

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

ATLANTA DIVISION

**BRANDON COBB, CARLOS HERRERA,
JOSEPH NETTLES, ERNEST WILSON,
JEREMY WOODY, and JERRY COEN,
on behalf of themselves and all others
similarly situated,**

Plaintiffs,

v.

**GEORGIA DEPARTMENT OF
COMMUNITY SUPERVISION, and
MICHAEL NAIL, in his official capacity
as Commissioner of the Georgia
Department of Community Supervision,**

Defendants.

Civil Action No.

CLASS ACTION

ORAL HEARING REQUESTED

MOTION FOR PRELIMINARY INJUNCTION

Come now plaintiffs Brandon Cobb, Carlos, Herrera, Joseph Nettles, Ernest Wilson, Jeremy Jay Woody, and Jerry Coen (“Plaintiffs”) and move the Court for entry of a preliminary injunction showing as follows:

1.

Plaintiffs are six deaf individuals subject to ongoing supervision by the Georgia Department of Community Supervision and its Commissioner, Michael Nail (collectively, “GDCS” or “Defendants”). GDCS has routinely and repeatedly

failed to provide Plaintiffs with qualified American Sign Language interpreters, other necessary auxiliary aids and services, and other reasonable modifications to which they are entitled under Title II of the Americans with Disabilities Act (the “ADA”) and Section 504 of the Rehabilitation Act of 1973 (“Section 504”). Defendant Nail, acting in his official capacity, has further refused to provide Plaintiffs with the procedural due process requirements of the Fourteenth Amendment. Plaintiffs are qualified individuals with a disability.

2.

Given the strict requirements of the supervision process—which frequently include in-person meetings and lengthy, written documentation—regular and effective communication is necessary to ensure that Plaintiffs both understand and comply with the terms of their supervision. Non-compliance with supervision rules can result in severe consequences, including reincarceration. Defendants have repeatedly failed to provide Plaintiffs with interpreters, other essential auxiliary aids and services, and other reasonable modifications which Plaintiffs are guaranteed under federal law and that Plaintiffs require in order to have an equal opportunity as hearing individuals to succeed while supervised.

3.

Defendants have repeatedly and habitually failed to comply with federal law.

Plaintiffs face the danger of reincarceration should they fail to comply exactly with the supervision requirements that Defendants have failed to effectively communicate to them. Defendants' routine suggestion that Plaintiffs provide interpreters at their own cost not only violates federal law, but also constitutes further irreparable harm. Balancing of hardships and public interest strongly weigh in favor of requiring Defendants to comply with the ADA and Section 504, particularly because the very purpose of these laws is to eradicate, not to perpetuate, discrimination against individuals with disabilities.

4.

Plaintiffs meet the requirements for preliminary injunctive relief. In the attached memorandum of law and the accompanying evidentiary materials, Plaintiffs will demonstrate: (1) a substantial likelihood of success on the merits; (2) a threat of irreparable injury if the preliminary injunction is not granted; (3) irreparable injury that outweighs the harm the preliminary injunction will cause to the Defendants; and (4) the preliminary injunction is in the public interest.

WHEREFORE, Plaintiffs respectfully request that this Court grant their request for preliminary injunction relief and issue an order: (1) restraining Defendants from violating the ADA and Section 504; (2) directing Defendants to immediately provide qualified ASL interpreters, auxiliary aids and services, and

reasonable modifications, as determined by each individual's preferred method of communication, to Plaintiffs and to all other deaf and hard of hearing individuals subject to GDCS supervision, including: (i) at every meeting and encounter with a GDCS officer and (ii) to facilitate effective communication of the contents of any written documents related to the terms of these individuals' supervision; and (3) providing such other and further relief as the Court may deem just and proper.

Respectfully submitted this 19 day of July, 2019,

Kosha S. Tucker

Kosha S. Tucker, Georgia State Bar No.
214335

Sean J. Young, Georgia State Bar No.
790399

Attorneys for Plaintiffs

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF GEORGIA, INC.

P.O. Box 77208

Atlanta, GA 30357

Phone: (678) 981-5295

Fax: (770) 303-0060

KTucker@acluga.org

SYoung@acluga.org

Pro Hac Vice Motions Forthcoming:

Susan Mizner
Claudia Center
Zoe Brennan-Krohn,
Talila A. Lewis
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION DISABILITY RIGHTS
PROGRAM
39 Drumm Street
San Francisco, CA 94111
Phone: (415) 343-0781
Fax: (415) 395-0950
SMizner@aclu.org
CCenter@aclu.org
ZBrennan-Krohn@aclu.org
Talila.A.Lewis@gmail.com

Brittany Shrader
NATIONAL ASSOCIATION FOR THE DEAF
LAW AND ADVOCACY CENTER
8630 Fenton Street, Suite 820
Silver Spring, MD 20910
Phone: (301) 587-2907
brittany.shrader@nad.org

Ian Hoffman
Margaret Girard
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave, NW
Washington, DC 20001
Phone: (202) 942-5000
Fax: (202) 942-5999
Ian.Hoffman@arnoldporter.com
Margaret.Girard@arnoldporter.com

Stephanna F. Szotkowski
ARNOLD & PORTER KAYE SCHOLER LLP
70 West Madison Street, Suite 4200
Chicago, Illinois 60602
Phone: (312) 583-2354
Fax: (312) 583-2591
Stephanna.Szotkowski@arnoldporter.com

Attorneys for Plaintiffs

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**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION**

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This is a case about the Georgia Department of Community Supervision’s years-long failure to provide Plaintiffs—six deaf individuals—with qualified American Sign Language (“ASL”) interpreters and other necessary auxiliary aids and services and modifications to which they are entitled under Title II of the Americans with Disabilities Act (the “ADA”) and Section 504 of the Rehabilitation Act of 1973 (“Section 504”). Because Defendants’ violations of law are so clear, and the harm to Plaintiffs so severe, Plaintiffs are entitled to preliminary injunctive relief.

Plaintiffs are individuals subject to ongoing supervision by the Georgia Department of Community Supervision and its Commissioner, Michael Nail (collectively, “GDCS” or “Defendants”). The supervision process is strict and requires regular and effective communication—including through in-person meetings and lengthy, written documentation—to ensure that Plaintiffs both understand and comply with the terms of their supervision. Non-compliance with supervision rules can result in severe consequences, including reincarceration. Defendants have set Plaintiffs up for failure by refusing to provide them with the means to understand their supervision terms or to participate in their supervision on an equal basis. Plaintiffs want to comply with those terms and to do everything expected of them by GDCS so that they may successfully re-integrate into society. As a result of Defendants’ violations of federal law, however, Plaintiffs fear

reincarceration from unintentionally violating probation terms. Hearing persons simply do not face this risk to their liberty.

The term “deaf and hard of hearing” refers to hearing levels or loss that qualify as “disabilities” under the ADA and Section 504.¹ For most Plaintiffs, ASL is their primary language. ASL is a complete and complex language distinct from English. Because deaf people often cannot read or write in English, written notes are not usually an effective communication tool. Nor are *ad hoc* communication attempts like gesturing, speech-reading, or fingerspelling. Instead, deaf individuals need ASL interpreters to communicate effectively with hearing people and to read and understand documents written in English. Some deaf individuals who experienced language deprivation during critical years of language development may not have developed fluency in even their primary language. To communicate effectively with hearing people, these individuals may need a team of two interpreters—a hearing person who interprets between ASL and English, and a Deaf Interpreter (“DI”) who interprets from ASL into a suitable linguistic format.

While subject to supervision, Plaintiffs are required to comply exactly with rigorous and highly specific rules and requirements, including meetings,

¹ Plaintiffs use the term “Deaf” to refer to individuals who self-identify as culturally deaf. The phrase “deaf and hard of hearing” includes deaf, hard of hearing, d/Deaf-Disabled, d/DeafBlind, and Deaf individuals.

appointments, curfews, and lie-detector tests. Plaintiffs are frequently required to sign long, complex documents memorializing these requirements. Some Plaintiffs are subject to the authority of multiple supervision agencies, each with its own rules, requirements, and documents. Failure to comply precisely with these requirements, including by non-criminal conduct, can result in severe penalties like reincarceration. *See* Ga. Comp. R. & Regs. 475-3-.08.

Defendants routinely and repeatedly fail to provide interpreters, other essential auxiliary aids and services, and other reasonable modifications guaranteed to Plaintiffs under federal law that Plaintiffs need to have an equal opportunity to succeed while supervised. As a result, Plaintiffs do not fully understand the terms of their supervision, are entirely or substantially unable to ask questions or obtain clarifications about the terms of their supervision, and are denied the opportunity to participate in their supervision programs. Hearing individuals subject to GDCS supervision are better able to have an ongoing dialogue with and ask questions of their GDCS officers. Without effective communication, Plaintiffs face a heightened risk of being cited for accidentally or unknowingly violating supervision conditions.

Preliminary injunctive relief is warranted. Defendants have repeatedly and habitually failed to comply with federal law. Plaintiffs face the danger of reincarceration should they fail to comply exactly with the supervision requirements

that Defendants have failed to effectively communicate to them. Defendants' routine suggestion that Plaintiffs provide interpreters at their own cost not only violates federal law, but also constitutes further irreparable harm. Balancing of the hardships and public interest strongly weighs in favor of requiring Defendants to comply with federal law, particularly because the very purpose of these laws is to eradicate, not to perpetuate, discrimination against individuals with disabilities.

Accordingly, Plaintiffs request that this Court issue an order restraining Defendants from violating the ADA and Section 504 and directing Defendants to immediately provide qualified ASL interpreters, auxiliary aids and services, and reasonable modifications, as determined by each individual's preferred method of communication, to Plaintiffs and to all other deaf and hard of hearing individuals subject to GDCS supervision, including: (i) at every meeting and encounter with a GDCS officer and (ii) to facilitate effective communication of the contents of any written documents related to the terms of these individuals' supervision.

BACKGROUND²

A. Plaintiffs

Brandon Cobb is Deaf and communicates exclusively in ASL. Cobb Decl.

² Plaintiffs direct the Court to their Complaint filed simultaneously with this motion ("Compl."), and the declarations attached hereto, for a full recitation of the relevant facts. *See* Declarations of Brandon Cobb ("Cobb Decl."), Joseph Nettles ("Nettles

¶¶ 3–4. He requires at least one hearing interpreter and one DI to communicate effectively with his supervision officers. *Id.* ¶ 5. He is currently on parole. *Id.* ¶ 6.

