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14 Attorneys for Plaintiffs

16 UNITED STATES DISTRICT COURT
 17 SOUTHERN DISTRICT OF CALIFORNIA

18 DARRYL DUNSMORE, ERNEST
 ARCHULETA, ANTHONY EDWARDS,
 19 REANNA LEVY, JOSUE LOPEZ,
 CHRISTOPHER NELSON,
 20 CHRISTOPHER NORWOOD, and
 LAURA ZOERNER, on behalf of
 21 themselves and all others similarly situated,
 Plaintiffs,

22 v.

23 SAN DIEGO COUNTY SHERIFF'S
 DEPARTMENT, COUNTY OF SAN
 24 DIEGO, CORRECTIONAL
 HEALTHCARE PARTNERS, INC.,
 25 LIBERTY HEALTHCARE, INC., MID-
 AMERICA HEALTH, INC., LOGAN
 26 HAAK, M.D., INC., SAN DIEGO
 COUNTY PROBATION DEPARTMENT,
 27 and DOES 1 to 20, inclusive,
 28 Defendants.

Case No. 3:20-cv-00406-AJB-WVG

**DECLARATION OF
 CHRISTOPHER NELSON IN
 SUPPORT OF PLAINTIFFS'
 MOTIONS FOR PRELIMINARY
 INJUNCTION AND
 PROVISIONAL CLASS
 CERTIFICATION**

Judge: Hon. Anthony J. Battaglia

Trial Date: None Set

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DECLARATION OF CHRISTOPHER NELSON

I, Christopher Nelson, declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. I have been incarcerated at the San Diego County Jail (“Jail”) since approximately March 2, 2021. I am currently housed in module 8C, which is a medical dorm. I was previously housed in module 5A. My booking number is 21107181. I am 45 years old.

3. I have been incarcerated in the Jail approximately five times since 2012. I was detained at the Jail awaiting trial on the charges brought against me until September 2021. I am currently waiting to transfer to the custody of the California Department of Corrections and Rehabilitation (“CDCR”). It is my understanding that I could be sent back to the Jail if I ever need to be present in court related to my criminal case. I could also be sent back to the Jail if it is necessary for me to testify in this case about the problems I experienced in the Jail. In addition, I also will parole from prison at some point in the future. When I parole, I will be sent back to San Diego County, the county in which I was convicted and where I lived prior to my arrest. When I am on parole, I can be arrested and returned to the Jail for allegedly violating the terms and conditions of my parole, whether or not the alleged violation constitutes a violation of a criminal law. I am concerned that, if I am sent back to the Jail in the future, I will experience problems similar to the problems I have been experiencing for months.

4. I have stage four osteonecrosis in my hips and knees, which means my bones are deteriorating. Attached hereto as **Exhibit A** is a true and correct copy of excerpts from my Jail medical records showing that my osteonecrosis diagnosis dates back as far as 2017. I have previously been prescribed bilateral knee braces. I use a wheelchair at the Jail. I used to use a

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1 wheelchair for long-distance travel only, but after suffering a spinal injury
2 prior to my incarceration, I now use a wheelchair for even short distances.
3 When I first came to the Jail in 2021, I could not climb stairs. I now have the
4 ability to walk up stairs with the support of a handrail, and I cannot sleep on a
5 top bunk.

6 5. During a prior incarceration in CDCR, I had two hip replacement
7 surgeries. Before this most recent incarceration at the Jail, I took 10
8 milligrams of the pain medication Norco three times per day to alleviate
9 severe pain associated with my arthritis and hip surgeries. Attached hereto as
10 **Exhibit B** is a true and correct copy of an initial Jail booking screening form
11 confirming that I took this amount of pain medication for the two years prior
12 to my incarceration. On the night of my arrest, on or about March 1, 2021, I
13 was in a car crash and seriously injured my spine, which worsened my
14 already poor mobility. I was transported to Scripps Hospital before booking
15 into the Jail. Because of my medical conditions and recent injury, I could not
16 and still cannot stand or walk without experiencing significant pain.

17 6. I have mental health disabilities. I was diagnosed with clinical
18 depression and anxiety in 2012, and access mental health care services in the
19 Jail. During my most recent CDCR incarceration, I was prescribed Zoloft and
20 Abilify. Currently at the Jail, I have prescriptions for Wellbutrin and Remron.

