

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MELISSA GODSEY,

Plaintiff,

v.

KATHLEEN HAWK SAWYER, in her official  
capacity as Director for the Federal Bureau of  
Prisons, and NICOLE C. ENGLISH, in her  
official capacity as Assistant Director of the  
Health Services Division of the Federal Bureau  
of Prisons

Defendants.

No.

DECLARATION OF LISA NOWLIN

Pursuant to 28 U.S.C. § 1746, I, Lisa Nowlin, declare and state as follows:

1. I am a Staff Attorney with the American Civil Liberties Union of Washington Foundation (“ACLU-WA”) and co-counsel for Plaintiff in this case. I have knowledge of the facts set forth herein and could testify competently to them if called upon to do so.

2. Attached as Exhibit 1 is a true and correct copy of a letter Bart Freedman and I sent on behalf of Ms. Godsey to the Acting Director and the Assistant Director, Health Services Division, of the Federal Bureau of Prisons on August 16, 2019.

4. On September 6, 2019, I spoke telephonically with Dr. James Pelton, Regional Medical Director, regarding Ms. Godsey. He informed me that Ms. Godsey's designated facility was changed to FCI Dublin and that efforts were being made to provide her with Suboxone upon her arrival at the facility. He was not able to confirm this in writing and directed me to contact George Cho, Supervisory Attorney, Federal Bureau of Prisons.

5. Attached as Exhibit 3 is a true and correct copy of email correspondence between myself and Timothy Rodrigues, Senior Attorney with the Federal Bureau of Prisons, between September 9, 2019, and September 11, 2019.

6. Attached as Exhibit 4 is a true and correct copy of Ms. Godsey's Motion to Extend Date for Voluntary Surrender, filed on September 10, 2019. This document is available on the docket for Case No. 2:18-cr-00115-RAJ, in the United States District Court for the Western District of Washington.

7. Attached as Exhibit 5 is a true and correct copy of the Government's Response to Motion to Extend Date for Voluntary Surrender, filed on September 17, 2019. This document is available on the docket for Case No. 2:18-cr-00115-RAJ, in the United States District Court for the Western District of Washington.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 17 day of September, 2019 in Seattle, Washington.

Lisa Nowlin, WSBA No. 51512

# **NOWLIN**

# **EXHIBIT 1**

K&L GATES

August 16, 2019

Bart J Freedman  
bart.freedman@klgates.com

**By FedEx**

T +1 206 370 7655  
F +1 206 623 7022

Hugh J. Hurwitz  
Acting Director  
Federal Bureau of Prisons  
Central Office HQ 320 First Street, NW  
Washington, DC 20534

Dr. Deborah G. Schult  
Assistant Director, Health Services Division  
Federal Bureau of Prisons  
Central Office HQ  
320 First Street, NW  
Washington, DC 20534

**Re: Melissa Godsey: Medication-assisted treatment for opioid use disorder during incarceration**

Dear Acting Director Hurwitz and Assistant Director Dr. Schult,

K&L Gates LLP (K&L Gates) and the American Civil Liberties Union of Washington ("ACLU-WA") have been retained by Melissa Godsey, an individual who is facing incarceration in a federal Bureau of Prisons (BOP) facility. Ms. Godsey suffers from opioid use disorder (OUD) and has been receiving medication-assisted treatment (MAT) under the supervision of her prescribing physicians for over a year. As part of her MAT, Ms. Godsey attended counseling sessions and takes Suboxone (buprenorphine and naloxone) daily. With the help of this treatment, Ms. Godsey has been in active recovery for more than fourteen months.

On June 28, 2019, Ms. Godsey was sentenced to twenty-four months and one day in federal prison on several offenses relating to bank fraud, identity theft, and possession of stolen mail. See *U.S. v. Godsey*, Case No. 2:18-cr-00115-RAJ (W.D. Wash. June 28, 2019). Her self-surrender reporting date is currently scheduled for September 30, 2019. BOP recently assigned Ms. Godsey to Federal Correctional Institution Victorville Medium II Satellite Camp in California. Judge Richard Jones of the U.S. District Court for the Western District of Washington recommended that Ms. Godsey continue receiving MAT while incarcerated. See Exhibit 1.

Section 504 of the Rehabilitation Act prohibits federal entities, like BOP, from discriminating against a qualified individual with a disability. See 29 U.S.C. § 794. Substance Use Disorder is a recognized disability and individuals with OUD qualify as disabled under the Rehabilitation Act.