Joseph Nettles is deaf, communicates primarily in ASL, and can only read and write some basic words and sentences in English. Nettles Decl. ¶¶ 3–4. He needs an ASL interpreter in order to understand written documents and to communicate. *Id.* ¶¶ 10, 17. He is currently on probation and his probation officer visits his home twice a month. *Id.* ¶¶ 5, 13. He reports to the county sheriff’s office every year. *Id.* ¶ 17.

Carlos Herrera is Deaf and communicates exclusively in ASL. Herrera Decl. ¶ 3. For complex communications where nuance and detail are important, like communications with his supervision officers, Mr. Herrera requires at least one hearing interpreter and one DI to communicate effectively with hearing people. *Id.* ¶ 5. Mr. Herrera is currently on probation. *Id.* ¶ 21. As part of his probation, his probation officer makes unannounced visits to his home at random intervals, including late at night, and always without interpreters. *Id.* ¶ 22.

Jeremy Jay Woody is Deaf, communicates primarily in ASL, and can only read and write some words in English. Woody Decl. ¶ 2. He is on probation and his probation officers conduct regular unannounced visits to his home without

Decl.”), Carlos Herrera (“Herrera Decl.”), Jeremy Jay Woody (“Woody Decl.”), and Ernest Wilson (“Wilson Decl.”).

interpreters. *Id.* ¶¶ 3, 13, 14.

Ernest Wilson lost his hearing around 2002 and is completely deaf. Wilson Decl. ¶ 2. He can read, write, and speak in English, but he cannot hear spoken words. *Id.* He communicates effectively when using a system called Communication Access Real-time Translation (“CART”), in a which a person types a real-time transcript of everything said for Mr. Wilson to read. *Id.* ¶ 3. Mr. Wilson is currently on probation and his probation officer visits his home approximately twice a month. *Id.* ¶¶ 5, 9. He also reports to the county sheriff’s office every year. *Id.* ¶ 10.

Jerry Coen is Deaf and communicates primarily in ASL. Compl. ¶ 25. He understands very limited written English. *Id.* He is currently on probation. *Id.* ¶ 55. His probation officer visits him at his house, always without interpreters. *Id.*

B. Defendants

GDCS is an executive branch agency of the State of Georgia, with field offices across the State. GDCS was established in 2015 to supervise the more than 200,000 people on probation and parole in Georgia and individuals on Georgia’s sex offender registry. GDCS oversees particular programs that are required for people subject to its supervision, such as specific classes, mental health counseling, and drug testing.

Michael Nail is the Commissioner of GDCS and is responsible for GDCS field office operations in Georgia and for ensuring that GDCS officers comply with

applicable law. Commissioner Nail is being sued in his official capacity.

C. Defendants' Unlawful Conduct

GDCS and its officers consistently fail to communicate effectively with Plaintiffs at all stages of their supervision. GDCS's communication failures begin at its initial contact with Plaintiffs, when the supervised individual first reports to the regional GDCS office. Compl. ¶ 9. This meeting is crucial for the supervised person to understand how to successfully complete his term of supervision. The supervision officer presents the supervised person with a packet of documents which includes the rules and requirements of the person's supervision. *Id.* These are often written in complicated English that Plaintiffs cannot understand. During this meeting, the supervision officer typically verbally explains these rules and requirements and provides the supervised person with an opportunity to ask clarifying questions. *Id.* Because supervision officers provide no means of effectively communicating with Plaintiffs, this opportunity is denied Plaintiffs.

GDCS has never provided ASL interpreters for any of the Plaintiffs during this critical first meeting and has frequently imposed additional barriers to communication. When Mr. Nettles asked for an ASL interpreter during his first meeting with his probation officer, he believes that his officer told him that he needed special permission from the court to get an ASL interpreter and that the

court—rather than GDCS—would need to arrange for the ASL interpreter to come to the probation office for the meeting. Nettles Decl. ¶ 9. Mr. Woody has also been told that he would have to provide his own interpreter, which he cannot afford to do. Woody Decl. ¶ 8. Often, after refusing to provide ASL interpreters or auxiliary aids and services, GDCS officers ignore the supervised person, speaking to family members instead. *See, e.g.*, Cobb Decl. ¶ 14 (sister); Wilson Decl. ¶ 7 (daughter).

During initial meetings, GDCS officers have also asked Plaintiffs' family members to serve as interpreters. When Mr. Nettles first reported to the probation office, his supervising officer asked his mother—who was not fluent in ASL and was not an ASL interpreter—to interpret. Nettles Decl. ¶ 10. Similarly, when Mr. Cobb first reported to his parole office, he received a 13-page packet of documents written at a college reading level that his sister tried to explain to him via notes because no ASL interpreter was present. Cobb Decl. ¶ 12. Mr. Cobb could not understand his sister's notes because he cannot read English. *Id.* Eventually, Mr. Cobb's sister gestured in an attempt to tell him to sign the documents. *Id.* ¶ 13. Mr. Cobb did not want to sign the documents because he did not know what they said, but signed them anyway because he was afraid that he would not be allowed to leave the parole office and would be sent back to prison if he did not. *Id.*

Because of GDCS's failure to effectively communicate with Plaintiffs during

these initial meetings, Plaintiffs regularly leave feeling confused and scared. They know that they need to follow all of the rules of their supervision, but are universally terrified by the prospect of accidentally violating a rule that was never communicated to them. *See, e.g.*, Cobb Decl. ¶ 17; Herrera Decl. ¶ 12; Nettles Decl. ¶¶ 12, 19–20; Wilson Decl. ¶¶ 8, 16–17; Woody Decl. ¶¶ 4–5.

GDCS’s failure to communicate effectively with Plaintiffs continues throughout its supervision of Plaintiffs. GDCS officers regularly visit supervised persons at their homes. During a home visit, a hearing person can communicate with his supervision officer about the purpose for the visit and what the officer is looking for. A hearing person can review the rules of his supervision with his officer and discuss any changes in those rules. A hearing person can also ask important questions that bear on his personal liberty—like whether he can leave his house at a particular time, visit a particular place, or accept a particular job. But GDCS has *never* provided ASL interpreters or any other auxiliary aids during its officers’ visits to the named Plaintiffs’ homes, so Plaintiffs cannot access this information.

Often, GDCS officers refuse to even attempt to communicate with Plaintiffs during home visits. In May 2019, *five* probation officers arrived at Mr. Woody’s home without an interpreter and—without explanation—searched his entire room, his personal papers, his computer, and his phone. Woody Decl. ¶ 14. To this day,

Mr. Woody still does not know why the officers conducted the search. *Id.* When Mr. Woody could not remember the password to a particular application on his phone (an application that he had never used), the officers took his phone away. *Id.* ¶ 15. Throughout this terrifying encounter, the officers refused to communicate with Mr. Woody and instead spoke to his roommate who does not know ASL and could not interpret what they were saying for Mr. Woody. *Id.* ¶ 14. Similarly, Mr. Nettles' probation officer regularly looks through his home and his belongings without communicating with him. Nettles Decl. ¶ 14. Mr. Herrera's visits with his probation officer often consist of the officer giving him a "thumbs up" sign and immediately leaving. Herrera Decl. ¶ 23. Other times, GDCS officers attempt methods of communication that are completely ineffective for Plaintiffs like typing notes on a cell phone (Nettles Decl. ¶ 15), speaking aloud (Wilson Decl. ¶ 6), or asking family members to interpret (Nettles Decl. ¶ 16; Herrera Decl. ¶ 24).

In apparent recognition of the fact that the methods they have tried to communicate with Plaintiffs are ineffective, some GDCS officers use Video Relay Services ("VRS"). VRS is a telecommunications relay service that allows hearing individuals using a standard telephone to make calls to deaf and hard of hearing individuals who are using a videophone. *See, e.g.,* Woody Decl. ¶¶ 9, 13. The problem with this approach is that VRS is intended *only* for situations in which a

phone call would typically be made—remote communications where the parties are not in the same location.³ Because in-person use of VRS violates Federal Communications Commission rules, 70 Fed. Reg. 8034, 8037 (Feb. 17, 2005), once VRS operators realize that a GDCS officer and a Plaintiff are together, they disconnect the call, Woody Decl. ¶¶ 9, 13.

GDCS’s blatant refusal to effectively communicate with Plaintiffs has resulted in significant misunderstandings. For example, during a meeting between Mr. Nettles and two officers at the sheriff’s office, Mr. Nettles noticed that the officers appeared to be afraid of his signing as they jumped and looked startled and scared. Nettles Decl. ¶ 18. Mr. Nettles’ daughter—who was attempting to interpret for him—explained that the officers said Mr. Nettles’ signing was “threatening.” *Id.* Mr. Nettles was not threatening the officers; he was merely communicating in ASL, which is an expressive, full-body language. *Id.*

GDCS’s communication failures are continuous and pervasive. When Mr. Herrera was released on probation, he had eight different meetings in GDCS offices across two counties within 72 hours of his release; none of which provided interpreters. Herrera Decl. ¶¶ 13–20. Since his release on probation, Mr. Woody has

³ *See* Reminder That Video Relay Service (VRS) Provides Access to the Telephone System Only and Cannot Be Used as a Substitute for “In-Person” Interpreting Services or Video Remote Interpreting (VRI), 70 FR 59346 (Oct. 12, 2005).

been supervised by GDCS offices in four different counties, each of which has refused to consistently provide him with interpreters. Woody Decl. ¶¶ 5, 8, 10, 12. Mr. Nettles has been on probation for eight years and has had three different supervising officers, none of which provided him an interpreter. Nettles Decl. ¶ 13.

ARGUMENT

Plaintiffs are entitled to a preliminary injunction because: (i) they are likely to succeed on the merits of their claims; (ii) they are likely to suffer irreparable injury if their request for relief is denied; (iii) the harm that Plaintiffs will likely suffer far outweighs any potential harm to GDCS; and (iv) the relief requested will serve the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *see Scott v. Roberts*, 612 F.3d 1279, 1290 (11th Cir. 2010).

A. Plaintiffs Are Likely to Succeed on the Merits

To state a claim under Title II and Section 504 generally, Plaintiffs must prove that: (i) they are qualified individuals with a disability; (ii) they were excluded from participation in, or denied the benefits of, a public entity's services, and/or were otherwise discriminated against by the public entity; and (iii) the exclusion, denial of benefit, or discrimination was by reason of their disability. *See* 42 U.S.C. § 12132 (2012); 29 U.S.C. § 794(a) (2012); *Am. Ass'n of People with Disabilities v. Harris*, 647 F.3d 1093, 1101 (11th Cir. 2011); *Bircoll v. Miami-Dade Cnty.*, 480 F.3d 1072,

1083 (11th Cir. 2007). “Discrimination claims under the Rehabilitation Act are governed by the same standards used in ADA cases.” *Cash v. Smith*, 231 F.3d 1301, 1305 (11th Cir. 2000); *see also* 42 U.S.C. § 12133 (2012) (“remedies, procedures, and rights” are the same under both federal statutes); 28 C.F.R. § 35.103(a) (July 26, 1991) (Title II shall not be construed to apply a lesser standard than the standards applied under the Rehabilitation Act).

