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15  
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  
VALERY TOZER 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.  
Ctm.: 4A

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**DECLARATION OF VALERY TOZER**

I, Valery Tozer, 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 July 2020.

3. Since birth, I have had a condition called Arnold-Chiari Malformation ("ACM"), which affects my brain and spine. Among other things, ACM causes me to suffer from spinal stenosis, spina bifida, and epileptic seizures.

4. Because of the epileptic seizures caused by my ACM, I requested a seizure helmet when I was booked into the Jail. However, I was never given one. At the time of my intake, custody staff told me that I did not require a seizure helmet. I am not aware that medical staff were consulted about the decision to deny me a seizure helmet.

5. I require medications to manage my ACM, which I was prescribed prior to my arrest. Although the Jail has provided me with ACM medications, they initially did not give me the correct dosages. Instead, for months I was given the incorrect dosages of my ACM medications. Because I was taking the incorrect dosages of my medications, I had very frequent seizures. When my ACM is properly managed with the correct medication dosages, I may have one seizure per year. However, in the first few months I was incarcerated at the Jail, I had four grand mal seizures and ten petite seizures.

6. When I was first arrested, I was housed in trans unit at Vista Detention Facility ("Vista"). I am trans, and I feel safer at Vista because I can be housed with other LGBT people there. One of the grand mal seizures I experienced at the Vista caused me to fall and break my back. I was taken to a hospital where I was given a back brace and scheduled for surgery in a few weeks.



1 7. While I was waiting for the surgery, I was housed in the Vista medical unit.  
2 The medical unit there is very dirty, as though it is never cleaned. I could compare  
3 it to a trash dump. The incarcerated people who are housed there frequently spit and  
4 vomit on the beds and in the corners of the room. Although trustees are assigned to  
5 clean the medical unit, that cleaning is ineffective. Sometimes, I would see an  
6 incarcerated person vomit in the corner of the room, and even after the room was  
7 "cleaned," visible stains would remain from the vomit. After I received the surgery,  
8 I was sent back to my usual housing unit; I did not return to the medical unit.

9 8. Shortly after the surgery, I was transferred from Vista to the San Diego  
10 Central Jail ("Central") without explanation. I filed a grievance asking to be  
11 returned to Vista so that I could be housed with other trans and LGBT people there.  
12 However, I was informed that I could not be housed in Vista because of my back  
13 brace. It was very painful for me to be without the back brace. However, I did not  
14 feel safe at Central, and so I felt like I had no choice but to give up my back brace  
15 and return to Vista.

16 9. After the surgery, I continued to have seizures. About one month ago, I had a  
17 seizure that caused me to fall out of my bunk and onto the floor. Since that seizure,  
18 my legs have felt numb, leaving me unable to walk, and I am suffering from severe  
19 pain elsewhere in my body. The Jail provided me with a wheelchair, which again  
20 means that I cannot be housed with other trans and LGBT at Vista, and instead have  
21 to be housed at Central where I fear for my personal safety.

22 10. Although I am in a cell that is supposed to be ADA accessible, it is very  
23 difficult for me to move around the cell. In particular, I have difficulty getting onto  
24 the toilet. Even though the cell is supposed to be ADA accessible, there is no toilet  
25 bar in the cell.

26 11. Since that seizure, I have been requesting medical appointments and  
27 evaluations to determine why I am unable to walk and the source of my pain.  
28 However, it has been impossible to get any diagnosis or treatment. I have not

1 received an evaluation, a referral for an evaluation, or even a response to my  
2 grievances. I have also tried to ask the Jail medical staff in person about the status  
3 of my requests, but they have refused to provide me any information or updates. It  
4 seems as though the Jail staff do not care about this severe medical issue. The Jail  
5 has not provided me with sufficient medication or other treatment to manage my  
6 pain while I am waiting for a diagnosis; they have only provided me with Tylenol.

7 12. In addition to ACM, I suffer from mental health concerns, including post-  
8 traumatic stress disorder. I have not received adequate mental health care since my  
9 incarceration.

10 13. After being incarcerated at Vista, I started to feel suicidal. I told deputies that  
11 I was thinking of hurting myself and requested to see a mental health clinician.  
12 However, I was never able to talk to a mental health clinician in private. I requested  
13 to meet with a mental health clinician in private, but that request was never granted.  
14 Occasionally, a provider would stop by my cell to talk, but those meetings were not  
15 confidential. Other incarcerated people and providers could hear our discussions.  
16 Even on the few occasions I was able to meet with a mental health clinician outside  
17 my cell, a deputy was present in the room. I was also able to meet with a  
18 psychiatrist, but the psychiatrist only prescribed medication. He did not discuss my  
19 concerns or provide any therapy.

20 14. That mental health treatment was insufficient. I attempted suicide multiple  
21 times while housed at Vista. I was placed in enhanced observation housing  
22 ("EOH") multiple times, for twelve hours at a time before being sent back to my  
23 usual housing unit. When I was in EOH, I was alone except for periodic check-ins.  
24 I was not allowed to wear my usual clothes, but was given only a smock.

25 15. In one suicide attempt at Vista, I hanged myself in my cell. I had turned  
26 purple by the time one of the deputies cut me down. The deputies tried to take me  
27 to the mental health hospital, but the hospital did not have any available beds.  
28 Instead, I was transferred to Central.



1 16. At Central, I was strip-searched, given a smock, and forced into a holding  
2 cell. As I was strip-searched, a group of approximately 10 deputies stood around  
3 and laughed at me. I think they were laughing because I am transgender. I felt  
4 violated and humiliated.

5 17. The holding cell I was forced into had padded walls and nothing but a hole in  
6 the floor to use as a toilet. Being in the holding cell broke me down. I screamed for  
7 an hour, until someone finally released me. I was not provided with any additional  
8 mental health care at that time. I was just handed back my clothes and sent back to  
9 my usual housing unit.

10 18. I am willing to be a Plaintiff in this lawsuit. I want to be involved in this  
11 litigation to help improve the medical, dental, and mental health care at the Jail,  
12 ensure that incarcerated people with disabilities are accommodated and treated  
13 fairly, and help make the Jail safe and secure for all incarcerated people.

14 I declare under penalty of perjury under the laws of California and the United  
15 States of America that the foregoing is true and correct, and that this declaration is  
16 executed at San Diego County Central Jail in San Diego, California this 5 day of  
17 June, 2022.

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19 Valery Tozer  
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