See 29 U.S.C. § 705(20)(B); 42 U.S.C. §§ 12102 and 12131(2); 28 C.F.R. § 35.108(b)(2). The Rehabilitation Act applies to individuals who are participating in a supervised drug rehabilitation program. Thus, should BOP refuse to provide non-pregnant individuals suffering from OUD access to medically-necessary MAT prescriptions while incarcerated, that would violate the Rehabilitation Act.

For example, this past June, in response to a lawsuit, BOP agreed to provide Stephanie DiPierro uninterrupted access to her MAT while incarcerated at the BOP's Federal Correction Institution in Danbury, Connecticut. See Exhibit 2. County jails and prisons are also following this trend and offering MAT to incarcerated individuals. See, e.g., Exhibit 3 (Whatcom County Jail in Bellingham, WA has agreed to provide individuals with OUD with MAT while in custody, including maintaining people on MAT prescriptions they were already using in the community, as well as starting qualifying people on MAT in the jail before they are released); see also, *Pesce v. Coppinger*, Civil Action No. 18-11972-DJC, 2018 WL 6171881 (D. Mass. Nov. 26, 2018) (district court granted a preliminary injunction requiring a Massachusetts county facility to provide an inmate with continued access to methadone because denying methadone likely violated both the Eighth Amendment and the Americans with Disabilities Act). Additionally, the President's Commission on Combating Drug Addiction and the Opioid Crisis has called for the use of MAT in criminal justice settings.<sup>1</sup>

Please confirm, in writing, by September 04, 2019, that Ms. Godsey will be able to continue her MAT, without interruption, upon incarceration in federal prison, including taking her Suboxone daily as has been prescribed by her treating physician. This continuation of treatment should include having the medication ready upon arrival and providing medication at any additional BOP facility, halfway house or residential reentry center, where Ms. Godsey may reside as part of her sentence. We are also happy to discuss Ms. Godsey's situation if you would like. If we do not receive a confirmation by September 04, 2019, we will initiate litigation in federal court for emergency relief on Ms. Godsey's behalf.

Very truly yours,




Bart J Freedman, K&L Gates  
Lisa Nowlin, ACLU of Washington

CC:

The Honorable Richard A. Jones, United States District Court, Western District of Washington

<sup>1</sup> President's Commission on Combating Drug Addiction and the Opioid Crisis – (2017) [https://www.whitehouse.gov/sites/whitehouse.gov/files/images/Final\\_Report\\_Draft\\_11-15-2017.pdf](https://www.whitehouse.gov/sites/whitehouse.gov/files/images/Final_Report_Draft_11-15-2017.pdf)

Brian T. Moran, United States Attorney for the Western District of Washington

Kerry J. Keefe, Chief of the Civil Division of United States Attorney's Office for the Western  
District of Washington

Connie Smith, Chief of United States Probation and Pretrial Services for the Western District of  
Washington

Greg Geist, Assistant Federal Public Defender, Western District of Washington



<i>package id</i>	<i>from</i>	<i>vendor</i>
0257851	Christina Elles (80132)	FedEx
<i>ship date</i>	K & L Gates	<i>tracking number</i>
Fri, Aug 16 2019	925 4th Avenue	789190030486
<i>to</i>	Seattle, WA 98104	<i>service</i>
Hugh J. Hurwitz	US	FedEx Priority Overnight®
Federal Bureau of Prisons	(206) 370-7849	<i>packaging</i>
320 1ST ST NW	<i>billing</i>	FedEx® Envelope
WASHINGTON, DC	American Civil Liber...n	<i>signature</i>
20534-0002	Inc. Godsey Federal	Deliver Without Signature
United States	Bureau's MAT	<i>courtesy quote</i>
206-370-5803	(0907911.0907911.00002)	13.62
<i>residential address</i>	<i>operator</i>	<i>Quote may not reflect all</i>
No	Joyce Hamack	<i>accessorial charges</i>
<i>return label</i>	(206) 370-5803	
No	joyce.hamack@klgates.com	
<i>notification type</i>	<i>create time</i>	
Delivery	08/16/19, 3:30PM	
<i>notification recipients</i>		
Christina.Elles@klga...		
joyce.hamack@klgates...		

*package id*

0257849

*ship date*

Fri, Aug 16 2019

*to*

Dr. Deborah G. Schult  
Federal Bureau of Prisons  
320 1ST ST NW  
WASHINGTON, DC  
20534-0002  
United States  
206-370-5803

*residential address*

No

*return label*

No

*notification type*

Delivery

*notification recipients*

Christina.Elles@klga...  
joyce.hamack@klgates...

