# FEDERAL PUBLIC DEFENDER DISTRICT OF OREGON

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In memoriam Nancy Bergeson 1951 - 2009

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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

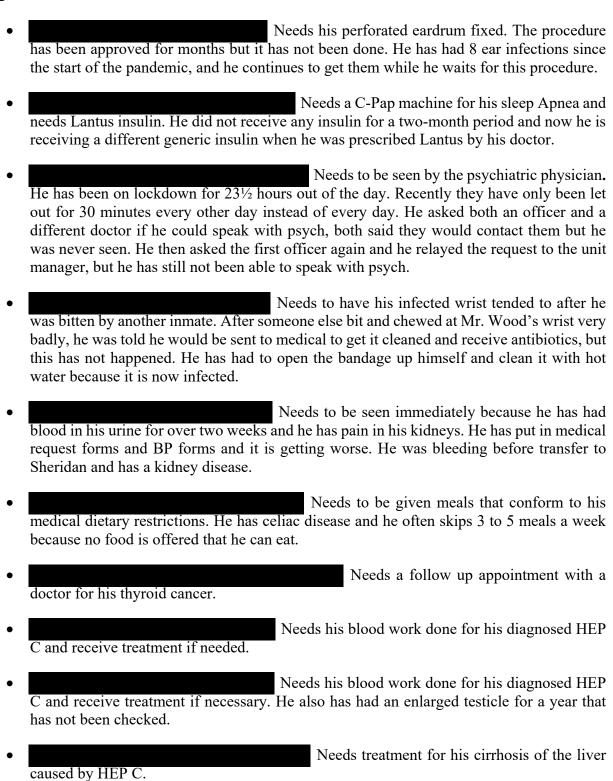
## Dear Jared and Alison:

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:**

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 addresses his repeated infections and sepsis.

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- Needs enzyme levels checked for kidney and liver because of HEP C.
- 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.
- 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

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## U.S. DEPARTMENT OF JUSTICE

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October 1, 2021

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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.

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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