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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,

22 Plaintiffs,

23 v.

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

28 Defendants.

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

**REPLY DECLARATION OF  
GUSTAVO SEPULVEDA IN  
SUPPORT OF PLAINTIFFS'  
MOTIONS FOR PRELIMINARY  
INJUNCTION AND  
PROVISIONAL CLASS  
CERTIFICATION**

Judge: Hon. Anthony J. Battaglia

Date: August 11, 2022

Time: 2:00 p.m.

Ctrm.: 4A

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Attorneys for Plaintiffs

**DECLARATION OF GUSTAVO SEPULVEDA**

I, Gustavo Sepulveda, 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 (“the Jail”) since October 2017, although I was at Atascadero State Hospital for several months in late 2020 and early 2021. I am housed at San Diego Central Jail in housing unit 7B. My booking number is 21106540. I am 41 years old.

3. I am currently housed in cell 6 in housing unit 7B. On the morning of May 23, 2022, I heard the sounds of a physical altercation and a panicked voice screaming “stop, stop, why are you hitting me?” coming from cell 4. As soon as I heard the screams, I immediately pushed the emergency call button in my cell to get help for the victim, whom I later learned was Rudolph Gutierrez. As I later found out, Mr. Gutierrez had also been calling for help from his own emergency call button. However, nobody responded to my intercom call, and I understand that nobody responded to Mr. Gutierrez’s intercom call either. That day, there was no one in the dayroom who could relay a call for help to deputies in the guard station (there are often long stretches of time where no deputies or incarcerated people are in the dayroom). Without functioning call boxes, we had no way to contact any staff. Deputies did not come into our housing unit until approximately forty minutes after I pushed the intercom button. Mr. Gutierrez was injured in the altercation and it is my belief that if deputies had intervened more quickly, Mr. Gutierrez’s injuries would not be as severe.

4. Although Mr. Gutierrez thankfully survived the attack, and his cellmate was permanently removed, I am scared that there may be future emergencies when no staff respond to my intercom calls. Not only did my calls go unanswered during this attack, but my attempts to summon staff using the intercom were also unsuccessful during a violent attack that occurred in March 2022 against Derek

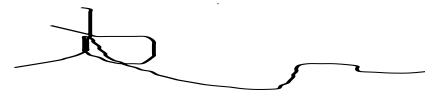
1 Baker, which I described in an earlier declaration in this case. Dkt. No. 119-23, ¶¶  
2 3-6. Although I filed a grievance with the Jail about the intercom not working  
3 during that March incident, the intercom system is still not a functional way to  
4 obtain help when deputies are out of earshot. Attached hereto as **Exhibit A** is a true  
5 and correct copy of the grievance I submitted regarding the March 12, 2022  
6 incident.

7 5. I also submitted a grievance about the May 23, 2022 incident, a true  
8 and correct copy of which is attached hereto as **Exhibit B**.

9 6. I am addicted to fentanyl and have been attempting to seek help for my  
10 addiction while incarcerated. Since approximately April 7, 2022, I have submitted  
11 approximately nine sick call requests and grievances asking to see a substance use  
12 counselor or to receive medication assisted treatment (“MAT”). I have not been  
13 started on MAT and no substance use counselor has come to see me.

14 7. I submit this declaration because I want to be a part of this litigation to  
15 help improve medical and mental health care at the Jail, make sure that people with  
16 disabilities are accommodated and treated fairly, and make the Jail safe for all  
17 incarcerated people.

18 I declare under penalty of perjury under the laws of California and the United  
19 States of America that the foregoing is true and correct, and that this declaration is  
20 executed at San Diego, California this 1<sup>st</sup> day of June, 2022.

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23 Gustavo Sepulveda  
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# **EXHIBIT A**



# San Diego County SHERIFF'S DEPARTMENT

## INMATE GRIEVANCE/APPEAL OF DISCIPLINE QUEJA/APELACION DE LA DISCIPLINA DE PRESO

☒ SDCJ ☐ GBDF ☐ EMRF ☐ LCDRF ☐ SBDF ☐ VDF ☐ FAC8

From: Sheriff's Department 2106540 76-4  
De: Name (Last, First, Middle) Booking Number Housing Unit  
Nombre (Apellido, Primero, Segundo) Número de ficha Unidad de alojamiento