*from*

Christina Elles (80132)  
K & L Gates  
925 4th Avenue  
Seattle, WA 98104  
US  
(206) 370-7849

*billing*

American Civil Liber...n  
Inc.Godsey Federal  
Burea...s MAT  
(0907911.0907911.00002)

*operator*

Joyce Hamack  
(206) 370-5803  
joyce.hamack@klgates.com

*create time*

08/16/19, 3:27PM

*vendor*

FedEx

*tracking number*

789189977810

*service*

FedEx Priority Overnight®

*packaging*

FedEx® Envelope

*signature*

Deliver Without Signature

*courtesy quote*

13.62

Quote may not reflect all  
accessorial charges



# **NOWLIN**

## **EXHIBIT 2**



U.S. Department of Justice  
Federal Bureau of Prisons

Washington, D.C. 20534

AUG 30 2019

Bart J. Freedman  
K&L Gates  
925 Fourth Avenue, Suite 2900  
Seattle, WA 98104-1158

RE: Melissa Godsey, medication assisted treatment for opioid  
use disorder during incarceration

Dear Mr. Freedman:

This is in response to your letter dated August 16, 2019, informing us of Ms. Godsey's impending incarceration with the Federal Bureau of Prisons (BOP) and her current treatment with Suboxone® for opioid use disorder. Upon her arrival at the designated BOP institution, health care staff will evaluate Ms. Godsey and develop an individualized treatment plan specific to her medical and mental health needs. Regarding the continuation of Suboxone® in particular, it would be extremely helpful if recent medical records relevant to the treatment of her opioid use disorder prior to her incarceration could be provided in advance of her arrival. Please send a copy of those records to the Clinical Director at her designated institution and to James K. Pelton, M.D., Regional Medical Director, at 11900 E. Cornell Avenue, Aurora, CO 80014.

Should you have questions or concerns regarding this matter, please contact Dr. Pelton at 303-338-6588.

Sincerely,

A handwritten signature in blue ink that reads "Chris L. Bina for".

N. C. English  
Assistant Director  
Health Services Division

**RECEIVED**

SEP 03 2019

**K&L GATES LLP**

# **NOWLIN**

## **EXHIBIT 3**

**Lisa Nowlin**

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**From:** Lisa Nowlin  
**Sent:** Wednesday, September 11, 2019 11:52 AM  
**To:** Timothy Rodrigues; George Cho  
**Cc:** Mark Cooke; Bart Freedman  
**Subject:** RE: FW: Following up Regarding Melissa Godsey's MAT Treatment

Dear Mr. Rodrigues,

I interpret your email to mean that the BOP will not provide written confirmation that Ms. Godsey will be able to continue her prescription Suboxone treatment, in advance of her arrival at her designated BOP institution. Given BOP's policies excluding medication-assisted treatment for non-pregnant individuals, and the importance of continuity of treatment for Ms. Godsey, we are unwilling to wait until after Ms. Godsey has reported to her BOP institution to receive BOP's determination of her treatment. Your unwillingness to confirm Dr. Pelton's statements is concerning and we cannot help but conclude that intervention by the courts is necessary to protect Ms. Godsey's rights.

Regarding her medical records, we received them yesterday from her providers and will pass those along as instructed, once we receive a release from Melissa. Please confirm that the records will be used only for the purpose of determining the appropriate treatment for Ms. Godsey's opioid use disorder, and will not be used for other purposes.

Regards,  
Lisa

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**From:** Timothy Rodrigues <tarodrigues@bop.gov>  
**Sent:** Monday, September 09, 2019 5:23 PM  
**To:** Lisa Nowlin <lnowlin@aclu-wa.org>  
**Cc:** Mark Cooke <mcooke@aclu-wa.org>; Bart Freedman <bart.freedman@klgates.com>  
**Subject:** Re: FW: Following up Regarding Melissa Godsey's MAT Treatment

Ms. Nowlin,

Please refer to Assistant Director English's August 30, 2019 response to Mr. Freedman. Ms. Godsey's individual treatment plan specific to her medical and mental health needs will be developed upon her arrival at her designated BOP institution. Concerning Suboxone treatment in particular, please send recent medical records relevant to the treatment of her opioid use disorder to BOP as soon as possible prior to her arrival. The records should be sent to the Clinical Director at her designated institution. You can find staff mailing addresses for all BOP institutions here: <https://www.bop.gov/locations/>.

In addition, please send a copy of the records to BOP Western Regional Medical Director James K. Pelton, M.D., at the address provided in Assistant Director English's response.