21 7. In my experience, the Jail is an unsafe and unfair place for incarcerated
22 people with disabilities. During my first four to five months at the Jail, the
23 wheelchair the Jail gave me had very small wheels and lacked arm rests.
24 Because the chair had no arm rests and I was unable to grip the wheels, I was
25 forced to use my feet to push myself in the wheelchair. I have little strength
26 in my legs due to my hip condition and spinal injury, making it very painful
27 to use them. To avoid further pain, I often relied on other incarcerated people
28 to push me in my wheelchair. I felt very unsafe when I had to rely on other

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1 incarcerated people to push me in my wheelchair. It is hard to trust people
2 while in Jail and I am already vulnerable because of my physical disabilities
3 and medical conditions. I received a replacement wheelchair with arm rests
4 on or around July 2021 – four months after I first arrived at the Jail.

5 8. The Jail has also failed to house me in cells that are accessible to me.
6 For the first several months of my incarceration, the Jail assigned me to Cell 9
7 in module 5A on the fifth floor at Central Jail. The cell was about 10 feet by
8 8 feet, and I shared it with two other incarcerated people. My wheelchair
9 took up a lot of space in the small cell and my cellmates frequently got angry
10 with me, complaining that it was in their way. A stool was bolted in front of
11 the desk in that cell. This meant my wheelchair could not fit in front of the
12 desk. Having access to a desk is important to me so that I can cope with the
13 stresses of incarceration by writing letters to my family. To use the desk, I
14 had to transfer from my wheelchair to the stool. Making the transfer was
15 difficult for me and put me at risk of falling. In July 2021, I fell while trying
16 to transfer and I hurt my wrist. Attached hereto as **Exhibit C** is a true and
17 correct copy of a medical evaluation a nurse conducted on my injured wrist.

18 9. Because of my physical disabilities, it was difficult for me to clean my
19 cell. I had to rely on my cellmates to do my portion of the cleaning, which
20 created constant disagreements. It felt like I was walking on egg shells with
21 my cellmates and I was afraid they might hurt me. The Jail does not have a
22 program that hires other incarcerated people to assist people with disabilities
23 with tasks such as cleaning, carrying property, meals, or laundry. I know
24 CDCR has such a program and I have benefitted from it while in state
25 custody.

26 10. I could not access the four telephones in module 5A from my
27 wheelchair because the telephone cord running between the phone and its
28 receiver was too short for me to bring the receiver to my ear while sitting in

1 my wheelchair. Stools were also bolted to the ground in front of all
2 telephones in 5A, which prevented me from being close to the telephone in
3 my wheelchair. The seats for the tables in the dayroom, where people would
4 eat their meals and socialize, were also bolted down. There was no cut out
5 space for a person in a wheelchair to roll up to a table and participate in those
6 activities. To use the telephones and dayroom tables, I had to transfer from
7 my wheelchair to the bolted seats, which is difficult and painful, and placed
8 me at risk of falling.

9 11. The shower in module 5A had no shower chair or stool for people with
10 mobility disabilities, like myself, to use. When I was first booked into the
11 Jail, I overheard another wheelchair user ask for a shower chair, but deputies
12 ignored him. Without a stool or shower chair, I had no choice but to stand in
13 the shower. I had to take very fast showers before the pain in my hips set in.
14 There was a grab bar in the shower but it was very slippery, and often filthy
15 with soap, water and anything others had washed off. It did not provide
16 enough support for me while I stood.

17 12. On or around October 12, 2021, I moved to module 8C, where I
18 currently live. 8C is a medical dorm. Many other people with mobility
19 disabilities live in 8C. Although I am better able to move around in my cell in
20 8C, it is still difficult to use the dayroom tables during meals and recreation.
21 There are often ten to fifteen other people in my dorm who use wheelchairs,
22 and there is not enough cut out space for everyone with wheelchairs to eat at
23 the tables. Due to the lack of space, many wheelchair users have to roll up
24 and place their trays on stools that other people have sit on in the dayroom,
25 and then lean down to eat from those stools. Having to eat like this is
26 especially difficult for people like me who are in wheelchairs and also have
27 upper extremity disabilities. Because of the lack of table space, I often take
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1 my food back to my cell, and place my tray on a bunk and eat there. As a
2 result, I have less time to socialize with other people in my module.

