



PENNSYLVANIA INSTITUTIONAL LAW PROJECT

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November 7, 2023

Superintendent Michael Zaken
SCI Greene
169 Progress Drive
Waynesburg, PA 15370

Robert Solomon, M.D.
Medical Director
SCI Greene
169 Progress Drive
Waynesburg, PA 15370

RE: Quaan White, #JY7727

Dear Superintendent Zaken and Dr. Solomon:

We are writing on behalf of our client, Quaan White, #JY7727, who has been incarcerated in the Pennsylvania Department of Corrections (“DOC”) since approximately 2009. Our review of Mr. White’s medical records and our conversations with Mr. White raise serious concerns for us regarding his lack of appropriate medical care and disability accommodations at State Correctional Institution (“SCI”) Greene. We ask that you take immediate action to provide medical care and accommodations for Mr. White’s disabilities to avoid further violating the Eighth Amendment and the Americans with Disabilities Act (“ADA”).

Mr. White is entirely blind in his left eye and has severely limited vision in his right eye. He has been diagnosed with aphakia in his right eye and severe glaucoma in both eyes. He uses a contact lens in his right eye, which allows him to see shapes, colors, and shadows. Although Mr. White has had limited vision since he was a child, his impairment has significantly increased over time. To date, the vision care SCI Greene has provided to Mr. White is grossly inadequate and has likely contributed to the decline in his vision, in addition to placing him at significant risk of infection.

Additionally, the current lack of accommodations for his visual impairment leaves him isolated and prone to injury, exclusion, deprivation, and punishment. Vision Services of Washington-Greene evaluated Mr. White on May 5, 2023, and subsequently provided recommendations to the DOC via a letter dated May 15, 2023. Enclosed please find a copy of that letter. To date, the DOC has failed to incorporate any of the recommendations in that letter. Unfortunately, the DOC’s failure to accommodate Mr. White’s visual impairment is wholly consistent with a larger pattern of the DOC’s failure to accommodate visual impairments generally throughout its incarcerated population and raises grave concerns.

The DOC Has Failed to Adequately Provide for Mr. White’s Medical Needs

Mr. White currently uses three prescription eyedrops, each of which he must take daily to control and reduce the pressure in his right eye. At times, he has lacked access for weeks or months to the eye drops he requires, despite timely requests for prescription refills on his part. Standard glaucoma treatment requires the use of prescription eyedrops to manage eye pressure so as to slow loss of vision.¹ Missed eye drops have caused Mr. White to experience headaches, a pulsing sensation in his affected eye, temporary blindness, and growth of scar tissue. On two separate occasions these issues have also caused Mr. White to require surgical insertion of a stent in his eye in order to relieve pressure, a painful and invasive procedure. Consultants at UPMC have repeatedly reprimanded SCI Greene for failing to follow basic medical treatment recommendations for Mr. White and have told Mr. White that his loss of vision is accelerated by his inability to routinely administer his eye medications as directed. To address these issues, Mr. White requires access to all prescribed medications in accordance with the directions of his physicians. He should also have timely access to specialist care and routine eye exams with the frequency recommended by his physicians.

Mr. White wears a contact lens in his right eye. The lens enables Mr. White to retain some perception of the space around him. The DOC has provided him with “extended wear” contacts, which may be worn for up to 30 days and nights. In the past, the DOC has failed to adequately supply Mr. White with contact lenses such that he was forced to use a single lens for over a year. In 2023, the DOC required Mr. White to use the same contact lens for over four months. Using an extended wear contact for greater than the recommended 30-day period significantly increases the risk of microbial keratitis, a serious type of eye infection which can, at its most severe, cause blindness.²

Mr. White has also experienced difficulty in obtaining contact lenses with the correct prescription strength. In August 2023, he received a new contact lens, but it was not the strength prescribed for him. When he is forced to wear a lens of the wrong prescription strength, he experiences eye strain and headaches. Mr. White’s contact lens prescription was most recently updated in April 2023; however, he did not receive the correct lens until September 2023. Even more troublingly, in the past, DOC medical staff have directed Mr. White to layer two contact lenses together in his eye in order to achieve the correct prescription strength. According to the American Academy of Ophthalmology, layering contact lenses prevents oxygen from reaching the corneal surface, which increases the risk of a bacterial infection.³ In addition to failing to provide Mr. White with contact lenses that match his prescription, DOC medical and security staff have also at times refused Mr. White access to contact lens cleaning solution, instead directing him to use his own saliva to clean the lens. Saliva is not sterile and should never be used to clean contact lenses.⁴

¹ National Eye Institute, *Glaucoma Medicines*. <https://www.nei.nih.gov/Glaucoma/glaucoma-medicines>, (last visited October 23, 2023).