Under the ADA and Section 504, Defendants are required to “take appropriate steps to ensure that communications with . . . [individuals] with disabilities are as effective as communications with others” by “furnish[ing] appropriate auxiliary aids and services.” 28 C.F.R. §§ 35.160(a)(1), (b)(1) (July 26, 1991, *amended* Sept. 15, 2010). In determining which “auxiliary aids and services” are necessary, “a public entity shall give primary consideration to the requests of the individuals with disabilities.”⁴ *Id.* § 35.160(b)(2).

This means, *inter alia*, that Defendants are prohibited from requiring Plaintiffs to: (i) provide their own interpreters (*id.* § 35.160(c)(1)); (ii) pay a “surcharge” to

⁴ “Auxiliary aids and services” include “[q]ualified interpreters . . . real-time computer-aided transcription services . . . telephone handset amplifiers; assistive listening devices . . . telephones compatible with hearing aids; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones[.]” *Id.* § 35.104 (July 26, 1991, *amended* Aug. 11, 2016); *accord* 28 C.F.R. § 42.503(f) (July 3, 1980).

cover the cost of necessary auxiliary aids and services (*id.*, § 35.130(f)); or (iii) “rely on an adult accompanying an individual with a disability to interpret or facilitate communication,” with very limited exceptions not applicable here (*id.* § 35.160(c)(2)). ADA regulations define “qualified interpreter” as a person who can “interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary,” (*id.* § 35.104), a definition which necessarily excludes family members who are not impartial and who rarely have the skills required to interpret effectively and accurately, both receptively and expressively, and lack “necessary specialized vocabulary.” Defendants are also barred from discriminating against qualified individuals with a disability “through contractual or other arrangements.” *Id.* §§ 35.130(b)(3); 28 C.F.R. § 42.503(b)(3).

Defendants are further required under federal law to ensure that qualified individuals with disabilities are afforded an equal opportunity to participate in or benefit from a program, service, or activity. *See, e.g.*, 28 C.F.R. § 35.130(b)(1)(i)–(vi). Plaintiffs therefore cannot be provided a service that is “not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.” *Id.* § 35.130(b)(1)(ii), (iii); *accord* 28 C.F.R. § 42.503(a), (b)(1)(i)–(iii). As such, Defendants must make reasonable modifications to policies, practices, and

procedures to ensure that deaf and hard of hearing people can participate equally in and benefit from programs, services, and activities. *Id.* §§ 35.130(b)(7), (b)(8); 28 C.F.R. § 35.160, 28 C.F.R. § 42.503(b)(1)(ii), 28 C.F.R. § 42.503(b)(1)(iv), 28 C.F.R. § 42.503(e), C.F.R. § 42.503(f).

1. Plaintiffs Are Qualified Individuals with a Disability

Plaintiffs, each of whom is deaf or hard of hearing, are eligible to participate in GDCS's probation and parole programs and are "qualified individuals with a disability" within the meaning of the ADA and Section 504. *See, e.g.*, 42 U.S.C. §§ 12102(1)(A), 2(A), 42 U.S.C. §12131(2); 12132; *accord* 29 U.S.C. § 705(20); 28 C.F.R. §§ 35.104 (auxiliary aids and services available to individuals who are deaf and hard of hearing), 108(d)(2)(iii)(A) ("deafness substantially limits hearing"); 42.540(1).

2. Plaintiffs Have Been Excluded from and/or Denied the Benefits of Probation or Parole Services⁵

As a result of Defendants' persistent failure to communicate effectively with Plaintiffs at all stages of their supervision, Plaintiffs have been unable to

⁵ GDCS is a "public entity" and receives federal financial assistance within the meaning of Title II of the ADA and Section 504, respectively. 42 U.S.C. §§ 12131(1)(A)–(B); 29 U.S.C. §§ 794(a), (b)(1)(A)–(B). GDCS is legally responsible for ensuring that its programs and services comply with federal disability nondiscrimination laws and the U.S. Constitution.

communicate with GDCS officers and have not been afforded an equal opportunity to participate in probation or parole services. From their very first interactions with GDCS onward, Plaintiffs have been denied opportunity after opportunity to understand the terms of their supervision and to ask questions. Many of the meetings between GDCS officers and supervised individuals involve review of important, complex, and high-stakes information, none of which is effectively communicated to Plaintiffs. Nonetheless, GDCS officers require Plaintiffs to understand the terms of their supervision and then impose violations on Plaintiffs who fail to follow rules that GDCS never effectively communicated to them.

Not once at an initial meeting did GDCS provide Plaintiffs with interpreters or any other auxiliary aids or services. *See, e.g.*, Cobb Decl. ¶ 14; Herrera Decl. ¶ 16; Nettles Decl. ¶ 9; Wilson Decl. ¶ 7; Woody Decl. ¶ 8. In direct violation of federal law, GDCS instead required family members who are never “qualified interpreters” to attempt to facilitate communication. Notwithstanding the violation of federal law, many Plaintiffs are not comfortable sharing the terms of their probation or parole with their family members. *See, e.g.*, Cobb Decl. ¶ 15; Herrera Decl. ¶¶ 16, 26. Plaintiffs were directed to and did sign long, complex documents detailing the terms of the supervision without any way to understand what they said or to ask any questions. *See, e.g.*, Cobb Decl. ¶¶ 12, 13, 15; Nettles Decl. ¶ 12. As a

result, Plaintiffs began their supervision without understanding its terms and faced the prospect and fear of accidentally violating a rule. Cobb Decl. ¶ 17; Herrera Decl. ¶ 12; Nettles Decl. ¶¶ 12, 19–20; Wilson Decl. ¶ 8; Woody Decl. ¶¶ 4–5.

GDCS’s failure to effectively communicate with Plaintiffs continues throughout their supervision. GDCS officers routinely fail to even attempt to effectively communicate with Plaintiffs. *See, e.g.*, Herrera Decl. ¶¶ 23–24 (speaking only to family members); Nettles Decl. ¶¶ 15–16 (same); Wilson Decl. ¶ 6 (speaking aloud to Plaintiff). This deprives Plaintiffs of the opportunity to discuss the terms of their supervision or to review any changes in the terms or conditions of their supervision with the GDCS officer—opportunities that are provided to hearing individuals. This lack of communication often has a significant impact on Plaintiffs’ lives and may dictate, for example, whether they can accept a particular job, travel to a certain place, or leave home at a certain time. Without access to this information, Plaintiffs often feel they have no choice but to impose significant restrictions on themselves, for fear of unknowingly running afoul of a rule they did not understand. *See, e.g.*, Herrera Decl. ¶¶ 26–27; Wilson Decl. ¶¶ 12–13.

For example, Mr. Herrera’s meetings with his probation officer typically last less than thirty seconds and often his probation officer simply gives him a “thumbs up” sign. Herrera Decl. ¶ 23. Mr. Herrera has no opportunity to ask questions or get

answers. *Id.* ¶¶ 23, 26. Instead, like many of the Plaintiffs, he avoids any action that might be a violation for fear of an accidental violation. For example, in October 2018, a GDCS officer gave Mr. Herrera a letter stating that Mr. Herrera would be subject to a curfew over the Halloween holiday. *Id.* ¶ 26. The letter required Mr. Herrera to remain in his home from 6:00pm on October 31 until 6:00am on November 1. *Id.* Because Mr. Herrera does not read English and GDCS provided no interpreters to communicate the contents of the letter, Mr. Herrera misunderstood the terms of his curfew and believed that that curfew applied *every day*, not just over Halloween. *Id.* Since October 2018, Mr. Herrera has abided by this curfew, believing this to be a requirement to avoid reincarceration. *Id.* This self-imposed restriction—which Mr. Herrera believes is a requirement of his probation—has seriously impacted Mr. Herrera’s day-to-day life, and is a direct result of GDCS’s failure to communicate effectively with him. Mr. Wilson likewise believes that he is subject to a curfew, but has no way to confirm. Wilson Decl. ¶ 12.

Similarly, in July 2018, Mr. Woody’s probation officer informed him that he could no longer work at his job. *See* Woody Decl. ¶ 11. Mr. Woody tried to explain that his job did not violate the probation rules as he understood them, but he was unable to effectively communicate this to his probation officer who never brought an interpreter to any of their meetings. *Id.* Mr. Woody had no choice but to stop

working at his job. *Id.* Other Plaintiffs have similarly suffered—and will continue to suffer—severe restrictions on their daily activities when they do not receive the communication access they need to understand and discuss their supervision terms.

GDCS has also failed to ensure effective communication with Plaintiffs during GDCS-mandated programming like required classes, counseling, and lie-detector tests. For example during lie detector tests, Mr. Herrera has been instructed to sit entirely still and not to communicate. *See, e.g.,* Herrera Decl. ¶¶ 28–30. Participating in these programs is often a requirement of supervision, and failure to complete these programs successfully can lead to reincarceration.

3. Plaintiffs Have Been Denied Benefits by Reason of Their Disability

The last element of an ADA or Section 504 claim asks whether Plaintiffs have been excluded from, denied benefits of, or discriminated against by reason of their disability. As established above, the answer is yes, because hearing individuals are able to communicate with their supervision officers in a way that deaf and hard of hearing individuals cannot. By refusing to provide Plaintiffs with ASL interpreters or any other auxiliary aids and services, Defendants have failed to ensure communications with Plaintiffs are as effective as communications with hearing individuals subject to GDCS supervision. *See, e.g., Arce v. Louisiana State*, 2019 WL 2359204 (E.D. La June 4, 2019) (awarding attorney’s fees after jury found that

state “discriminated against [deaf individual] in violation of the ADA” for failure to provide a qualified ASL interpreter during meetings with probation officer.); *Armstrong v. Brown*, 857 F. Supp. 2d 919, 926 (N.D. Cal. 2012) (issuing injunction because state violated the ADA by failing to provide interpreters for deaf parolees).

Plaintiffs are highly motivated to succeed on supervision. They have the same goals as their hearing counterparts: to complete their terms of supervision successfully and live freely in their communities. Solely because of Defendants’ failure to comply with federal law, Plaintiffs are being deprived of an equal opportunity to succeed and successfully integrate into society.