Thank you,

Timothy A. Rodrigues | Senior Attorney  
US Department of Justice | Federal Bureau of Prisons



FDC Honolulu | PO Box 30547 | Honolulu, HI 96820

T: (808) 838-4301 | E: [tarodrigues@bop.gov](mailto:tarodrigues@bop.gov)

>>> Lisa Nowlin <[lnowlin@aclu-wa.org](mailto:lnowlin@aclu-wa.org)> 9/9/2019 10:18 AM >>>

Dear Nicholas and Timothy,

I received an out-of-office response from George's email account in response to my below email, with instructions to contact either of you. I've also attached the correspondence to which I refer in my letter.

Regards,

Lisa

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**From:** Lisa Nowlin

**Sent:** Monday, September 09, 2019 12:08 PM

**To:** [george.cho@usdoj.gov](mailto:george.cho@usdoj.gov); George Cho <[gcho@bop.gov](mailto:gcho@bop.gov)>

**Cc:** Freedman, Bart <[bart.freedman@klgates.com](mailto:bart.freedman@klgates.com)>; Mark Cooke <[mcooke@aclu-wa.org](mailto:mcooke@aclu-wa.org)>

**Subject:** Following up Regarding Melissa Godsey's MAT Treatment

Dear George,

I am following up on the ACLU of Washington and K&L Gates' letter of August 16, 2019, regarding Melissa Godsey, and the BOP's response dated August 30, 2019. Per the BOP's instructions, I called Dr. Pelton on September 3, 2019, and was able to connect with him on Friday, September 6. He informed me that Ms. Godsey has been re-designated from FCI Victorville to FCI Dublin, because there are better community medical resources there. Dr. Pelton also informed me that it is BOP's intention to keep Ms. Godsey on her Suboxone treatment while incarcerated with the BOP, without interruption. He also informed me that the request for medical records was to learn about her current suboxone regimen to aid with her transition to FCI Dublin and the continuation of her MAT treatment.

I asked Dr. Pelton if he could confirm our conversation in writing, and he directed me to you. Could you please confirm that the following are correct:

- The Bureau of Prisons will order, dispense, and administer to Ms. Godsey her Suboxone treatment throughout the course of her incarceration in case number 2:18-CR-00115-RAJ-001.
- Once counsel for Ms. Godsey has provided medical records documenting Ms. Godsey's Suboxone regimen to Dr. Pelton, per the BOP's request, he will send this information to FCI Dublin. BOP shall continue Ms. Godsey's current dose of Suboxone treatment throughout the course of her incarceration with the BOP (unless otherwise directed by her doctors in an emergency situation).
- The BOP shall take all steps necessary to ensure that Ms. Godsey receives uninterrupted access to her Suboxone treatment.
- If Ms. Godsey resides anywhere other than FCI Dublin as part of her sentence, such as a different BOP facility, halfway house, or residential reentry center, she will continue to receive uninterrupted access to her Suboxone treatment.

Kind regards,

Lisa

**Lisa Nowlin**

Staff Attorney

Pronouns: she, her

American Civil Liberties Union

Foundation of Washington

901 Fifth Avenue, Suite 630, Seattle, WA 98164

206.624.2184 | [lnowlin@aclu-wa.org](mailto:lnowlin@aclu-wa.org)

[www.aclu-wa.org](http://www.aclu-wa.org)



This message is intended only for the people to whom it is addressed and may include confidential attorney-client/attorney-work product communication. If this message is not addressed to you, please delete it and notify me.

**NOWLIN**  
**EXHIBIT 4**

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,	)	No. CR 18-115-RAJ
	)	
Plaintiff,	)	MOTION TO EXTEND DATE FOR
	)	VOLUNTARY SURRENDER
v.	)	
	)	
MELISSA GODSEY,	)	
	)	<b>Noted for: September 18, 2019</b>
Defendant.	)	
	)	
	)	
	)	

**RELIEF REQUESTED**

Defendant Melissa Godsey respectfully requests that this Court extend her self-surrender date by 120 days to January 28, 2020. The motion comes at the request of Ms. Godsey and her counsel at the American Civil Liberties Union (ACLU) of Washington and K&L Gates. The ACLU represents Ms. Godsey in her effort to continue Medication Assisted Treatment (MAT), without interruption, while serving a prison sentence in the Bureau of Prisons (BOP). The United States Probation Office, through Senior United States Probation Officer and Drug and Alcohol Treatment Specialist Jennifer Van Flandern, supports the requested 120-day extension of the self-report date. According to PO Van Flandern, Ms. Godsey is stable in the community. The government,



represented by the Assistant United States Attorney Stephen Hobbs, opposes this request.