Grievance is about: ☒ Jail Procedures ☐ Jail Conditions ☐ Medical ☐ PREA ☐ Other \_\_\_\_\_  
La queja es acerca: Procedimientos de Condiciones de Médico Otro  
la Cárcel la Cárcel

Date and Time of Incident / Fecha y hora del incidente: 3-12-22 13:00

Describe the reason for your grievance in your own words. Please be specific. (Use additional sheets if necessary)  
Describe la razón de su queja en sus propias palabras. Por favor sea específico. (Use hojas adicionales si es necesario)

At approx 13:00 on 3-12-22 I heard a physical altercation  
taking place in cell 5 of B-Mod on the 7th floor of SDCJ. I  
pressed the button on my call box to notify the deputies of the  
altercation and never received any acknowledgment. Inmate Baker  
ended up dying from the injuries he received in the altercation  
that the call box monitor ignored.  
I am grieving the fact that the call box is not being answered.

Inmate Signature / Firma de Preso

Date / Fecha

THIS BOX IS FOR OFFICIAL USE ONLY  
Esta caja es para el uso oficial solamente.

Received by: GAONA 0433 3/14/22 0941  
Signature of receiving staff member ARJIS # Date Time

Entered in JIMS: \_\_\_\_\_  
Date Time JIMS Grievance Number

If one of the following two conditions is alleged by the inmate, this grievance must be answered within 4 days:

- ☒ The inmate's health or safety is unfairly impacted by a condition of confinement  
☐ A condition of confinement has prevented the inmate's effective communication/participation in a legal hearing.

☐ This submission is not a grievance:

- ☐ It is an appeal of discipline—JIMS Incident # \_\_\_\_\_ JIMS Appeal Hearing # \_\_\_\_\_  
☐ It is a complaint against staff—JIMS Incident # \_\_\_\_\_ (Refer to Detentions P&P Section N.1)  
☐ It is an inmate request—respond in writing below. (No entry in JIMS, copy of response to booking jacket)

Response to Inmate Request:

## INSTRUCTIONS FOR THE USE OF THIS FORM

### GRIEVANCES

A written grievance can be submitted in one of two ways. You may place your grievance in the locked grievance box located in your housing module. In this case, you will receive the second page of the form within a couple of days, signed by a staff member. Or, you can hand your grievance directly to a deputy or other staff member, as long as you are in an area that you have permission to be in. The deputy or staff member who accepts your grievance will sign the grievance and give you back the second page of the form. The page you receive will contain your own explanation of your grievance and the signature of the person who accepted your grievance. Be sure to keep this copy, because it is your receipt for your grievance. Your grievance will be answered within seven (7) days of the time you submit it to a staff member. Each time you appeal your grievance to a higher level of command, there will be another ten day response time. If you appeal a grievance to the level of the facility commander, his or her decision will be final.

Inmates can file a grievance for any reason or condition including, but not limited to:

- A. When you believe a condition exists that constitutes a health or safety hazard.
- B. Unfair or unequal treatment of inmates by staff.
- C. Denial of privileges or rights.
- D. Disciplinary action imposed.
- E. PREA (Prison Rape Elimination Act.)

## INSTRUCCIONES PARA EL USO DE ESTA FORMA

### QUEJAS

Una queja hecha por escrito, puede ser sometida de una o dos maneras. Puede poner su queja en la caja con candado que está en su unidad de alojamiento. En este caso, recibirá la segunda página del formulario dentro de un par de días, firmada por un miembro de personal. O puede darle su queja a un oficial u otro miembro de personal, siempre y cuando esté usted en un lugar permitido. El oficial o miembro de personal que acepte su queja la firmará y le dará la segunda página de la forma. La página que reciba incluirá su propia explicación de su queja firmada por la persona que recibió su queja. Asegurese de quedarse con la copia, porque es su recibo de su queja. Su queja será contestada dentro de siete (7) días de cuando fue recibida por el miembro de personal. Cada vez que apele su queja a un nivel mas alto de mandato, seran otros diez (10) días de espera. Si apela su queja a el nivel de comandante de la cárcel, la decisión de el o ella será final.