² Centers for Disease Control and Prevention, *Healthy Contact Lens Wear and Care: Germs & Infections*, <https://www.cdc.gov/contactlenses/germs-infections.html> (last visited October 23, 2023).

³ American Academy of Ophthalmology, *Ask an Ophthalmologist*, <https://www.aao.org/eye-health/ask-ophthalmologist-q/wearing-two-contacts-cause-corneal-ulcer> (last visited Sept. 29, 2023).

⁴ Centers for Disease Control and Prevention, *Protect Your Eyes*, <https://www.cdc.gov/contactlenses/protect-your-eyes.html> (last visited October 23, 2023).

Improper cleaning can lead to serious infections.⁵ Mr. White requires an ongoing supply of contact lenses at the correct prescription strength and contact lens solution sufficient to allow him to clean his contact lens on a daily basis and to replace his contact lens every thirty days.

Mr. White has a constitutional right to adequate medical care.⁶ The Eighth Amendment prohibits jail officials from being “deliberately indifferent” to an individual’s “serious medical needs.”⁷ A serious medical need exists “where denial or delay causes an [incarcerated person] to suffer a lifelong handicap or permanent loss.”⁸ Incontrovertibly, delays in Mr. White’s access to necessary medications and access to ongoing ophthalmologic care cause him to suffer an accelerating, irreversible loss of vision. Courts have also held that an incarcerated person’s need for prescription lenses may constitute a “serious medical need.”⁹ Thus, Mr. White’s ophthalmologic needs unquestionably constitute a serious medical need.

Prison officials are deliberately indifferent, and thereby violate the constitution, when they have “knowledge of the need for medical care” but respond with “intentional refusal to provide that care.”¹⁰ Mr. White’s medical records with the DOC provide ample evidence that DOC medical staff are fully aware of Mr. White’s ophthalmologic needs, both in regard to his glaucoma treatment and vision correction but have repeatedly failed to provide him with necessary care.

The DOC Has Failed to Provide Reasonable Accommodations for Mr. White’s Disability

As Mr. White is blind in one eye and has severely compromised vision in his other eye, he requires accommodations in order to safely participate in activities of daily life at SCI Greene. However, despite its obligations under the Americans with Disabilities Act (“ADA”) and Rehabilitation Act (“RA”), the DOC has consistently and persistently failed to provide the accommodations that Mr. White requires.

The DOC is subject to Title II of the ADA and Section 504 of the RA, which prohibit covered entities from precluding an individual with a disability from participating in a program, service or activity because of their disability and require them to provide “reasonable accommodations” to individuals with disabilities.¹¹ Virtually all programs offered by a prison, including medical care, mobility, and hygiene qualify as “services, programs or activities” under Title II.¹² Public entities

⁵ *Id.*

⁶ See *Estelle v. Gamble*, 429 U.S. 97, 103 (1976).

⁷ *Id.* at 106.

⁸ *Monmouth Cty. Corr. Institutional Inmates v. Lanzaro*, 834 F.2d 326, 347 (3d Cir. 1987).

⁹ See *Tormasi v. Hayman*, 452 F. App’x 203, 206 (3d Cir. 2011) (stating that where an incarcerated person’s uncorrected vision resulted in dizziness and imbalance, his optometry needs constituted a serious medical need); *Koehl v. Dalsheim*, 85 F. 3d 86, 88 (2d Cir. 1996) (holding that an incarcerated person established serious medical need when he experienced double vision and loss of depth perception without prescription glasses such that he would fall or walk into objects).

¹⁰ *Spruill v. Gillis*, 372 F.3d 218, 235 (3d Cir. 2004).

¹¹ See 42 U.S.C. § 12132; 29 U.S.C. § 794; 29 U.S. § 794(b)(1)(A); *Pa. Dep’t of Corr. v. Yeskey*, 524 U.S. 206, 210 (1998); *Geness v. Cox*, 902 F.3d 344, 361 (3d Cir. 2018); *Furgess v. Pa. Dep’t of Corr.*, 933 F.3d 285, 287 (3d. Cir. 2019).