### DISCUSSION

District Courts have limited jurisdiction with respect to the manner in which the Bureau of Prisons (BOP) manages placement of individual defendants. *See, e.g., United States v. Prismantas*, 191 F.3d 462, at \*2 (9th Cir. 1999) (“Bureau of Prisons has sole authority to designate a prisoner’s place of imprisonment. 18 U.S.C. §§ 3621(b), 3625. Therefore, a recommendation is no guarantee that [the defendant] would have been assigned to the boot camp program by the Bureau of Prisons.”). However, one of the areas in which orders from the District Court will be honored by the BOP is the date of self-surrender. Accordingly, Ms. Godsey requests an order from this Court to extend her self-surrender date.

This Court sentenced Ms. Godsey on June 28, 2019. In the Judgment, the Court recommended that the Bureau of Prisons (BOP) provide Ms. Godsey with MAT. Dkt. 43 at 2. At Ms. Godsey’s sentencing, her counsel indicated that Ms. Godsey might request an extension of the report date if she did not receive confirmation that the BOP would continue MAT. The Court invited Ms. Godsey to request more time to report to the BOP, if necessary, to ensure the continuity of MAT. Ms. Godsey’s counsel at the ACLU now indicates that more time is necessary to protect Ms. Godsey’s rights.

By way of its Voluntary Surrender correspondence, dated August 1, 2019, the Probation Office notified Ms. Godsey that the BOP designated Ms. Godsey to the Federal Correctional Institution Victorville Medium II Satellite Camp and her self-surrender date was September 30, 2019.

Ms. Godsey is requesting an additional 120 days, to January 28, 2020, to self-surrender. The ACLU and cooperating attorneys at K&L Gates agreed to represent Ms. Godsey. In a letter, dated August 16, 2019, to the Acting Director of the BOP and the

Assistant Director of the BOP's Health Services Division, the ACLU requested the BOP "to continue [Ms. Godsey's] MAT, without interruption, upon incarceration in federal prison, including taking her Suboxone daily as has been prescribed by her treating physician." The ACLU noted that the "continuation of treatment should include having the medication ready upon arrival and providing medication at any additional BOP facility, halfway house or residential reentry center, where Ms. Godsey may reside as part of her sentence." The ACLU requested written "confirmation by September 04, 2019" before it would "initiate litigation in federal court for emergency relief on Ms. Godsey's behalf." The ACLU sent a copy of its August 16 letter to the Court, the United States Attorney for the Western District of Washington, the Chief of the United States Probation and Pretrial Services for the Western District of Washington, and undersigned counsel.

On August 29, 2019, as a follow up to the August 16 letter, counsel from the ACLU contacted George Cho of the BOP. The ACLU received an out-of-office response from Mr. Cho directing the recipient to another attorney, who informed the ACLU that the BOP would be responding through other channels.

On September 3, 2019, the ACLU received a letter, dated August 30, 2019, from N.C. English, the Assistant Director of the BOP's Health Services Division. The letter indicated that "(u)pon her arrival at the designated BOP institution, health care staff will evaluate Ms. Godsey and develop an individualized treatment plan specific to her medical and mental health needs. Regarding the continuation of Suboxone in particular, it would be extremely helpful if recent medical records relevant to the treatment of her opioid use disorder prior to her incarceration could be provided in advance of her arrival."<sup>1</sup> The letter did not directly answer the ACLU's questions regarding Ms.

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<sup>1</sup> The ACLU is waiting on confirmation from the BOP about the BOP's limited use of medical records before seeking a release from Ms. Godsey to provide them.

1 Godsey's treatment while in custody with the BOP. The letter provided contact  
2 information for Dr. K. Pelton, a Regional Medical Director with the BOP. The ACLU  
3 left a message with Dr. Pelton in the hopes of getting more information and a written  
4 confirmation that Ms. Godsey will be permitted to continue MAT in the BOP.

5 Subsequently, the ACLU talked with Dr. Pelton, who said the BOP was trying to  
6 make arrangements to provide Ms. Godsey with Suboxone. The ACLU asked for  
7 written confirmation but Dr. Pelton asked the ACLU to contact George Cho of the  
8 BOP. As previously indicated, the ACLU received an out-of-office response from Mr.  
9 Cho on August 29.

10 On September 6, 2019, the BOP changed Ms. Godsey's designation from FCI  
11 Victorville to FCI Dublin. A confirmation of the re-designation was sent by e-mail from  
12 Mr. Cho to AUSA Hobbs. Mr. Cho noted that FCI Dublin is currently working on a  
13 protocol for the implementation of MAT to inmates on a case-by-case basis and that he  
14 hopes "to receive further updates on the implementation of MAT at FCI Dublin in the  
15 upcoming weeks," which will be passed on to AUSA Hobbs.