3 13. Custody staff also do not accommodate me and my mobility disability.
4 I require an extra mattress for my disability and medical conditions, including
5 my spinal injury. I have a chrono from CDCR for the extra mattress.

6 Attached hereto as **Exhibit D** is a true and correct copy of an April 2021
7 notification the ADA coordinator at the Jail received from CDCR indicating I
8 had a double mattress in their custody. When I booked into the Jail in March
9 2021, staff initially gave me my extra mattress. But during the first two
10 months of my incarceration, deputies conducted cell searches and took my
11 extra mattress away on four or five separate occasions. Each time, I had to
12 advocate to get my mattress back, pleading with deputies who often ignored
13 me. Attached hereto as **Exhibit E** is a true and correct copy of a grievance
14 form I filed on April 1, 2021 requesting, among other items, my extra
15 mattress. I finally received the extra mattress on or around April 16, 2021.
16 During the times that I am without an extra mattress, including those two
17 weeks in April, I experience severe pain and discomfort that interferes with
18 my sleep.

19 14. Deputies sometimes take away my wheelchair and use it to transport
20 other incarcerated people who may need a temporary wheelchair. I estimate
21 this has occurred approximately 5 or 6 times. When I am without my
22 wheelchair, it is hard for me to get anywhere in my housing unit.

23 15. On several occasions, I have gone to court in connection with my
24 criminal case. Each time, Jail staff has begun my transfer to court at around
25 4:00 a.m. Each trip involves several long waiting periods during which time I
26 am stuck in my wheelchair for 3 to 4 hours at a time, without the ability to lay
27 down. This exacerbates the stiffness and pain from my injuries. Instead of
28 directly transferring me for the 5-10 minute court hearing, I have to endure a

1 total of about 6-12 hours stuck in my wheelchair in holding cells every time I
2 go to court.

3 16. I cannot safely access the exercise equipment at the Jail. The Jail only
4 provides dip bars, a rowing machine, and stationary bike (now removed), all
5 of which I cannot use because of my mobility issues. Lack of exercise makes
6 my physical condition and pain worse. I would use equipment like yoga
7 mats, exercise balls, or light weights if they were available. The Jail does not
8 provide any physical therapy, and I have gained approximately 45 pounds as a
9 result of the inability to exercise.

10 17. Because of my mobility disability, I rely on the elevator to access
11 programs on other floors, including social visits, professional visits, and the
12 recreation area. The non-staff elevator in the Jail frequently breaks down and
13 I often have to wait until the staff elevator is available. On one occasion, the
14 elevator was broken so custody staff could not take me for a professional visit
15 with a detective with whom I had wished to speak. The detective also made
16 multiple calls that were not communicated to me. I learned about the
17 detective's attempt to communicate with me when I obtained discovery in
18 connection with my criminal case.

19 18. The Jail's failure to fix electrical problems have caused problems for
20 me. For example, the phones did not work properly for several months. In
21 the housing units at Central Jail, the telephones are surrounded in a metal
22 case. If someone else was talking on another phone and hung it up, an
23 electrical shock would go through the phone and the metal case, shocking the
24 bare arms of other phone users who rested their arms on the metal case. I
25 have been repeatedly shocked when I rested my arm on the metal case
26 connected to the telephones. These shocks caused blister-like sores to form
27 on my arm, which became infected. Attached hereto as **Exhibit F** is a true
28

1 and correct copy of a nursing note from my file confirming the sores on my
2 arms.

3 19. I have had difficulties receiving mental health care while incarcerated
4 at the Jail. I experience depression and anxiety. I did not receive an initial
5 psychiatric evaluation until almost two months after my arrival at the Jail. I
6 also did not receive my psychiatric medication in a timely manner. Shortly
7 after being booked into the Jail, my mental health worsened and I began to
8 experience high levels of anxiety and depression. I submitted two sick call
9 slips asking for mental health care in my first weeks at the Jail. In my second
10 sick call slip, I wrote that I never received a response or attention from
11 clinical staff. I began to feel very dejected. I thought I would never get help
12 for my mental health. I fell into a deep depression. I felt like staff would
13 only respond to me if I took drastic measures to show how badly I was
14 feeling. On or around April 20, 2021, I started to yell out to each deputy
15 passing by my cell, begging them to let me see mental health staff. This went
16 on for about one and a half days. Finally, I received an initial mental health
17 evaluation on April 22, 2021. Attached hereto as **Exhibit G** is a true and
18 correct copy of that evaluation conducted by mental health counselor. I did
19 not see a psychiatrist until May 10, 2021, more than three months after
20 arriving at the Jail. After that May 10, 2021 meeting, the Jail started me on
21 Wellbutrin. Attached hereto as **Exhibit H** is a true and correct copy of my
22 initial psychiatric evaluation on May 10, 2021.