Presos pueden quejarse por cualquier razón o condición incluyendo, pero no limitado a:

- A. Si cree que existe una condición que puede dañar la salud o poner en peligro la vida de usted u otros presos.
- B. Trato injusto o desigual a los presos por los empleados de la cárcel.
- C. El negar privilegios o derechos.
- D. Acción disciplinaria impuesta.
- E. PREA (Prison Rape Elimination Act)

# **EXHIBIT B**



# San Diego County SHERIFF'S DEPARTMENT

## INMATE GRIEVANCE/APPEAL OF DISCIPLINE QUEJA/APELACION DE LA DISCIPLINA DE PRESO

☒ SDCJ ☐ GBDF ☐ EMRF ☐ LCDRF ☐ SBDF ☐ VDF ☐ FAC8

From: Sepulveda, Gustavo Amiel 21106540 7B-6  
De: Name (Last, First, Middle) Booking Number Housing Unit  
Nombre (Apellido, Primero, Segundo) Número de ficha Unidad de alojamiento

Grievance is about: ☒ Jail Procedures ☐ Jail Conditions ☐ Medical ☐ PREA ☐ Other  
La queja es acerca: Procedimientos de Condiciones de Médico Otro  
la Cárcel la Cárcel

Date and Time of Incident / Fecha y hora del incidente: 5-23-2022, approx 9:20am

Describe the reason for your grievance in your own words. Please be specific. (Use additional sheets if necessary)  
Describe la razón de su queja en sus propias palabras. Por favor sea específico. (Use hojas adicionales si es necesario)

At approx 9:20am on 5-23-2022 I heard the sounds of a physical altercation and a panicked voice screaming "Stop, Stop, why are you hitting me?" Coming from cell #4 in B-Med on the 7th floor of SDCJ. I immediately pushed the call button in my cell to try and get help for the person being attacked in cell #4 (Rudolph Gutierrez, BN 22720104). My calls for help through the intercom were never answered. Gutierrez also pushed his intercom button for help, to no avail. I am grieving the fact that calls for help placed on the in-cell intercom system are routinely going unanswered, just like in the Derek Baker incident a few months ago.

[Signature] 5-23-2022  
Inmate Signature / Firma de Preso Date / Fecha

THIS BOX IS FOR OFFICIAL USE ONLY  
Esta caja es para el uso oficial solamente.

Received by: RT 5/23 5/24/22 0730  
Signature of receiving staff member ARJIS # Date Time

Entered in JIMS: \_\_\_\_\_  
Date Time JIMS Grievance Number

If one of the following two conditions is alleged by the inmate, this grievance must be answered within 4 days:

- ☐ The inmate's health or safety is unfairly impacted by a condition of confinement  
☐ A condition of confinement has prevented the inmate's effective communication/participation in a legal hearing.

☐ This submission is not a grievance:

- ☐ It is an appeal of discipline—JIMS Incident # \_\_\_\_\_ JIMS Appeal Hearing # \_\_\_\_\_  
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Inmates can file a grievance for any reason or condition including, but not limited to:

- A. When you believe a condition exists that constitutes a health or safety hazard.
- B. Unfair or unequal treatment of inmates by staff.
- C. Denial of privileges or rights.
- D. Disciplinary action imposed.
- E. PREA (Prison Rape Elimination Act.)

## INSTRUCCIONES PARA EL USO DE ESTA FORMA

### QUEJAS

Una queja hecha por escrito, puede ser sometida de una o dos maneras. Puede poner su queja en la caja con candado que está en su unidad de alojamiento. En este caso, recibirá la segunda página del formulario dentro de un par de días, firmada por un miembro de personal. O puede darle su queja a un oficial u otro miembro de personal, siempre y cuando esté usted en un lugar permitido. El oficial o miembro de personal que acepte su queja la firmará y le dará la segunda página de la forma. La página que reciba incluirá su propia explicación de su queja firmada por la persona que recibió su queja. Asegurese de quedarse con la copia, porque es su recibo de su queja. Su queja será contestada dentro de siete (7) días de cuando fue recibida por el miembro de personal. Cada vez que apele su queja a un nivel mas alto de mandato, seran otros dies (10) dias de espera. Si apela su queja a el nivel de comandante de la cárcel, la decisión de el o ella será final.

Presos pueden quejarse por cualquier razón o condición incluyendo, pero no limitado a:

- A. Si cree que existe una condición que puede dañar la salud o poner en peligro la vida de usted u otros presos.
- B. Trato injusto o desigual a los presos por los empleados de la cárcel.
- C. El negar privilegios o derechos.
- D. Acción disciplinaria impuesta.
- E. PREA (Prison Rape Elimination Act)