16 In an effort to receive written confirmation of Dr. Pelton's assurances, the  
17 ACLU sent an e-mail to Mr. Cho on September 9, 2019. The ACLU received another  
18 out-of-office response indicating that Mr. Cho will be out of the office until September  
19 16, 2019. The ACLU forwarded the e-mail it sent to Mr. Cho, as directed by Mr. Cho's  
20 out-of-office message, but one of the two recipients did not have an active e-mail  
21 account.

22 Given the amount of time the ACLU anticipates it will take to receive written  
23 assurances from the BOP, as well as Mr. Cho's indication that it could be weeks before  
24 he receives updates on the implementation of MAT protocols at FCI Dublin, a 120-day  
25 extension of Ms. Godsey's self-report is reasonable. It appears the ACLU and the BOP  
26 are attempting to negotiate a resolution without involving the courts. But, in the event

1 they are unable to resolve the issue in a manner that protects Ms. Godsey's rights under  
2 Section 504 of the Rehabilitation Act, which prevents discrimination against a qualified  
3 individual with a disability, the ACLU and the cooperating attorneys at K&L Gates  
4 intend to file a lawsuit against the BOP seeking injunctive and declaratory relief to  
5 allow Ms. Godsey to continue MAT, without interruption, during her incarceration. The  
6 ACLU indicates that it is crucial that it has enough time to bring the case and a  
7 preliminary injunction to ensure continuity of Ms. Godsey's treatment.

8 Ms. Godsey's request for an extension of the self-report dates directly relates to  
9 the possibility that the BOP will discriminate against her and she will have no recourse  
10 to protect her rights. Ms. Godsey diligently obtained representation from the ACLU to  
11 help her continue MAT, without interruption, during her upcoming incarceration.  
12 Through the combination of hard work, dedication to her children, taking Suboxone as  
13 prescribed, and support from the United States Probation Office, Ms. Godsey has been  
14 clean and sober for nearly 15 months. The continuation of MAT, without interruption,  
15 is necessary to ensure Ms. Godsey will not relapse in the BOP and will not experience  
16 withdrawal symptoms. Without MAT, the chances of overdose and death increase.  
17 Without MAT, the likelihood that Ms. Godsey will reoffend increases. Through her  
18 request to continue MAT in the BOP, Ms. Godsey seeks a course of action consistent  
19 with positions recommended by the medical community and her Probation Officer.

20 Ms. Godsey, through the ACLU, seeks a common sense resolution that  
21 maintains Ms. Godsey's sobriety, keeps the community safe, and reduces recidivism.  
22 Due to the ongoing negotiations between Ms. Godsey and the BOP, Ms. Godsey  
23 respectfully requests that this Court issue an order extending Ms. Godsey's self-report  
24 date to January 28, 2020.



**CONCLUSION**

It is respectfully requested that this Court grant Ms. Godsey's request to extend the date for her voluntary surrender to January 28, 2020.

DATED this 10th day of August, 2019.

Respectfully submitted,  
*s/ Gregory Geist*  
Assistant Federal Public Defender  
Attorney for Melissa Godsey

**CERTIFICATE OF SERVICE**

I hereby certify that on September 10, 2019, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of filing to all registered parties.

/s/ Barbara Hughes  
Paralegal

**NOWLIN**  
**EXHIBIT 5**

The Hon. Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MELISSA GODSEY,

Defendant.

NO. CR18-115-RAJ

GOVERNMENT'S RESPONSE TO  
MOTION TO EXTEND DATE FOR  
VOLUNTARY SURRENDER

Comes now the United States of America, by and through Brian T. Moran, United States Attorney for the Western District of Washington, and Stephen Hobbs, Assistant United States Attorney for said District, and files this Government's Responses to Motion to Extend Date for Voluntary Surrender (Dkt. 46). The government respectfully requests that the motion be denied.

**I. INTRODUCTION**

Melissa Godsey (hereafter "Godsey") pled guilty to the following crimes:

Counts 1, 2 & 3: *Bank Fraud*, in violation of Title 18, United States Code, Section 1344(1) and (2).

Counts 4 & 5: *Aggravated Identity Theft*, in violation of Title 18, United States Code, Section 1028A(a)(1).



Count 6: *Possession of Stolen Mail*, in violation of Title 18, United States Code, Section 1708.

