

**FEDERAL PUBLIC DEFENDER
DISTRICT OF OREGON**

LISA C. HAY
Federal Public Defender
STEPHEN R. SADY
Chief Deputy Defender
Gerald M. Needham
Thomas J. Hester
Anthony D. Bornstein
Susan Russell
Francesca Freccero
C. Renée Manes
Nell Brown
Kristina Hellman
Fidel Cassino-DuCloux
Alison M. Clark
Brian Butler♦
Thomas E. Price
Michelle Sweet
Mark Ahlemeyer
Susan Wilk
Oliver W. Loewy

**101 SW Main Street, Suite 1700
Portland OR 97204
503-326-2123 / Fax 503-326-5524**

Branch Offices:

859 Willamette Street
Suite 200
Eugene, OR 97401
541-465-6937
Fax 541-465-6975

15 Newtown Street
Medford, OR 97501
541-776-3630
Fax 541-776-3624

Elizabeth G. Daily
Conor Huseby
Robert Hamilton
Bryan Francesconi
Ryan Costello
Irina Hughes▲
Kurt D. Hermansen▲
Devin Huseby♦
Kimberly-Claire E. Seymour▲
Michael C. Benson
Jessica Snyder★

In memoriam
Nancy Bergeson
1951 - 2009

▲ Eugene Office
♦ Medford Office
★ Research/Writing Attorney

September 30, 2021

Jared Hager
Alison Milne
Assistant United States Attorneys
United States Attorney's Office
600 United States Courthouse
1000 SW Third Avenue
Portland, OR 97204

Re: *Stirling v. Hendrix*
Case No. 3:20-cv-00712-SB

Dear Jared and Alison:

In her recent order denying our request to have specific inmates brought out of their cells to meet with us during our Sheridan visit, Judge Beckerman suggested that we continue the practice of alerting the USAO to urgent medical needs of inmates, so that these could be addressed case-by-case. Although we could not independently verify these needs that are being reported to us by inmates, we believe they are true and hope that you can arrange to have medical staff at Sheridan respond quickly.

IMMEDIATE ATTENTION NEEDED:

- [REDACTED] Has been dealing with repeated infections that have sent him to the hospital twice. To date he has had seven infections and his body has gone into sepsis. This is all caused by an enlarged heart and a resting heart rate below 40 bpm. He was scheduled to go to a cardiologist to discuss receiving a pacemaker, but this visit was denied by prison medical. He was told by a nurse that he was being denied because of his life expectancy and that the procedure would be too expensive. Nothing else is being done to address his repeated infections and sepsis.

AUSAs Jared Hager and Alison Milne
September 30, 2021
Page 2

- [REDACTED] Needs his perforated eardrum fixed. The procedure has been approved for months but it has not been done. He has had 8 ear infections since the start of the pandemic, and he continues to get them while he waits for this procedure.
- [REDACTED] Needs a C-Pap machine for his sleep Apnea and needs Lantus insulin. He did not receive any insulin for a two-month period and now he is receiving a different generic insulin when he was prescribed Lantus by his doctor.
- [REDACTED] Needs to be seen by the psychiatric physician. He has been on lockdown for 23½ hours out of the day. Recently they have only been let out for 30 minutes every other day instead of every day. He asked both an officer and a different doctor if he could speak with psych, both said they would contact them but he was never seen. He then asked the first officer again and he relayed the request to the unit manager, but he has still not been able to speak with psych.
- [REDACTED] Needs to have his infected wrist tended to after he was bitten by another inmate. After someone else bit and chewed at Mr. Wood's wrist very badly, he was told he would be sent to medical to get it cleaned and receive antibiotics, but this has not happened. He has had to open the bandage up himself and clean it with hot water because it is now infected.
- [REDACTED] Needs to be seen immediately because he has had blood in his urine for over two weeks and he has pain in his kidneys. He has put in medical request forms and BP forms and it is getting worse. He was bleeding before transfer to Sheridan and has a kidney disease.
- [REDACTED] Needs to be given meals that conform to his medical dietary restrictions. He has celiac disease and he often skips 3 to 5 meals a week because no food is offered that he can eat.
- [REDACTED] Needs a follow up appointment with a doctor for his thyroid cancer.
- [REDACTED] Needs his blood work done for his diagnosed HEP C and receive treatment if needed.
- [REDACTED] Needs his blood work done for his diagnosed HEP C and receive treatment if necessary. He also has had an enlarged testicle for a year that has not been checked.
- [REDACTED] Needs treatment for his cirrhosis of the liver caused by HEP C.