B. Plaintiffs Will Suffer Irreparable Harm Absent Injunctive Relief

Irreparable harm may be presumed where—as here—a statute is violated that either specifically provides for injunctive relief in a particular set of circumstances (*see* 42 U.S.C. § 12132; 29 U.S.C. § 794(a)), or the purpose of the statute would be eviscerated without injunctive relief. *See, e.g., Gresham v. Windrush Partners, Ltd.*, 730 F.2d 1417, 1423 (11th Cir. 1984); *United States v. Hayes Int’l Corp.*, 415 F.2d 1038, 1045 (5th Cir. 1969); *F.T.C. v. Career Info. Servs., Inc.*, No. CIV. A. 1:96-CV-1464-ODE, 1996 WL 435225, at *4 (N.D. Ga. June 21, 1996). Even without a presumption of irreparable harm, Plaintiffs have established that they have suffered, and will continue to suffer, irreparable harm absent an injunction.

Courts routinely find that discrimination on the basis of disability constitutes irreparable harm and warrants the issuance of injunctive relief. *See, e.g., Doe v. Judicial Nominating Comm'n for Fifteenth Judicial Circuit of Fla.*, 906 F. Supp. 1534, 1545 (S.D. Fla. 1995) (issuing preliminary injunction because “[d]iscrimination on the basis of disability is the type of harm that warrants injunctive relief”); *see also, e.g., D.H. ex rel. Harrington v. Poway Unified Sch. Dist.*, No. 09-CV-2621-L NLS, 2013 WL 6730163, at *6 (S.D. Cal. Dec. 19, 2013) (irreparable harm shown where school district failed to provide CART services to deaf plaintiff); *Civic Ass’n of Deaf of New York City, Inc. v. Giuliani*, 915 F. Supp. 622, 639 (S.D.N.Y. 1996) (irreparable harm shown where deaf plaintiffs would be excluded from participation in and denied the benefit of reporting fires if alarm boxes on city street were removed without provision of an accessible notification alternative); *D’Amico v. New York State Bd. of Law Exam’rs*, 813 F. Supp. 217, 220 (W.D.N.Y. 1993) (irreparable harm shown where deaf plaintiff’s injury constituted a loss of a chance to engage in a normal life activity like employment).

Absent injunctive relief, GDCS will continue to engage in discriminatory practices that result in real and irreparable harm to Plaintiffs. GDCS’s conduct will deprive Plaintiffs of auxiliary aids and services they need to actually (and effectively) understand the terms of their supervision. Probation and parole are not

optional for Plaintiffs; they are court-mandated. GDCS officers wield a tremendous amount of power over Plaintiffs' lives, and yet make almost no effort to communicate effectively with them. Plaintiffs will continue to face the prospect of following complex, often-changing rules that Defendants refuse to explain to them.

As a direct result of GDCS's failure to effectively communicate the terms of Plaintiffs' supervision to them, Plaintiffs face the heightened risk of unknowingly violating the terms of their supervision. *See, e.g.,* Nettles Decl. ¶ 20 ("I am very afraid that I might accidentally break a rule that has not been explained to me."). Non-criminal "technical" violations of conditions of supervision—like missing an appointment with a GDCS officer, accepting a job, or moving without following specific protocols—can result in dire consequences, including reincarceration. These consequences constitute irreparable harm. *See, e.g., In re Norris*, 192 B.R. 863, 867 (Bankr. W.D. La. 1995) ("incarceration constitutes irreparable harm").⁶

Moreover, to the extent that Plaintiffs have no option but to resort to paying

⁶For this very reason, Plaintiffs are also seeking procedural due process relief under the Fourteenth Amendment, U.S. Const. amend. XIV, *see* Compl. ¶¶ 82–91, requiring GDCS to establish at a hearing that it effectively communicated the rules of supervision to the deaf or hard of hearing supervised individual before penalizing that individual for a technical violation of those rules. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (individuals on parole are entitled to basic procedural due process before the state may revoke their parole).

for their own interpreters as GDCS has repeatedly directed them to do, this too would result in irreparable harm. *See, e.g., See Long v. Benson*, No. 4:08-cv-26-RH/WCS, 2008 WL 4571903, at *2 (N.D. Fla. Oct. 14, 2008), *aff'd*, 383 F. App'x 930 (11th Cir. 2010) (irreparable harm found where cost of paying for in-home care would deplete plaintiff's resources). Notwithstanding the fact that this is a clear violation of federal law, 28 C.F.R. § 35.160 (July 26, 1991, *amended* Sept. 15, 2010), and a burden that is not borne by hearing individuals, Plaintiffs plainly cannot afford to provide their own interpreters (*see, e.g.,* Herrera Decl. ¶ 16; Woody Decl. ¶ 8).⁷

Finally, courts have recognized that individuals excluded from public services and programs because of their disabilities may experience severe emotional distress which likewise constitutes an irreparable harm. *See, e.g., Chalk v. U.S. C.D. Cal.*, 840 F.2d 701, 710 (9th Cir. 1988) (irreparable harm where HIV-positive teacher would be forced to transfer positions which would affect his well-being); *Ray v. Sch. Dist. of DeSoto Cnty.*, 666 F. Supp. 1524, 1535 (M.D. Fla. 1987) (irreparable harm where hemophiliac children suffered feelings of anger, resentment, and social rejection after being excluded from school). Every day, Plaintiffs face the threat of reincarceration for violating rules that they do not understand because GDCS has

⁷ GDCS's suggestion is also wholly unworkable from a practical standpoint. GDCS regularly conducts unannounced visits and Plaintiffs would have no way to anticipate these meetings so they could hire an interpreter to be present.

made no effort to effectively communicate these rules to Plaintiffs. Plaintiffs' inability to communicate and their truncated interactions with GDCS officers lead to immense feelings of fear, anxiety, and isolation for Plaintiffs. This emotional distress will continue to cause irreparable injury absent injunctive relief.

C. The Remaining Factors Favor Preliminary Injunctive Relief

Because a state agency is the defendant here, the third and fourth considerations for preliminary injunctive relief are largely the same—*viz.*, where the relief requested is squarely within the public interest, there can be no harm to the state. *See, e.g., K.G. ex rel. Garrido v. Dudek*, 839 F. Supp. 2d 1254, 1260 (S.D. Fla. 2011) (citing *Scott v. Roberts*, 612 F.3d 1279, 1290 (11th Cir. 2010)). The public has a clear interest in the enforcement of its statutes and in the elimination of discrimination on the basis of disability. *See, e.g., Enyart v. Nat'l Conf. of Bar Exam'rs., Inc.*, 630 F.3d 1153, 1167 (9th Cir. 2011); *Martin v. Metro. Atlanta Rapid Transit Auth.*, 225 F. Supp. 2d 1362, 1383 (N.D. Ga. 2002) (public has an interest in eliminating discrimination against individuals with disabilities). The ADA reflects Congress's view that the public has an interest in eradicating discrimination against individuals with disabilities. *See, e.g., 42 U.S.C. § 12101(a)(8)* (“[T]he continuing existence of unfair and unnecessary discrimination and prejudice . . . costs the United States billions of dollars in unnecessary expenses resulting from dependency and

nonproductivity.”); *id.* § (a)(7) (public interest served by requiring entities to take steps to “assure equality of opportunity” for individuals with disabilities). Plaintiffs are not requesting exemption from the rules; they are merely asking for an equal opportunity to meet their supervision requirements, as guaranteed by federal law.

There is no question that the irreparable injuries threatening Plaintiffs far outweigh any alleged harm to Defendants. Because granting the Plaintiffs’ requested relief serves the public interest, GDCS cannot credibly argue that it will suffer any genuine harm if the relief is granted. Indeed, the public interest is supported by a well-functioning supervision program that helps individuals re-integrate into society and not re-offend. Further, courts have repeatedly made clear that expenditure of funds “cannot be considered a harm if the law requires it.” *Concerned Parents to Save Dreher Park Ctr. v. City of W. Palm Beach*, 846 F. Supp. 986, 993 (S.D. Fla. 1994) (citing *Stone v. City and Cnty. of San Francisco*, 968 F.2d 850, 858 (9th Cir. 1992)). Accordingly, both of these factors militate in favor of the issuance of preliminary injunctive relief for Plaintiffs.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court grant their motion for a preliminary injunction in its entirety, and such other and further relief as the Court deems just and proper.

Respectfully submitted this 19 day of July, 2019

Kosha S. Tucker

Kosha S. Tucker, Georgia State Bar No.
214335

Sean J. Young, Georgia State Bar No.
790399

Attorneys for Plaintiffs

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF GEORGIA, INC.

P.O. Box 77208

Atlanta, GA 30357

Phone: (678) 981-5295

Fax: (770) 303-0060

KTucker@acluga.org

SYoung@acluga.org

Pro Hac Vice Motions Forthcoming:

Susan Mizner
Claudia Center
Zoe Brennan-Krohn,
Talila A. Lewis
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION DISABILITY RIGHTS
PROGRAM
39 Drumm Street
San Francisco, CA 94111
Phone: (415) 343-0781
Fax: (415) 395-0950
SMizner@aclu.org
CCenter@aclu.org
ZBrennan-Krohn@aclu.org
Talila.A.Lewis@gmail.com

Brittany Shrader
NATIONAL ASSOCIATION FOR THE DEAF
LAW AND ADVOCACY CENTER
8630 Fenton Street, Suite 820
Silver Spring, MD 20910
Phone: (301) 587-2907
brittany.shrader@nad.org

Ian Hoffman
Margaret Girard
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave, NW
Washington, DC 20001
Phone: (202) 942-5000
Fax: (202) 942-5999
Ian.Hoffman@arnoldporter.com
Margaret.Girard@arnoldporter.com

Stephanna F. Szotkowski
ARNOLD & PORTER KAYE SCHOLER LLP
70 West Madison Street, Suite 4200
Chicago, Illinois 60602
Phone: (312) 583-2354
Fax: (312) 583-2591
Stephanna.Szotkowski@arnoldporter.com

Attorneys for Plaintiffs

CERTIFICATION OF COMPLIANCE

I hereby certify that the typeface used herein is 14-point Times New Roman and that the memorandum is compliant with L.R. 5.1 and L.R. 71.

Respectfully submitted this 19 day of July, 2019

Kosha S. Tucker

Kosha S. Tucker, Georgia State Bar No.
214335

Attorney for Plaintiffs

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF GEORGIA, INC.

P.O. Box 77208

Atlanta, GA 30357

Phone: (678) 981-5295

Fax: (770) 303-0060

KTucker@acluga.org

CERTIFICATE OF SERVICE

I hereby certify that on Friday, July 19, 2019, I caused the foregoing Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Injunction with declarations attached thereto to be electronically filed with the Clerk of Court using the CM/ECF system.