¹² See *United States v. Georgia*, 546 U.S. 151, 157 (2006) (quoting 42 U.S.C. § 12132); *Yeskey*, 118 F.3d at 170.

have an affirmative duty under the ADA's implementing regulations to "make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability."¹³ These regulations also require a public entity to "take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others" and to provide "appropriate auxiliary aids and services" so that individuals with disabilities have "an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity."¹⁴ The right to accommodation of visual impairments in a carceral setting is well-established and Mr. White's current situation falls well below the established standards.¹⁵

Management of Mr. White's Physical Environment and Daily Life

Several activities of daily life are inaccessible to Mr. White under the current conditions of his confinement in the DOC. Navigating the physical landscape of the prison presents a constant challenge for Mr. White and results in frequent falls. He has asked for a white cane to assist him in ambulating around the prison multiple times over several years. Troublingly, the DOC has consistently denied this request. We ask that at a minimum, Mr. White be immediately provided with a white cane or comparable mobility aid.

Three times a day, Mr. White must remove his contact lens from his eye, place three different prescription eye drops in each eye, clean his contact lens, and re-insert it into his eye. Mr. White cannot accomplish these tasks without assistance. In the past, Mr. White has met this need through the informal assistance of other incarcerated people. However, on August 25, 2023, the DOC placed Mr. White in the Special Needs Unit ("SNU"), a unit primarily intended for individuals with serious mental illness. Mr. White does not have serious mental illness and believes his placement in the SNU is a result of his vision impairment. Incarcerated people in the SNU are locked in their cells the majority of the time and many of them are not in a position to assist Mr. White. As a result, Mr. White has been sleeping with his contact lens in and squirting saline into his eye in an effort to clean the contact lens. We request that Mr. White be provided assistance in removing his contact lens and related tasks that does not force him to make informal bargains with other incarcerated people. Additionally, Mr. White should be transferred to a cell placement in a unit that facilitates his inclusion in facility life and does not merely warehouse people with disabilities together for the convenience of staff while ignoring each person's actual unique needs.

¹³ See 28 C.F.R. § 35.130(b)(7).

¹⁴ See 28 C.F.R. § 35.160(a)(1), (b)(1); *Taylor v. Phoenixville Sch. Dist.*, 184 F.3d 296, 306 (3d Cir. 1999) ("Discrimination under the ADA encompasses not only adverse actions motivated by prejudice and fear of disabilities, but also includes failing to make reasonable accommodations for a plaintiff's disabilities.").

¹⁵ See e.g., *Thompson v. N.Y. State Corr. & Cmty. Supervision*, No. 22-CV-6307-FPG, 2022 U.S. Dist. LEXIS 177723, at *6, *24 (W.D.N.Y. Sep. 28, 2022) (stating that the plaintiff established a plausible failure-to-accommodate claim under the ADA and Rehabilitation Act based on the correctional facility's denial of "corrective lenses, a support cane, visor/sunglasses, magnifiers, 'CCTV', cassette player and cassettes and 'large print'"); *James v. Miller*, No. 2:21-cv-3984, 2021 U.S. Dist. LEXIS 158495, at *13 (S.D. Ohio Aug. 23, 2021) (finding that the plaintiff "alleged sufficient facts to state a claim for violation of the ADA and RA" based on the correctional facility's denial of "tinted lens glasses, lowered brightness of dorm lighting at all times, [and] bottom range and bunk restrictions").

Further, Mr. White is unable to read the clocks that are readily available to most incarcerated people in the DOC. Without access to a reliable method of determining the time, Mr. White faces difficulty in complying with institutional schedules, placing him at risk of disciplinary action and other consequences such as missed meals. He cannot use a code lock, the standard item issued by the DOC for incarcerated people to secure their belongings. As a result, he is unable to secure his property, leaving him vulnerable to theft. He is also unable to readily identify his tablet and DOC-issued ID, which places him at risk of discipline by staff and conflicts with other incarcerated people. Mr. White requires a talking watch, along with a plan for access to additional watch batteries as needed in the future, a keyed lock to secure his possessions, and an ID card and tablet that can be readily distinguished from other ID cards and tablets by touch.