On June 28, 2019, Godsey was sentenced to 24 months and one day incarceration and allowed to self-report to the Bureau of Prisons. Her report date is September 30, 2019.

On September 10, 2019, Godsey moved to delay her report date on the basis that the Bureau of Prisons (BOP) has not guaranteed that she will be allowed to receive medically Assisted Treatment (Suboxone) while in custody.

The government respectfully requests that Godsey's motion be denied. BOP has taken affirmative steps to consider whether Godsey is eligible for Medically Assisted Treatment (MAT) while incarcerated, including re-designating her to a facility where there is the possibility of receiving such treatment. BOP has requested that Godsey submit medial paperwork related to her need for MAT. Those records were received by BOP on the morning of September 17, 2019. BOP will remake a final decision about MAT treatment within 14 days of Godsey arriving at the BOP. Because the BOP is taking reasonable steps to ensure that Godsey will receive MAT (assuming she qualifies), the motion to delay the reporting dated should be denied.

## II. FACTUAL SUMMARY

On June 28, 2019, Godsey was sentenced to 24 months and one day for *Bank Fraud* (three counts), *Aggravated Identity Theft* (two counts), and *Possession of Stolen Mail* (one count). Godsey was allowed to self-surrender by September 30, 2019. Exhibit A.

On August 1, 2019, the Probation Office informed Godsey that her designated BOP facility was FCI Victorville. Exhibit B.

On August 16, 2019, attorneys for the American Civil Liberties Union (ACLU) sent a letter to the Acting BOP Director and the Assistant Director of the BOP Health Service's Division demanding that BOP continue Godsey's Suboxone treatment without

1 interruption. The ACLU requested confirmation that BOP would do so by September 6,  
2 2019, or it would “initiate litigation in federal court for emergency relief”. Exhibit C.

3 The BOP responded in a letter dated August 30, 2019, and received by the ACLU  
4 on September 3, 2019. This letter states in relevant part:

5 This is in response to your letter dated August 16, 2019,  
6 informing us of Ms. Godsey's impending incarceration with the  
7 Federal Bureau of Prisons (BOP) and her current treatment with  
8 Suboxone® for opioid use disorder. Upon her arrival at the  
9 designated BOP institution, health care staff will evaluate Ms.  
10 Godsey and develop an individualized treatment plan specific to  
11 her medical and mental health needs. Regarding the continuation  
12 of Suboxone® in particular, it would be extremely helpful if  
13 recent medical records relevant to the treatment of her opioid  
14 use disorder prior to her incarceration could be provided in  
15 advance of her arrival. Please send a copy of those records to  
16 the Clinical Director at her designated institution and to James  
17 K. Pelton, M.D., Regional Medical Director, at 11900 E. Cornell  
18 Avenue, Aurora, CO 80014.

19 Should you have questions or concerns regarding this  
20 matter, please contact Dr. Pelton at 303-338-6588.

21 Exhibit D.

22 As set forth in Godsey’s motion, counsel for the ACLU contacted Dr. Pelton, who  
23 indicated that the BOP was trying to arrange for Godsey to receive Suboxone treatment.  
24 Dkt. 46, p. 4.

25 On September 6, BOP Legal Counsel George Cho provided undersigned counsel  
26 with an update concerning Godsey’s placement and MAT status. Briefly, the BOP had  
27 re-designated Godsey to FCI Dublin “based upon the likelihood of her candidacy to  
28 continue MAT (Suboxone),” and BOP was continuing to request that Godsey provide  
medical records supporting her need for MAT. That same day, undersigned counsel  
forwarded the contents of the email to Federal Public Defender Greg Geist. The email  
stated in relevant part:

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//

Defendant Melissa Godsey, 49057-086, was just re-designated today, 09/06/19, from FCI Victorville to FCI Dublin, based upon the likelihood of her candidacy to continue MAT (Suboxone) therapy while incarcerated and the related counseling needs she will likely have. FCI Dublin is distinguishable from FCI Victorville in that FCI Dublin is currently working on a protocol for the implementation of MAT (Suboxone) to inmates on a case-by-case basis as medically necessary.

Parenthetically, our BOP Western Regional Director, Dr. Jim Pelton, also reached out to Lisa Nowlin from the ACLU of Washington earlier today, 09/06/19, to try and obtain more medical information and records prior to Defendant Godsey's self-surrender, which is still currently scheduled for the end of this month, September 2019.

I hope to receive further updates on the implementation of MAT at FCI Dublin in the upcoming weeks, which I will pass onto you all.