I further certify that I transmitted the foregoing documents to a professional process server for personal service upon the following:

Commissioner Michael Nail
Georgia Department of Community Supervision
2 Martin Luther King, Jr. Drive SE
East Tower, Suite 458
Atlanta, Georgia 30334-4900

Georgia Department of Community Supervision
2 Martin Luther King, Jr. Drive SE
East Tower, Suite 458
Atlanta, Georgia 30334-4900

Respectfully submitted this 19 day of July, 2019

Kosha S. Tucker

Kosha S. Tucker, Georgia State Bar No.
214335

Attorney for Plaintiffs

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF GEORGIA, INC.

P.O. Box 77208

Atlanta, GA 30357

Phone: (678) 981-5295

Fax: (770) 303-0060

KTucker@acluga.org

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

_____, et al.,
Plaintiffs,

Civil Action No. _____

CLASS ACTION

v.

**GEORGIA DEPARTMENT OF COMMUNITY
SUPERVISION, et al.**

Defendants.

DECLARATION OF BRANDON COBB

1. My name is Brandon Cobb. I am a plaintiff in this case.

2. This paper describes things that have happened to me personally. I promise that everything in this paper is true. I know that I might be asked to be a witness in this case and to explain these facts in person. If I am a witness, I will say the same things in person that are written in this paper.

3. I am Deaf. When I was born, I could hear. But when I was a toddler, I got very sick. My illness caused me to lose my hearing.

4. My only language is American Sign Language (“ASL”). ASL is a totally different language than English. English is not my language. I can read and write some very basic words in English, but my understanding is very limited. I cannot understand lip-reading.

5. I prefer to have at least two interpreters—one hearing interpreter and one Deaf interpreter—when I talk with hearing people, especially when we are talking about important information. These two interpreters work together as a team to help me communicate clearly. I understand best when I have a team of hearing and Deaf interpreters.

6. I was in prison in Georgia from June 2014 until April 1, 2019. Now I am on parole. I believe that I will be on parole until 2022. After my parole term ends, I believe that I will be on probation until 2033.

7. While I was in prison, I had several different counselors. None of my counselors knew ASL. For most of my time in prison, my counselors could not communicate with me at all.

8. During my last year in prison, my counselors sometimes tried to communicate with me using Video Remote Interpreting (VRI). But there were a lot of problems with VRI. Often, the internet connection was very bad, and so the video screen was very fuzzy and choppy. Sometimes the video screen would freeze. Because of these technical issues, I had to repeat myself many times before my counselor could understand me. Using VRI when the connection was bad made me feel frustrated and unsettled. I didn't feel like I was an equal participant in the conversation. Also, VRI does not provide Deaf interpreters. So, even when the VRI was working well, I could not fully understand and communicate clearly with my counselor.

9. On Thursday, March 28, 2019, I met with my counselor at the prison. My counselor used VRI to tell me that I would be released from prison four days later, on Monday, April 1, 2019. My counselor also told me that I must report to the Douglas County Department of Community Supervision parole office on Tuesday, April 2, 2019. I had a lot of questions. I wanted to understand all of the rules so that I would not be sent back to prison. But the VRI was not working well. The screen was choppy and kept freezing. I knew that my counselor was telling me important information, but I did not understand everything and I could not ask all of my questions.

10. This meeting on March 28 was the first time that I learned my release date. I was happy that I was getting out of prison, but I was shocked that the prison did not tell me I was

getting out until just a few days before my release. I think the prison is supposed to help people before they are released. For example, I think the prison is supposed to help people find a place to live, find a job, and restart Social Security benefits. But the prison did not help me with any of these things. Because I only had four days to prepare for my release, I did not have time to make any plans. I did not have time to find a job. I did not have time to find my own place to live. Now, I live with my mom in Douglas County, Georgia.

11. On Tuesday, April 2, 2019, I went to the Department of Community Supervision parole office in Douglas County. My sister came to the parole office with me. Inside the parole office, there is a waiting room and a front desk. There were many other people in the waiting room as well. There was no ASL interpreter present, so I was not sure what I was supposed to do. I tried to figure out what to do by watching the other people there. My sister went to the front desk to sign me in. My sister told the person working at the front desk that I am Deaf.

12. The person working at the front desk gave my sister a big packet of documents written in English. There was no ASL interpreter to interpret the documents for me. I believe that the documents listed the rules that I am supposed to follow while I am on parole. But the documents were in English so I could not read them. My sister tried to explain what the documents said to me. But my sister does not know ASL. She tried to explain the documents by writing notes to me. But I did not understand my sister's notes because I cannot read English.

13. My sister pointed and gestured to explain that I should sign the documents. I did not want to sign the documents because I did not know what they said. But I was afraid that if I did not sign the documents, I would not be allowed to leave the parole office and I would be sent back to prison. So, I signed the documents even though I did not understand them.

14. After I signed the documents, my sister brought the packet to the front desk. Then, my parole officer came out to the waiting room. My parole officer did not bring an ASL interpreter. My parole officer did not try to communicate with me. She only spoke to my sister. My sister does not know ASL, so she could not tell me what my parole officer was saying. I still don't know what my parole officer said to my sister. No one else was meeting with their parole officer in the waiting room. I think they were meeting with their parole officers in private rooms. I did not have any privacy.

15. It was wrong for the parole officer to communicate only with my sister. My sister does not know ASL and so she could not interpret. Even if my sister knew ASL, I think it is wrong for the parole office to expect my sister to interpret for me. My parole office should provide interpreters itself. I need interpreters so that I can communicate in my language and participate as an equal in conversations with my parole officer. I am an adult and I should be having these conversations myself. I do not want my sister to know more about my parole rules than I do.

16. I was very surprised that there was no interpreter present on April 2. The parole office knew that I was required to report to them on April 2, and they know that I am Deaf.

17. Since there was no ASL interpreter at the meeting with my parole officer on April 2, when I left the parole office I did not understand any of the rules that I am supposed to follow while I am on parole. I want to follow all of the rules of parole so that I will never have to go back to prison. But I was very scared that I might accidentally break a rule that was not provided to me in my language.

18. My next meeting at the parole office was on May 13, 2019. Before this meeting, I think that my lawyer called the parole office and told them that I need an interpreter. This time,

there was an ASL interpreter present. I met with my parole officer and the interpreter in a private room.

19. During the May 13 meeting, the interpreter interpreted some documents that listed the rules that I am supposed to follow while I am on parole. With the interpreter, I could better understand the rules that I am supposed to follow while I am on parole. But, I still do not understand all of the rules because there was only one—hearing—interpreter present at the meeting. I need a hearing interpreter and a Deaf interpreter working as a team to fully communicate and understand.

20. Once the interpreter finished interpreting, I signed the documents. My parole officer kept the documents that I signed and did not give me a copy. I think that the documents I signed on May 13 were the same as some of the documents that I signed on April 2, but I am not sure. I think that I signed some documents on April 2 that have never been interpreted for me.

21. During the May 13 meeting, my parole officer said that she might visit me at my home. I said that she can visit my home, but she will need to bring an interpreter. My parole officer said that she would ask her boss about bringing an interpreter with her when she visits me at home. But my parole officer did not promise me that she would bring an interpreter if she visits my house. My parole officer has not visited me at my home. But I am afraid that she will visit my home without interpreters. If my parole officer visits my home without interpreters, I would be scared because there would be no way for me to communicate with her or ask her questions. I am afraid that if there is a miscommunication and the parole office thinks that I did something wrong, I will not be able to tell my side of the story.

22. My next meeting at the parole office was on June 6, 2019. There was one hearing ASL interpreter present, but there was no Deaf interpreter.

23. The terms of my parole keep changing. I don't understand why the rules change. I feel like the parole office does not know how to work with a Deaf person.

24. I am happy that the parole office had a hearing interpreter at my last two meetings. But there are still communication problems with the parole office. The parole office has never provided a Deaf interpreter to me. Even though the parole office has provided hearing interpreters sometimes, I am afraid that they will not provide interpreters consistently. I will be on parole (and then probation) for many years, and I will need interpreters at every meeting. I am not sure the parole office understands that I need interpreters at every meeting. And, I am afraid that my parole officer won't bring interpreters if she comes to my house.

25. The parole office has a lot of power over me. It is really important that I can communicate clearly with them.

26. I have experienced a lot of problems because I am Deaf. This paper only talks about some of the problems that I have experienced while on parole. The parole office has done many more things that are unfair, just because I am Deaf.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was translated into ASL for me by:

A handwritten signature in blue ink, appearing to read "John B. Peterson CDI", is written over a horizontal line.

Name:

(Deaf Interpreter)

Anna W McDuffie CI, CT, SC: L + NIC

Name:

(Hearing Interpreter)

I signed this paper on July 1, 2019 in Lithia Springs, Georgia.

Brandon Cobb

Brandon Cobb, Plaintiff

CARLOS HERRERA Declaration

1. My name is Carlos Herrera. I am a plaintiff in this case.

2. This paper describes things that have happened to me personally. Everything in this paper happened to me. I promise that everything in this paper is true and correct. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If that happens, I will say the same things that are written in this paper.

3. I am Deaf. I have been Deaf my whole life. My language is American Sign Language ("ASL"). ASL is a totally different language from English. I do not use or understand English. I know a few very simple words in English. I cannot read or write notes in English. English is not my language. I cannot understand lip-reading.

4. Also, I wear glasses and my vision is bad. I do not have the right glasses now. I can see ok with the glasses I have now, but it's not really clear. This can make it difficult for me to communicate with remote interpreters on small video screens like phones or tablets, or if the light is not good.

5. I like to have a team of 2 kinds of interpreters when I talk to hearing people. I communicate and understand best when there is one hearing interpreter and one Deaf interpreter. The two interpreters work together. This team of interpreters helps me understand and communicate most clearly. I need a team of hearing and Deaf interpreters especially for understanding and communicating about important information.

In Prison

6. I was in prison in Georgia for four years, from 2014 until 2018. I was in jail for a year before that. Most of the time I was in prison, I could not communicate at all with prison staff or hearing people. I was very alone.

7. I took some classes in prison. I sat through the classes, but there were not interpreters. Even if I went to class every time, I could not understand anything that was happening. Sometimes the prison would turn me away from classes because I am Deaf. I could not learn anything to help me prepare for release or help me improve myself. I did not learn anything in prison. It was very frustrating.