Mr. White's visual impairment causes him to be sensitive to light. When exposed to bright light from any source, he experiences severe headaches and migraines and a throbbing sensation in his eyes. Because of this, Mr. White avoids going outdoors on sunny days and must make informal modifications to filter the light in his cell, both from the overhead light and from the window, which places him at risk of disciplinary action. In the past, the DOC issued Mr. White standard sunglasses, which did not adequately shield his eyes. In August 2023, the DOC issued Mr. White clear glasses with enough width at the temple to shield his peripheral vision. However, because the glass lenses were not tinted, the glasses did not alleviate his photophobia. To address these issues, Mr. White requires photophobia or blackout glasses that feature both wide temples to block peripheral light and tinted lenses, a curtain or other window covering in his cell, placement of the bed in his cell so as to partially block light from the window, the ability to switch off the overhead light in his cell, and an eye mask to limit his exposure to light in his cell.

Acknowledgement and Clear Identification of Mr. White's Disability

Because Mr. White's vision impairment is not always readily apparent to a casual observer, Mr. White has been subject to disciplinary action, use of force, solitary confinement, and other sanctions, from staff who were unaware of his impaired vision. While his disability is well-documented within his medical records, this information has not been clearly communicated to DOC security staff. Clear identification of disability in an institutional setting falls within the accommodations required by the ADA.¹⁶ Further, Mr. White is vulnerable to the use of OC spray, which could cause him to lose his remaining vision. We request that the DOC take steps to remedy these issues including signage on his cell door that clearly identifies him as blind; clear and readily apparent notation on his inmate ID that identifies him as blind; clear and readily apparent identification on his clothing that identifies him as blind; and a formal "Do Not Spray" ("DNS") order, with DNS indicators on his cell door and his inmate ID, as well as an order for staff to remove Mr. White from the vicinity before a planned use of force against another incarcerated person in which OC spray may be used.

Access to Written Communications, Classes and Programming

As a result of his visual impairment, Mr. White is obviously unable to read printed communications, written announcements or signage within the facility. Troublingly, DOC staff have

¹⁶ See e.g., *Brady v. Ill. Dep't of Corr.*, No. 23-cv-00295-SMY, 2023 U.S. Dist. LEXIS 96824 (S.D. Ill. June 2, 2023).

required him to sign paperwork that he is unable to read. His inability to read printed material has largely caused him to be excluded from classes and programming offered by the DOC. Moreover, because his visual impairment prevents him from effectively reading and writing, he does not have access to the DOC's grievance, sick call request and disability accommodation request procedures. He is also unable to make use of resources in the law library or independently use the facility kiosks or a DOC-issued tablet because they do not offer accessibility features. To address these issues, he requires the following accommodations: a kiosk or kiosk alternative with screen reader functionality; a handheld speech-to-text device that would allow Mr. White to dictate and print his letters, grievances, sick call slips, requests to staff, and disability accommodation requests; a tablet with the accessibility settings turned on and visual assistance apps provided,¹⁷; access to audiobooks; and an assigned aide to read materials to Mr. White and assist him in filling out forms and other necessary paperwork. These accommodations are fully encompassed by the ADA's requirement to provide "auxiliary aids and services" to assist in communication.¹⁸

Conclusion

In light of the serious Eighth Amendment and ADA violations described above, we ask that you take immediate action to provide Mr. White with adequate medical care and appropriate accommodations for his visual impairment. We recognize that providing accommodations for individuals with disabilities requires careful individual specific consideration and welcome the opportunity to further discuss the best way to meet Mr. White's needs. We also encourage SCI Greene and the DOC to consult with Vision Services of Washington-Greene regarding options for accommodation of vision impairments.

We ask that you respond in writing to this letter within thirty days. If you have any questions or concerns, you may contact Alexandra Morgan-Kurtz (amorgan-kurtz@pilp.org) and Evangeline Wright (ewright@pilp.org).

Sincerely,



Alexandra Morgan-Kurtz
Deputy Director



Evangeline Wright
Staff Attorney

cc: Timothy Holmes, tholmes@pa.gov
Chase DeFelice, chdefelice@pa.gov

Encl: May 15, 2023, Letter, Vision Services of Washington-Greene

¹⁷ See recommendations for appropriate visual assistance apps in the enclosed May 15, 2023, letter from Vision Services of Washington-Greene.

¹⁸ See 28 C.F.R. § 35.104.