23 20. I have had problems receiving adequate medical care to treat my
24 medical conditions, including my spinal injury. Before my arrest, I was in a
25 car crash and taken to the emergency room at Scripps Hospital. Scripps
26 medical staff discovered that I had a severely injured vertebrae, and
27 contusions of the shoulder and hand. The treating physician prescribed me
28 Norco to manage my pain. Attached hereto as **Exhibit I** are excerpts of my

1 treating records from Scripps showing this instruction. When I arrived at the
2 Jail, instead of gradually adjusting my pain medications, medical staff
3 discontinued my Norco prescription entirely and instead provided me 50
4 milligrams of Tramadol two times a day for the first five days of my
5 incarceration. The Tramedol did not effectively manage my pain. The Jail
6 then discontinued my Tramadol and prescribed me 400 milligrams of
7 Gabapentin to take two times a day for 90 days. At CDCR and in the
8 community I had 1200 milligrams of Gabapentin three times a day. The Jail's
9 provision of Gabapentin was much less, and did not adequately address the
10 pain I felt from my injuries. In mid-April 2021, the Jail took the Gabapentin
11 entirely away and prescribed me 50 milligrams of Pregabalin to take once per
12 day. Attached hereto as **Exhibit J** is a true and correct copy of excerpts from
13 my Jail medication administration record confirming these dosages. These
14 abrupt changes in my pain regimen, prescribing me drastically less pain
15 medication over a short period of time, gave me profound withdrawals and
16 left me in excruciating pain. It was agony trying to heal from a serious spinal
17 injury without proper pain management. Attached hereto as **Exhibit K** are
18 true and correct copies of two sick call slip requests I filed about my need for
19 better pain management in the months after my accident.

20 21. I was booked into the Jail with a shoulder injury and told booking staff
21 about the shoulder injury, which was exacerbated from the automobile crash
22 that occurred immediately prior to my incarceration. After booking, I
23 submitted numerous requests for care for my shoulder, but the Jail frequently
24 did not respond to my requests. After several months, the Jail gave me one
25 cortisol shot but it relieved the pain in my shoulder for only several days.
26 After that, I submitted more sick call requests, but Jail staff did not respond.
27 During this time, it was very difficult for me to get in and out of my
28 wheelchair. It was not until October 2021 until I was finally referred to a

1 specialist at the University of California – San Diego Hospital who confirmed
2 that I had a torn rotator cuff. Jail medical staff have failed to provide me with
3 any follow-up treatment. The specialist prescribed a physical therapy
4 regimen that I cannot complete because Jail staff do not allow me to use
5 rubber bands and other accessories that the exercises require. My torn rotator
6 cuff also makes daily activities very difficult; I have trouble sleeping and
7 wiping myself after using the bathroom. Denying me treatment for this injury
8 does not take into account that I have a wheelchair, and rely on my arms and
9 upper body for mobility. I now struggle to safely transfer from my
10 wheelchair and I am at risk of falling in daily situations, like using the
11 bathroom or showering. I fear that the Jail’s failure to treat this shoulder
12 injury will result in long-term damage.