Parole Denial

8. I was denied parole in 2016. I believe I was denied parole because I did not take a specific class, called SOPP. I wanted to take the SOPP class. The judge told me to take the SOPP class. But the prison would not let me take the class because I am Deaf. There were no interpreters for the class. I believe I spent two extra years in prison because I could not take the SOPP class, because I am Deaf.

9. I never met with anyone from the parole board. They sent me letters. But I could not understand the letters, because they were in English. There were no interpreters to interpret the papers from English into ASL.

Pre-Release Preparation

10. I was released from prison on May 21, 2018. This was my "max-out date." That means the prison had to release me then. Before I was released, I had a lot of questions. I knew that there were special rules about what I could and could not do after I was released. I knew that I must tell an officer about where I live and about any job. I knew these things because

other Deaf incarcerated people in the prison explained them to me. None of the prison staff explained these rules.

11. A few days before I was released from prison, I had a meeting with a counselor. There was an interpreter at the meeting. I do not think the interpreter was qualified. The counselor showed me papers about rules I have to follow. There were pages and pages of words in English. I wanted the interpreter to interpret the papers to me. The interpreter looked at the paper. She said that the papers were very long. She said she would not interpret it because it was too long. The interpreter told me to read the paper myself. I could not read the rules. I can only understand a few simple words in English. So I signed the paper even though I did not know what the rules were. I just wanted to go home.

12. I was afraid about getting out. I knew I had to go to offices and register and get papers signed right away after I was released. I knew I could go back to prison if I broke the rules. I knew I could go back to prison if I did not get the papers signed. I was afraid that I would not understand the rules. I was afraid that I would accidentally break a rule that I did not understand. I asked counselors at the prison to help me understand the rules. But the prison staff did not make sure that I understood the rule before I was released. I did not understand the rules when I was released.

Release

13. In 2013 I went to court. I got a little piece of paper that had the address of the probation office in Calhoun, Georgia. That paper said I had to go to the probation office in Calhoun, Georgia, "ASAP" when I was released. I saved that paper for years. My lawyer, with an interpreter, told me that "ASAP" means as soon as possible. When I was released, on May

21, 2018, I went straight to that office. I would not have known where to go if I had lost that piece of paper from five years earlier.

14. The probation office in Calhoun did not have an interpreter. I could not communicate with them. I brought my lawyer with me to the probation office. The probation officer told my lawyer that I was at the wrong office. He said I first had to go to the sheriff's office in a different county, Floyd County. The probation officer had no way to tell *me* this information.

15. Next, I did what the probation officer in Calhoun told me. I went to the sheriff's office in Floyd County. They gave me a big packet of papers to fill out. That office also did not have a qualified interpreter. One officer tried to explain the papers to me by fingerspelling some words. But fingerspelling does not work for me, because I do not use English. And my lawyer told me that even the fingerspelling was wrong.

16. I asked for a qualified interpreter. The officer said that the sheriff's office would not pay for one. The officer asked if my family could interpret. My family does not know ASL. And the information in these meetings is private. Even if my family could use ASL, I do not want to share all of this information with them. The officer asked if I could pay for my own interpreter. I cannot afford to pay for my own interpreter. I just got out of prison. I do not believe I have to pay for my own interpreter to understand the rules of supervision. The officer said that the official language of the United States is English. I believe he was saying that it is my fault that I do not use English.

17. Then the officer said there was someone in the sheriff's office who could interpret. I had to go to a different office in Floyd County to talk to this person. This officer said she can communicate in ASL. But I did not understand a lot of what the officer said. She used a

lot of fingerspelling. Fingerspelling does not help me, because I do not know the English words. When she was using real ASL, she mixed up important words. For example, she signed “aggressive” instead of “address.” I was very confused. I asked for a qualified interpreter. The officer said that I can only have a qualified interpreter if I pay for it.

18. The officer in Floyd County told me to go back to the probation office in Calhoun, Georgia. I went back to the Calhoun probation office. They did not have an interpreter yet. They told my lawyer that they were getting a qualified interpreter the next day. The next day I went to the Calhoun probation office. It was my third time at that office. Finally, there was a qualified interpreter. The interpreter was pretty good. She was certified. She was qualified. I understood most of what she was saying. She interpreted what the papers said. I asked questions. I signed the papers. But there was still no Deaf interpreter. So I think there was still information that I missed, even though the hearing interpreter was pretty good.

19. Next, I went back to the sheriff’s office in Floyd County again. I had to register there soon. To register, I had to sign another set of papers at the sheriff’s office. These papers were different from the papers I signed at the probation office. It had been almost 72 hours since I was released. I believe I could go back to prison if I did not register within 72 hours. But the sheriff’s office still did not have a qualified interpreter. I signed the papers with the officer who knew a little sign language, even though I did not understand everything. I signed because I did not want to go back to prison.

20. I had to have eight different meetings in the first 72 hours after I was released. The probation offices and the sheriff’s offices seemed to have no idea how to work with a Deaf person. It was so confusing to go to different offices all over two different counties. And it was

so important that I get everything right. But I not communicate about these very important things.

Supervision Communication

21. I have been on probation for a little more than a year. The probation officers have *never* brought interpreters when they have come to my house. Probation has never given me a Deaf interpreter.

22. A probation officer comes to my house sometimes. I do not know when they are coming, so I try to stay home. I don't know what would happen if the probation officer came to my house and I wasn't there. Sometimes the probation officer comes once a month. Sometimes they come twice a month. I never know the schedule of when they are coming. Sometimes they come very late at night, when I am asleep. My sister has to wake me up. In June, they came two weeks in a row very late. Once they came after midnight. I do not know why they come so late. It's very unsettling when probation comes in the middle of the night.

23. The officer just shows up at my door. He talks to my sister, who lives with me. My sister does not know ASL. I do not know what my probation officer talks to my sister about, even though I am the one on probation. The officer sometimes gives me a "thumbs up" sign. But I have no communication with my own probation officer. I cannot ask questions. I cannot say if I want to start a job or a class. I cannot find out if there is any way I can get my probation reduced.

24. I live with my sister. Sometimes probation wants to use my sister as an interpreter. My sister does not know ASL. She only knows a few signs. Sometimes when probation relies on my sister to tell me things, she gets the information wrong. For example, I thought my sister told me probation would provide me with clothes for free, but later when I

asked probation about that they thought I made it up. I also like to keep my probation information private. I don't want probation discussing my private information with my sister.

25. I want to move in with my deaf friend, but I have to ask my probation officer first. I cannot communicate with my probation officer, so I haven't been able to ask him about moving. I know I cannot live near a church or a school, but I'm worried there may be other rules about where I can and cannot live. I don't want to break any of the rules. I need to know the rules.

Curfew

26. I have a lot of questions. But I cannot explain them or get answers. For example, in the middle of October 2018 a probation officer came to my house and handed me a paper. It was from probation, so I knew it was important. But I could not read it. No one from probation helped me understand the letter. There was no interpreter there. My sister was home and the probation officer spoke to my sister, but my sister is not an interpreter. My probation information is private and I don't want probation talking to my sister about it. I asked my sister what they were saying, but she didn't explain it to me like an interpreter would. The letter says something about being home from 6pm until 6am. I am very afraid of getting in trouble. So every night I make sure I am home by 6pm. I never leave the house before 6am.

27. My lawyers said the letter was only about one night. My lawyer said I just had to stay home from 6pm until 6am on Halloween night. But I'm not sure. And I do not have a way to figure this out with my probation officer. Prison was terrible, so I just stay home every night to be sure that I don't get in trouble and go back to prison. I wish I could communicate with my probation office and find out what exactly the letter means. I wish I could understand whether I have a curfew.

Lie Detector Tests

28. I also have a lot of questions about the lie detector tests. I had to take a lie detector test in January 2019. I had to take another one in May 2019. I found out about these tests because my probation officer handed me letters that said that I had to take the lie detector tests. But there was no interpreter with the probation officer when he gave me the letters. I could not communicate with the probation officer. I could not read the letters. I could not ask why I have to do these tests. My sister and my lawyers helped me understand where I had to go and what I had to do because I could not read the letters and because there were no interpreters.

29. The lie detector tests themselves are very strange and stressful. There was a hearing interpreter at both of the lie detector tests. The interpreter was ok. There was no Deaf interpreter.

30. I had big communication problems at both of the lie detector tests. The person who was giving me the test told me I could not move during the test. But my language is a full-body language. I cannot communicate if I cannot move. So the examiner asked me questions. The interpreter interpreted them into ASL. I could understand the questions, mostly. But I was not allowed to answer. I was not allowed to sign. I just sat there like a dead person. The examiner told me to just stay frozen. I have no idea why this happened. But this is what the examiner told me to do. I am not sure if I "passed" the test. The same thing happened both times I had the test. There was an interpreter but I was not allowed to communicate at all once the sensors were attached to my body. I had to pay \$100 for each test.

31. These tests are very important, because I could get in trouble if the examiner thinks I am lying. But I do not know how they could think I am lying if I am not allowed to communicate. I'm not sure why I have to take the tests or if I will have to take another one. It is

very scary. I have never learned what the results of the tests are or if probation thinks I am lying. I am always very honest but I am afraid probation will think I am not being truthful because I am not allowed to communicate.

Required Classes

32. I had to go to counseling every two weeks for two months. The probation office required this. I had to pay a lot of money for counseling. It cost \$90 each time I went. My only money is Social Security, so \$90 every two weeks is a lot. There was an interpreter at the counseling sessions, but I could not really understand the interpreter. I had to ask him to repeat things a lot. He did not understand me and I did not understand him. I asked for a different interpreter, but probation did not provide a different interpreter. There was no Deaf interpreter at the counseling sessions. I understand much more when there is a Deaf person interpreting on a team for me. So a lot of information is lost. I have followed every rule that I understand, but I might not understand all the rules. Or the interpreter might not understand what I am saying and the counselor might think I did something that I did not do. This is especially scary because I think the counselor can send me back to prison if they think I have broken a rule.

33. I will be on probation for 25 years. I need to be able to communicate with probation officers the whole time I am on probation. I am afraid that if I have an important question, I will not be able to communicate. I am afraid that if there is a miscommunication, and the probation office thinks I did something wrong, I will not be able to tell my side of the story. I am afraid that in the future I won't have a qualified interpreter. I am afraid that officers will continue to come to my house without interpreters. If anything goes wrong with the communication I could go back to prison.

34. This paper only talks about some of the problems I had in prison and on supervision. The probation office and the sheriff's office have done many more things that are unfair, just because I am Deaf.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was interpreted into ASL for me by Jan B. Steffen CDI (Deaf Interpreter) and Ana W. McDevitt (Hearing Interpreter).

I signed his paper on July 2, 2019 in Rome, Georgia.