#### Exhibit E.

On September 10, 2019, Godsey filed the present motion.<sup>1</sup>

On September 11, 2019, BOP Legal Counsel Timothy Rodrigues provided an update to undersigned counsel as to the procedures forth evaluating whether Godsey should receive MAT (Suboxone). In relevant part, the e-mail stated:

BOP has yet to receive Godsey's medical records.

The 8/30 letter from BOP's Asst Director to Bart Freedman states, "Upon her arrival at the designated BOP institution, health care staff will evaluate Ms. Godsey and develop an individualized treatment plan specific to her medical and mental health needs." This is consistent with BOP's national publicly-available policy for inmate patient care, which you can access [here](#). Please review pp. 23-25.

A preliminary intake assessment occurs immediately when an inmate arrives at the facility. But, detailed evaluation of substance use history comes later during the initial screening physical exam. This occurs within 14 days of admission. Inmates showing evidence of past substance dependence/abuse are referred to the Chief Psychologist and Clinical Director for formulation of a treatment plan based on the evidence gathered at the initial screening. We should focus on the initial screening as the policy-based date by which, in due course, BOP will formally consider MAT for Godsey.

#### Exhibit F.<sup>2</sup>

<sup>1</sup> In Godsey's motion, there are several allegations that the ACLU did not receive a response from FDC Legal Counsel George Cho. The motion fails to mention that FDC Senior Attorney Timothy Rodrigues contacted counsel for the ACLU by email on August 30 and September 6, 2019. Those emails are attached as Exhibit G and H.

<sup>2</sup> The BOP Policy for Inmate Care is attached as Exhibit I.

1 On September 17, 2019 (the day the government's response to the underlying  
2 motion was due), Dr. Jim Pelton, BOP Western Regional Medical Director, received  
3 Godsey's medical records. The records are in the process of being reviewed by BOP  
4 medical staff. BOP intends to make a preliminary decision concerning Godsey's  
5 eligibility for MAT, which will be finalized upon her arrival at FCI Dublin and the  
6 medical evaluation conducted at that time. Exhibit J.

### 7 III. DISCUSSION

8 The government does not dispute that this Court has the authority to set the  
9 reporting date for individuals it has sentenced. The government respectfully submits,  
10 however, that doing so in the present case is not appropriate.

11 First, and most basically, BOP appears to be acting in a reasonable and appropriate  
12 manner in response to Godsey's request that she be approved for MAT (Suboxone). BOP  
13 has responded in a timely manner to the letters sent on Godsey's behalf by the ACLU and  
14 there has been contact between BOP's legal counsel and the BOP Regional Medical  
15 Director with ACLU attorneys. More importantly, BOP has re-designated Godsey to a  
16 prison facility where she may actually receive Suboxone treatment.

17 Second, BOP has made the reasonable request that Godsey provide medical  
18 records supporting her claim that she requires MAT (Suboxone). These records were  
19 received on the morning of September 17, 2019, and are in the process of being reviewed  
20 by BOP medical staff. At a bare minimum, it is premature to request a continuance of the  
21 report date until BOP has completed this review and made a formal decision to deny  
22 Godsey MAT.

23 Third, BOP has a procedure in place for evaluating inmates to determine whether  
24 they require MAT upon their arrival at their designated facility. It is an entirely  
25 appropriate protocol that BOP medical staff be allowed to physically examine an  
26 individual before making a medical decision about the necessary care to be provided an  
27 inmate. BOP is seeking to expedite that process by requesting Godsey's medical  
28

1 paperwork before her report date. In this case, the process to determine whether MAT is  
 2 appropriate should be allowed to occur pursuant to standard BOP procedures.

3 Finally, the government submits that it would be unwise to grant a continuance of  
 4 Godsey's report date under threat of litigation and without a more fully-developed record.  
 5 It appears that BOP is working to accommodate Godsey's alleged need for MAT.  
 6 Having now received Godsey's medical records, BOP intends to make a preliminary  
 7 decision concerning Godsey's eligibility for MAT, which will be finalized upon her  
 8 arrival at FCI Dublin and the medical evaluation conducted at that time. It is possible,  
 9 but certainly not guaranteed, that Godsey will arrive at her designated facility and be  
 10 smoothly transitioned to MAT as she has requested. Alternatively, if that does not occur,  
 11 then Godsey can litigate the matter at the appropriate time.

12 DATED this 17<sup>th</sup> day of September, 2019.

13  
 14 Respectfully submitted,

15 BRIAN T. MORAN  
 16 United States Attorney

17 s/ Stephen Hobbs

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 26  
 27  
 28

CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorney(s) of record for the defendant(s).

s/ Alissa Harris  
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