13 22. I have severe persistent respiratory distress (SPRD) and asthma, which
14 has continued to bother me during my incarceration. Prior to my
15 incarceration at the Jail, I have gone to the emergency room for issues related
16 to my respiratory illnesses on numerous occasions. Outside the Jail, I
17 regularly received nebulizer treatments. At the Jail, I have frequently had
18 respiratory difficulties and have submitted multiple sick call requests about
19 them. Attached as **Exhibit L** is an encounter note from September 2021 in
20 which medical staff noted my history of asthma and that I had been wheezing
21 for several days. The Jail has told me it is impossible for them to provide me
22 nebulizer treatment in my cell. I regularly require nebulizer treatments and
23 have to ask custody staff to get emergency treatment in the medical unit for
24 breathing problems. Custody staff in turn regularly tell me that they will
25 inform medical, but in actuality, they frequently either fail to do so or fail to
26 ensure that I am actually sent to medical for a nebulizer treatment. Whether I
27 actually make it to the medical floor and receive nebulizer treatments depends
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1 on the temperament and identity of the deputy working in my housing unit at
2 that time.

3 23. The Jail has also prevented me from speaking with my attorneys
4 confidentially. Typically, custody staff are supposed to inform an
5 incarcerated person if their attorney has requested a professional call back.
6 These phone calls should not be monitored by custody staff. In theory, once
7 someone learns about a professional call back request placed for them, they
8 are allowed to leave their cell and make a return call to their attorneys. My
9 attorney in my criminal case informed me that they placed over a dozen
10 professional callback requests. However, custody staff never notified me that
11 my criminal attorney placed any of these call requests for me. My attorneys
12 in this case have informed me and I understand that they placed eight call
13 back requests for me on October 21, October 25, October 28, November 15,
14 November 17, November 22, November 29, and December 7, 2021. I never
15 received notice of any of those calls.

16 24. Further, in September 2021, a deputy attempted to prevent me from
17 speaking with my attorney during a professional visit. I previously had issues
18 with this deputy because, earlier that day, I had opened my tray slot in my cell
19 to let in fresh air. At the time, the vents in my three-person cell were not
20 working and it was becoming difficult to breathe in such a tight space. It was
21 incredibly humid and smelly. The deputy ordered me to close the tray slot,
22 and I complained to him about it. We got into a verbal argument. I
23 understand that this deputy falsely told my attorney that I did not want to visit
24 with my attorney and that the deputy asked my attorney why he wanted to
25 speak with me. My attorney also informed me that only after he demanded to
26 see me was I allowed out of my cell to attend my professional visit. I believe
27 this deputy delayed my visit with my attorney in retaliation for his
28 disagreement with me opening my cell's tray slot.

1 25. I have had many problems using the grievance process at the Jail. For
2 example, on October 16, 2021, I filed a grievance about issues in the Jail
3 related to ADA accommodations, mental health and medical care, and safety
4 and security issues. The Jail never responded to my grievance. I usually do
5 not receive any responses to my grievances. Similarly, when my grievances
6 have been about a lack of medical or mental health care, the Jail typically
7 does not respond.

8 26. In my experience, deputies are often reluctant to take grievances. One
9 told me that they “need to let the sergeant sign this” before being able to
10 accept and process a grievance. Nowhere on the grievance form does it say
11 that a sergeant has to sign off on a grievance before the Jail can process it. A
12 true and correct copy of a blank grievance form is attached hereto as **Exhibit**
13 **M**. One deputy told me that he does not sign grievances.

14 27. During medical appointments, custody staff are always present and
15 overhear my conversations about my medical issues. Sometimes when I talk
16 to a medical professional, custody staff will chime in with their opinions and
17 observations. In addition, custody staff sometimes openly discuss my
18 medical issues in front of other incarcerated people. Custody staff will openly
19 complain in front of other people in my housing unit about my medical and
20 disability needs, and their obligation to accommodate them.

21 28. I agreed to be a class representative in this case because I want to help
22 improve the medical, dental, and mental health care at the Jail, ensure that
23 incarcerated people with disabilities are accommodated and treated fairly, and
24 help make the Jail safe and secure for all incarcerated people. I have been
25 cooperating fully with my counsel and am responding to all requests for
26 information to the best of my ability and recollection, and will continue to do
27 so in the future. My lawyers keep me updated on the progress of this case,
28 and I will review all materials provided to me and provide my input to the

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best of my ability. When I have questions about the case, I will ask the attorneys for help to understand everything to the best of my ability.

I declare under penalty of perjury under the laws of California and the United States of America that the foregoing is true and correct, and that this declaration is executed at the San Diego County Central Jail in California this 9th day of March, 2022.



Christopher Nelson

EXHIBITS A-M

Filed Under Seal