Carlos Herrera

Carlos Herrera

Plaintiff

Ernest Wilson Declaration

Ernest Wilson Declaration

1. This paper describes things that have happened to me personally. Everything in this paper happened to me. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If that happens, I will say the same things that are written in this paper.

2. I am deaf. I lost my hearing around 2002. I am completely deaf. I use English. I speak, but I cannot hear anything that anyone says. I need to be able to read what people are saying, because I can't hear anything. People can write down what they are saying, or if there is someone transcribing what people are saying, I can read that.

3. The best way for me to communicate is with a system called CART. This is where a person types everything that is said and I can read it in real-time on a computer screen. It is like a court reporter system. With CART, I can follow everything that happens in a conversation. I can ask questions and understand the answers.

4. I was in prison from 2007 until 2017. I had almost no communication in prison. It was horrible. Prison officers would not write anything down. There were no telephones that I could use. The prisons refused to let me take classes because I am deaf, even though the Parole Board said I would only get parole if I took those courses. It was so unfair and awful.

5. Now I am on probation. I live in Newton County. I am going to be on probation for eight more years.

6. I never want to go back to prison. I am doing everything I can to follow every rule of probation. I am very careful. But it is very hard for me because my probation officer does not do anything to communicate with me. No one from the Georgia Department of Community Supervision has ever used CART to communicate with me. My probation officer

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does not even write notes to me. I speak to him, but I can't understand anything about what he is saying back. I just see his lips moving. It makes me feel very isolated and alone. My probation officer has never written a note to me.

7. When I first got out of prison, I went to the probation office, and the officer handed me a stack of papers. The probation officer talked to my daughter, who is hearing. But I do not think that is right. I think the probation officer should speak directly to me, because I am the one who will go back to jail or prison if there is a problem.

8. I tried to learn the rules of probation from reading the papers the probation officer handed me. But I had no way to ask questions about these papers. I had no way to get information from my probation officer about what the rules and requirements were. I just had to figure them out myself. I read through all of the papers. Some of the papers were really complicated. I still had questions after I read the papers, but I had no way to get answers to my questions.

9. My probation officer comes to my house about twice a month. He looks around. Sometimes he holds out a cup and gestures that he wants to do a drug test. Sometimes a whole group of officers come and look through all of my things. Sometimes the probation officer talks to my roommate. But he never does anything to communicate with me directly. He never writes anything down. It's like he doesn't have enough ink in his pen to communicate with me.

10. I have to go to the sheriff's office once a year. They never write anything down either. They fingerprint me, and gesture to show me what to do. But I have no way to ask questions. I have no way to communicate.

11. I have no way to get information from my probation officer. I have no way to clarify things that I do not understand.

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12. For instance, I think I have a curfew at 7pm every day. But I'm not sure. Someone told me there is a curfew in my county, but I don't see anything about a curfew in the papers I have from probation. I'm confused. Because I absolutely don't want to get into any trouble, I follow the curfew. I am home every day by 7pm. But maybe this isn't required. I have no way to find out.

13. As another example, I don't know if I am allowed to spend a night or a weekend with family members. I don't know if that would violate my probation. Because I don't want to risk it, I never spend the night with family in other houses. I don't want to get in trouble for accidentally breaking rules I don't understand. But maybe it would be fine for me to spend the weekend with family. I have no way to find out because no one from probation communicates with me.

14. Before Halloween, I got a letter from the probation office saying that I had to go to the sheriff's office on Halloween night from 7pm until 10pm. But when I showed the letter to my probation officer, he gestured that I did *not* have to go. He gestured that I should stay at home. I was confused, though. If someone from probation came to my house and found me at home, they might think that I was breaking the rule. I might not be able to explain that my probation officer *told* me to stay home. My probation officer thought it was fine, but I'm the one who will go back to prison if there is a problem.

15. My son is 27 years old. He plays baseball. I would love to go to his baseball games. But my probation officer won't let me go to my son's games. I think the probation officer thinks it's a children's league. But my son is an adult. I tried to explain that, but the probation officer just shakes his head and says no. I am missing out on seeing my son's games because I can't communicate and clarify the situation with my probation officer.

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16. Being on probation without any communication makes me feel like I'm still in prison. I am isolated. I am afraid there will be a miscommunication and I will get in trouble, even though I am doing everything I possibly can to follow all the rules. I just can't follow rules if I don't understand them.

17. My probation officers have so much power. I am so afraid of going back to prison. I am so determined to never go back to prison. But I do not think I have a fair chance of getting through my probation since no one will communicate with me in a way I can understand.

18. This paper only talks about some of the problems and discrimination I had in prison and on supervision. The probation office and the sheriff's office have done many more things that are unfair, just because I am deaf.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

I signed his paper on 6-27-2019 at Lithonia, Georgia.



Ernest Wilson

Plaintiff

Jeremy Jay Woody Declaration

Jeremy Jay Woody Declaration

1. This paper describes things that have happened to me personally. Everything in this paper happened to me. I promise that everything in this paper is true and correct. In some places, I say that I believe something is true. That means that I believe that fact is true, but I cannot promise that it is true. I know that I might be a witness in this case, and that I might be asked to explain these facts in person. If that happens, I will say the same things that are written in this paper.

2. I am Deaf. I have been Deaf my whole life. I can't hear anything. I do not speak at all. I cannot understand lip-reading. My language is American Sign Language ("ASL"). ASL is a totally different language from English. I can read and write some words and sentences in English, but English is not my language. I cannot read or write complicated things, and there are many words in English I do not know. Reading and writing notes is almost never effective communication for me, especially for things that are very important.

3. I was in prison in Georgia from 2013 until 2017. I was released from prison on August 18, 2017. Now I am on probation. I am supervised by the Georgia Department of Community Supervision. I did not have any meetings before I was released from prison about probation, or the rules, or what I had to do. An officer made me sign pages and pages of documents in English right before I was released. It was very rushed. There was no interpreter to interpret the documents into my language. The documents were very important, but I could not understand them.

4. I never want to go back to prison. But the prison did not help me understand what the rules were or what I needed to do to stay out.

5. When I was released, the prison put me on a bus to Athens, Georgia. I did not have anywhere to live. I did not know what the rules were. I was supervised in Hall County first. There was a rule that I was required to go to the Georgia Department of Community Supervision office in

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Hall County. But there was also an order from the court that said I was not allowed to go to Hall County. The rules were very, very confusing. I was very afraid I would go back to prison. I went to the probation office at the Hall County Department of Community Supervision. I went to go to the Hall County Sheriff's Office, too. I went to each of these offices twice. I asked for interpreters at the offices each time. I wrote notes saying that I need ASL interpreters. I said that English is not my language. The officers refused to give me an ASL interpreter. I was forced to sign many papers. I could not understand them. I believe that if I refused to sign, I would go back to prison. I was forced to write my initials over and over. I could not understand what I was promising to do, or not to do, in those papers.

6. Right after I was released from prison, I was homeless. I was staying in a motel. Probation officers came, without interpreters, to the motel where I was staying. I did not know why they were there. One time a probation officer showed up to the motel but I could not hear him knocking so I did not answer the door. I was afraid I would get in trouble for not answering the door.

7. When I went to court before prison, the judge said I should get treatment for alcoholism. I was supposed to go to an inpatient drug and alcohol treatment program after I was released from prison. And I wanted to go somewhere to get treatment. But none of these programs would accept a Deaf person. So I could not go to treatment. After I was released, the judge changed the order and wrote that I did not need to get treatment. The judge said I had to leave Hall County. It was confusing because the rules and requirements kept changing. I was always afraid that I would accidentally break a rule and go back to prison, just because I did not understand the rules. I felt like probation was setting me up to fail.

8. In October 2017, I moved to Clayton County. I went to the Clayton County Department of Community Supervision. I wrote that I need an ASL interpreter. The probation

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officer said they would not give me an interpreter. The probation officer said I could bring my own interpreter. I cannot afford my own interpreter. I had many meetings without an interpreter. I was always afraid they were going to arrest me, even though I was trying to follow all the rules. But I did not understand all the rules.

9. I believe my lawyer called the Clayton County Department of Community Supervision and explained that they had to provide an interpreter for me. Eventually, Clayton County gave me an interpreter for a few meetings. In October 2017, two months after I was released from prison, I had an interpreter and I finally understood the rules and the papers that I had signed. But even after that, officers in Clayton County still came to my house without interpreters. They tried to communicate by texting and writing notes back and forth. Sometimes they told me to use my video relay phone, even though this is not for in person meetings. With VRS the interpreter hangs up as soon as they realize both people are in the same room. So the conversation kept getting cut off. I asked for interpreters, but the probation officers said no. I was afraid to insist, because I did not want to get in trouble. But the communication on these visits was not good. The visits always made me anxious and confused.

10. In June 2018, I moved to Henry County. I had the same problem again. Georgia Department of Community Supervision Officers in Henry County did not get interpreters for me. They said the meetings were short, so we did not need interpreters. But these meetings are very important. If I break the rules, I can go back to prison. Even short meetings are very important for me. I do not think it is fair that the probation officers decide which meetings are important and which are not. I think they are all important.

11. For example, in July 2018, an officer from the Henry County Sheriff's Office told me that I could not keep my job. The officer said the assembly job was too close to a hotel swimming pool. I had been working at this job for months without any problems. The officer said

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that it was her choice whether to be strict or not. But I could not ask all the questions I had. I still do not understand why the officer changed the rules. I think the officer misunderstood the rules and that I should have been able to keep my job. But when I tried to explain this to my probation officer, she would not change her mind. It was hard because I could not communicate well with her. She did not bring an interpreter for our meetings. But I am very sad that I had to leave my old job, just because the probation officer changed the rules and because I could not communicate well.

12. In November 2018, I moved again, to DeKalb County. When I first moved there, the DeKalb Sheriff's office said that they would provide an interpreter. But the person there was not a qualified interpreter. They were a person who worked for the Sheriff's office who knew a little sign language. I could not understand what the person was signing. I asked for a real, qualified interpreter. But they were aggressive and said I should just sign all the papers. I wanted to talk. I had questions. I didn't know the rules in DeKalb County. I wanted to make sure I understood what they expected of me. But I had no opportunity to meet with anyone or talk to anyone.

13. I am still living in DeKalb County. Officers come to my house, and they never bring interpreters. They tell me that we should communicate with VRS, using my videophone and relay interpreters. I know that the FCC says it is not allowed to use VRS when both people are in the same room. I have tried to tell the probation officers that this is not allowed, but they insist. When the VRS interpreters realize we are talking in the same place, they hang up. This is not good communication.

