 of the RA,⁸ 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.⁹ Ms. Robinson is unquestionably an individual with a disability for the purposes of ADA and RA, and she is entitled to their broad protections.¹⁰ Denying Ms. Robinson MOUD without providing her with reasonable accommodations thus violates the ADA and RA. Here, reasonable accommodations include the provision of methadone or buprenorphine.

Upon transfer to SCI Cambridge Springs on June 7, 2021, Ms. Robinson’s psychiatric medications Topamax and Seroquel, prescribed by her community physician as well as the Mercer County jail physicians, were substituted due to these medications not being immediately available. To date, Topamax and Seroquel still have not been administered. Ms. Robinson informed the medical staff of her eighteen-year psychiatric disability history that includes Bipolar Disorder, Borderline Personality Disorder, PTSD, OCD, Social Anxiety Disorder, and, more recently, post-partum depression. Topamax and Seroquel, when part of her medication regimen, stabilizes her psychiatric symptoms. Ms. Robinson advised the staff that she was still experiencing increased symptoms of depression, anxiety, insomnia, racing thoughts, and post-partum depression and requested a psychiatrist to evaluate the effectiveness of the medication. The medical staff ignored her request. Prison authorities may not deny reasonable requests for medical treatment where the denial of that treatment leads to “undue suffering or the threat of tangible residual injury.”¹¹ While SCI Cambridge Springs has provided some care, the provision

⁶ *P.G. v. Jefferson Cty*, U.S. Dist. LEXIS 170593 * 12 (N.D.N.Y, 2021); *Smith v. Aroostock County*, 376 F. Supp. 3d 146, 162 (D. Me. 2019); *Pesce v. Coppinger*, 355 F. Supp. 3d 35, 47 (D. Mass. 2018).

⁷ *Durmer v. O’Carroll*, 991 F.2d 64, 68 (3d Cir. 1993).

⁸ 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.C. § 794(b)(1)(A).

⁹ 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).

¹⁰ See e.g., *Taylor v. Phoenixville Sch. Dist.*, 184 F.3d 296, 306 (3d Cir. 1999).

¹¹ *Palakovic v. Wetzel*, 854 F.3d 209, 228 (3d Cir. 2017).

of care that nevertheless results in “unnecessary and wanton infliction of pain” can still constitute deliberate indifference.¹²

Ms. Robinson’s psychiatric disabilities require reasonable accommodations. This includes the provision of Topamax and Seroquel.

We, therefore, urge you to immediately: (a) provide Ms. Robinson methadone or suboxone medications, and (b) provide Ms. Robinson with Topamax and Seroquel.

We trust that we share an interest in ensuring that Ms. Robinson is provided adequate medical care. Given the seriousness of these issues, please respond in writing by November 19, 2021. In your response, please explain in detail how you will address the concerns we have raised here and whether you intend to ensure that Ms. Robinson has access to her medically necessary methadone prescription or suboxone. If you do not agree to take immediate steps to remedy the denial of MOUD medications for Ms. Robinson, we may seek relief in federal court. If you would like to discuss this further you can reach Adrienne Abner at aabner@pailp.org, by phone at 215-925- 2966 or Su Ming Yeh at smyeh@pailp.org.

Thank you for your attention to this matter.

Sincerely,



Adrienne R. Abner
Staff Attorney



Su Ming Yeh
Executive Director

Cc: Timothy Holmes (*via email*)
Chase DeFelice (*via email*)

¹² *Estelle v. Gamble*, 429 U.S. 97, 104, 106 (1976).