AUSAs Jared Hager and Alison Milne
September 30, 2021
Page 3

- [REDACTED] Needs enzyme levels checked for kidney and liver because of HEP C.
- [REDACTED] His mother called to say that he was hospitalized with COVID, then brought back to the unit. He reportedly feels extremely unwell, has trouble speaking or walking, and suffers from a hereditary liver disease that places him at high risk for complications from COVID-19. We request that medical staff check on him regularly and keep close monitoring of his symptoms.
- [REDACTED] He has an infected tooth that has caused him to have a fever. He is in a lot of pain and is worried about the infection spreading. He was given an appointment 42 days out, but thinks he needs much more urgent dental care. Can we schedule an immediate appointment for him?

Sincerely,



Lisa Hay
Federal Public Defender

LH/jll

cc: Courtney Withycombe, FPD Investigator

PORTLAND MAIN OFFICE
1000 SW Third Avenue, Suite 600
Portland, Oregon 97204
(503) 727-1000
www.usdoj.gov/usao/or



EUGENE BRANCH
405 E 8th Avenue, Suite 2400
Eugene, Oregon 97401
(541) 465-6771

Alison Milne
Amy Potter
Assistant United States Attorneys
Alison.Milne@usdoj.gov
Amy.Potter@usdoj.gov
(503) 727-1000
Reply to Portland Office

U.S. DEPARTMENT OF JUSTICE
United States Attorney's Office
District of Oregon
Scott Erik Asphaug
Acting United States Attorney

MEDFORD BRANCH
310 West Sixth Street
Medford, Oregon 97501
(541) 776-3564

October 1, 2021

Lisa Hay
Office of the Federal Public Defender
101 SW Main Street, Suite 1700
Portland, Oregon 97204

Re: *Stirling v. Hendrix*; Case No. 3:20-cv-00712-SB (D. Or.)

Dear Lisa:

We write in response to your letters dated September 23, 2021 and September 30, 2021, and your email sent September 27, 2021. In your letters you described medical and/or dental concerns for a total of twenty-eight inmates under the headings "Immediate Attention Needed," "Chronic Issues" and "Dental health concerns." You acknowledged that you did not verify the needs being reported by inmates, but expressed your belief that they were true and desire for the USAO to arrange for BOP medical staff at FCI Sheridan to "respond quickly." In your email from September 27, 2021, you asked if it was possible to expedite dental care for an inmate who had a dental appointment scheduled in approximately 42 days noting that the inmate believed he needed care sooner. The same request was made concerning this inmate in your letter dated September 30, 2021.

After receiving your letters and email, the USAO forwarded all three to BOP counsel who provided your concerns to FCI Sheridan's Health Services for review and action pursuant to FCI Sheridan's triage protocol.

As described in the Declaration of Marcie Morgan ("Decl. Morgan"), ECF 77, the procedures in place at FCI Sheridan require inmates in the FCI and the FDC to submit requests for health services to staff. *See* Decl. Morgan, ¶¶ 5,7. FCI Sheridan also has procedures in place for the Camp whereby inmates can participate in open-house sick calls and quarantine inmates can submit written requests for health services. *Id.* at ¶ 9. If any inmate needs immediate help he may press a duress button in his cell which notifies the Control Center or he may communicate with the nearest staff member. *Id.* at ¶ 11. Inmates need to utilize the processes in place; medical staff will prioritize and provide medical care according to the current triage protocol.

Lisa Hay
Page 2
October 1, 2021

Although we recognize delays in care can be frustrating, it is important to note that FCI Sheridan, and the community providers they contract with, are following crisis standards of care prevailing in many public hospitals and healthcare offices nationwide. FCI Sheridan is dependent on the health care system in the surrounding community to accomplish a wide array of medical procedures that cannot be performed in house. Like many rural health care systems across the country, the current demand has resulted in extensive scheduling delays and limitations for non-emergent medical care. To date, FCI Sheridan's Health Services triage protocol continues to remain appropriate under the circumstances. To the extent any inmate is unsatisfied with FCI Sheridan's medical triage, an available and more appropriate avenue for relief is compassionate release pursuant to 18 U.S.C. § 3582(c)(1).

Sincerely,

SCOTT ERIK ASPHAUG
Acting United States Attorney

/s/ Alison Milne
ALISON MILNE
Assistant U.S. Attorney

/s/ Amy Potter
AMY POTTER
Assistant U.S. Attorney