14. In May 2019, I had a very, very scary experience with probation. Five probation officers came to my house. There was no interpreter. The officers searched all over my room and looked at all of my things. They looked at the documents on my computer. They looked at the apps and pictures on my phone. I could not ask why this was happening. I was so scared. The officers talked to my roommate, who is not Deaf. But that did not help: my roommate is not an interpreter.

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He does not know any ASL. And my probation information is private – I do not want my roommate to talk to my probation officers and learn about my personal situation. I especially don't want my roommate to know *more* about what is happening than me. But when the probation officers talked to my roommate instead of communicating with me, that's what happened. I really needed an interpreter that day. I was so scared.

15. The officers gestured that I should unlock an app on my phone. But I could not remember the password. It is an app that I have never used. The probation officers took my phone. I think they took my phone because I could not open that app. The next day, the officers gave me my phone back.

16. I have been on probation now since 2017. But this is not my first time having communication problems with probation. I was on probation starting in 2005 in Douglas County, and I had communication problems then too. I wanted to move to Washington State to get alcohol treatment. I got permission from my Georgia probation officer to move to Washington, and so I moved there. My probation officer knew I was in Washington. But then my probation officer retired without telling me. After he left, there was a miscommunication and the Douglas County, Georgia probation office put out a warrant for me, saying that I had left the state without permission. But this was wrong – I did have permission to move. But Douglas County refused to provide interpreters to clarify the situation, so I could not explain my side of the story and fix the miscommunication. I had to move back to Georgia. Douglas County extended my probation by five years because I could not communicate what had happened. I spent five extra years on probation just because the county would not provide interpreters.

17. Since I was released from prison in 2017, I have been through a lot on probation. I have lived in four counties. No county has provided interpreters consistently, even if I ask for them over and over. I feel like I am stuck. I feel like I am more likely to go back to jail or to get in

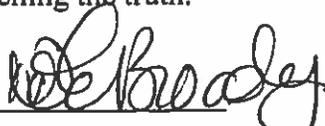
Jeremy Jay Woody Declaration

trouble, just because I am Deaf and probation refuses to give me the interpreters I need. I have to guess about the rules and hope that there is no miscommunication.

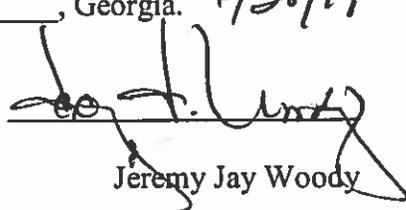
18. I am afraid that if I have a question, I will not be able to communicate. I am afraid that if there is a miscommunication, and the probation office thinks I did something wrong, I will not be able to tell my side of the story. I was so afraid when the officers searched my house in May 2019 that they would think there was a problem and that I would get arrested because we could not communicate. I am afraid that probation and the sheriff's office will keep refusing to give me interpreters. If anything goes wrong with the communication, I could go back to prison.

19. This paper only talks about some of the problems and discrimination I had in prison and on supervision. The probation office and the sheriff's office have done many more things that are unfair, just because I am Deaf.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was translated into ASL for me by NICOLE BRADY  6/28/19

I signed his paper on Lithonia, GA at _____, Georgia. 6/28/19


Jeremy Jay Woody

Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

_____, et al.,
Plaintiffs,

Civil Action No. _____

CLASS ACTION

v.

**GEORGIA DEPARTMENT OF COMMUNITY
SUPERVISION, et al.,**
Defendants.

DECLARATION OF JOSEPH NETTLES

1. My name is Joseph Nettles. I am a plaintiff in this case.

2. This paper describes things that have happened to me personally. I promise that everything in this paper is true. I know that I might be asked to be a witness in this case and to explain these facts in person. If I am a witness, I will say the same things in person that are written in this paper.

3. I am deaf. When I was born, I could hear. When I was about three years old, I got very sick and almost died. My illness caused me to lose my hearing completely.

4. My first language is American Sign Language (“ASL”). ASL is a totally different language than English. English is not my language. I can read and write some simple words and sentences written in English, but I do not understand many words in English.

5. I was in prison in Georgia until 2011. Now I am on probation. I believe that I will be on probation until 2021.

6. While I was in prison, the prison officers did not use ASL interpreters when they spoke with me. Sometimes, the prison officers asked another inmate to act as an interpreter. The

other inmate could hear and he knew some ASL. But I did not want the other inmate to be at my meetings with the prison officers. During these meetings, the prison officers talked about a lot of things that were very private. They talked about the charges against me and they talked about my probation. I did not want this other inmate to know all of this private information about me. I think that it was wrong for the prison officers to ask another inmate to act as an interpreter for me.

7. The day before I was released from prison, I met with the prison officers. There was no ASL interpreter at this meeting. The officers showed me a map. They circled places on the map and wrote down dates and times. I believe that the officers were trying to tell me where to go once I was released from prison. But since there was no ASL interpreter, I could not understand what the officers were saying. I did not understand what I was supposed to do once I was released from prison.

8. I was released from prison on September 5, 2011. My mom picked me up from prison. When I was released, the prison officers did not try to communicate with me. Instead, the prison officers talked to my mom. The prison officers told my mom that I should report to the Waycross probation office within 72 hours after my release.

9. I reported to the Waycross probation office as instructed. My parents came with me. When I arrived at the probation office, there was no ASL interpreter. When I met with my probation officer, I told him that I cannot read or write English and I asked for an ASL interpreter. The probation officer told me that I needed special permission from the court to get an ASL interpreter, and that the court was supposed to arrange for an ASL interpreter to come to the probation office. The probation officer was wrong. I think the probation office is supposed to provide ASL interpreters itself.

10. The probation officer gave me a big packet of documents written in English. I believe that the documents listed the rules that I am supposed to follow while I am on probation. But the documents were very long and complicated and I could not read them. Since there was no ASL interpreter, the probation officer asked my mom to act as an interpreter. My mom knew some ASL and she knew some special non-ASL hand signals that we used at home. But my mom was not fluent in ASL. She was not an ASL interpreter. She could not sign the same way an interpreter would sign. I need an ASL interpreter to understand and communicate clearly with hearing people, especially when talking about important information. It was wrong for the probation officer to ask my mom to interpret for me at the meeting. I think the probation office is supposed to provide ASL interpreters.

11. I was afraid that if I did not sign the documents, I would not be allowed to leave the probation office and I would be sent back to prison. So I signed the documents even though I did not understand them.

12. Since there was no ASL interpreter at my first meeting with my probation officer, when I left the meeting I did not understand the rules that I am supposed to follow while I am on probation. When I got home, my mom tried to explain the probation rules to me. But my mom did not understand all of the rules. And my mom did not know enough ASL to explain the rules she did understand. I had a lot of questions about the probation rules, and my mom could not answer my questions.

13. I have been on probation for eight years. I have had three different probation officers. During the eight years that I have been on probation, a probation officer has come to my home every month. For the past two years, a probation officer has come to my home twice a

month. None of my probation officers have ever brought an ASL interpreter with them when they have visited my home.

14. When my probation officer visits me at my home, he walks inside and looks all around my house, including in my bedroom. Sometimes, my probation officer goes through my belongings, without explaining why. Since my probation officer does not bring an ASL interpreter when he visits my home, there is no way for me to communicate with him while he looks through my house and through my things. There is no way for me to ask him questions about what is going on or what he is looking for.

15. Sometimes, my probation officer tries to communicate with me by typing notes on his phone, and he asks me to respond by typing notes back to him on his phone. I try to communicate with notes, but I do not understand most of these notes because I cannot read English very well. Often, I nod and pretend that I understand because I don't want the probation officer to be angry at me.

16. If one of my family members is at my home when my probation officer visits, the probation officer will ask my family member to act as an interpreter. Some of my family members know limited ASL. But none of my family members are qualified ASL interpreters. My family members do not use enough ASL to help me communicate fully with my probation officers. It is wrong for my probation officer to ask my family members to act as interpreters. Information about my probation is private and I do not want my family members to know all of this private information about me.

17. Every year around July, I have to report to the Brantley County sheriff's office and sign a new packet of documents. I also have to get my picture and fingerprints taken. I believe that if I do not report to the county sheriff's office and do not sign the new packet of

documents, I will be sent back to prison. I have reported to the county sheriff's office every year as instructed. There has never been an ASL interpreter present when I report to the county sheriff's office. Without an ASL interpreter, I cannot read the documents or ask questions, and so I cannot understand what the documents say. But I sign the new documents every year even though I do not understand them, because I do not want to be sent back to prison.

18. One year, when I reported to the county sheriff's office and met with the officers, my daughter came with me. Since there was no ASL interpreter at the sheriff's office, my daughter tried to interpret for me. My daughter is not fluent in ASL. My daughter has a disability that makes her get tired very easily, and so trying to interpret ASL is even more challenging for her. While I was signing to my daughter during the meeting, I noticed that the officers seemed afraid of my signing. They jumped a lot and looked very startled and scared. My daughter explained that the officers said my signing was threatening. I was not threatening anyone. Sign language is an expressive, full-body language and I was just communicating in my language. But the officers could not understand me because they refused to provide an interpreter.

19. The rules that I have to follow while I am on probation are complicated. During the eight years that I have been on probation, a lot of the rules that I am supposed to follow have changed. In the past two years, many of the rules have become much stricter. Since I have never had an ASL interpreter during any of my meetings with my probation officers, I cannot ask my probation officers questions about the rules. I have done everything I can to understand and follow all of the probation rules. But even though I have been on probation for eight years, I am still not sure that I understand all of the rules.

20. I am very afraid that I might accidentally break a rule that has not been explained to me. I am also afraid that if there is a misunderstanding and the probation office thinks that I did something wrong, I will not be able to tell my side of the story. I am afraid that if I have important questions about my probation, I will not be able to ask my probation officer for answers.

21. I never want to return to prison. I want to follow all of the rules so that I can finish my probation. I want to be free and live a normal life. I need to be able to communicate with my probation officers while I am on probation so that I can understand the rules and ask important questions.

22. I have experienced a lot of discrimination because I am deaf. This paper only talks about some of the problems and discrimination that I have experienced while on probation. The probation office and the sheriff's office have done many more things that are unfair, just because I am deaf. I believe they do not care about deaf people.

I promise that everything in this paper is true and correct. I know that this is a serious paper. I know that I am signing this paper "under penalty of perjury." This means that if I lie, I could get a new criminal charge against me for lying. I promise that I am telling the truth.

This paper was translated into ASL for me by:


Name: Ramon Norrod, NAD V, Master

I signed this paper on 29 June 19 at Hoboken, Georgia.


Joseph Nettles, Plaintiff