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New York State Department of Correction and Community Supervision
Executive Clemency Bureau
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VIA EMAIL (PardonsAndCommutations@doccs.ny.gov)

**Reginald Randolph, NYSID 04467320Y, DOB 3/25/1963, New York County Ind.
No. 1404-2018 -Request For Commutation Of Sentence**

Dear Members of the Executive Clemency Bureau:

We write to respectfully urge that you exercise compassion and empathy and grant emergency clemency and full sentence commutation given the exceptional circumstances that exist for our detained client, Reginald Randolph, a 58-year-old medically vulnerable Rikers Island inmate who has full blindness in his left eye and partial blindness, glaucoma and cataracts in his right eye, COPD, asthma, a history of tuberculosis, schizoaffective disorder, schizophrenia substance abuse disorders, and a leg injury that requires he use a mobility device.

Clemency, as defined by the State Constitution (Article IV, Section 4), provides the Governor “the power to grant reprieves, commutations and pardons after convictions for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations...” Only the Governor may grant clemency and it is only granted under the most compelling circumstances. Commutation (reduction) of an incarcerated individual's minimum period of imprisonment may enable them to be considered for release on community supervision at a time earlier than permitted by the court-imposed sentence. With extraordinary circumstances, detailed in this letter, a case can be reviewed for commutation of sentence.

Mr. Randolph is currently serving a 2-4 year indeterminate sentence for Burglary in the Third Degree for which he pleaded guilty to stealing cough medicine from two Duane Reade stores in violation of a “no trespass” order. Mr. Randolph’s initial parole eligibility date was July 18, 2021. However, he remains incarcerated at Rikers Island and is medically ineligible for a transfer to DOCCS due to his serious and worsening medical conditions.

As discussed in greater detail below, Mr. Randolph's criminal charges involved his stealing packages of cough medicine in violation of a "no trespass" order from Duane Reade.

In sum, Mr. Randolph is a deserving candidate for clemency because:

- 1) He is medically vulnerable based on his very serious and debilitating medical conditions, which include blindness in his right eye, bilateral glaucoma, cataracts in his left eye, COPD, asthma, schizoaffective disorder, schizophrenia, substance abuse disorders, and disabling leg injury;
- 2) Mr. Randolph is at imminent risk of total blindness if he remains incarcerated due to delay in access to necessary specialized treatment for progressive form of glaucoma that afflicts both of his eyes and leads to blindness if untreated or if treatment is delayed;
- 3) Mr. Randolph remains in custody at Rikers Island beyond his parole eligibility date in July, 2021;
- 4) Mr. Randolph has been in custody for over 800 days at Rikers Island in connection with his nonviolent felony conviction, which consists of a "bump up" shoplift burglary, when an ordinary misdemeanor shoplift is prosecuted as a felony burglary where a person has a prior trespass notice at the same store;
- 5) The COVID-19 pandemic is not over. Mr. Randolph's serious medical conditions place him at the highest risk of a severe outcome if infected with COVID-19;
- 6) Mr. Randolph has been exemplary while in custody, and has not had a single disciplinary infraction, and has a re-entry plan with supportive housing and medical services in place.
- 7) Mr. Randolph has been accepted for immediate placement into transitional supportive housing upon release. He has also been found eligible for long-term mental health supportive housing and is being interviewed this week by ACMH, an OMH provider for their long-term supportive housing program. Transitioning from Rikers Island into one of these housing programs will permit Mr. Randolph to rebuild his difficult life after experiencing many years of homelessness. Whereas if Mr. Randolph is transferred to state DOCCS and paroled, he will likely only be approved for placement into the shelter system which will continue his cycles in and out of homelessness without critical supports and housing in place.

Circumstances of the Instant Offense:

Mr. Randolph was arrested for stealing NyQuil and DayQuil from two Duane Reade stores in Manhattan on March 13, 2018 and April 21, 2018. Instead of being charged with misdemeanor shoplifting, Mr. Randolph was charged with Third Degree Burglary because he had shoplifted from a Duane Reade store on a prior occasion and had been given a trespass notice not to return.

After his arraignment in criminal court, Mr. Randolph was held in at Rikers Island on bail that he could not afford to post for the pendency of his case. It should be noted

that the offenses with which Mr. Randolph was charged (Third Degree Burglary, P.L. 140.20) are now only bail eligible under certain limited exceptions, since the enactment of the 2019 New York bail reform laws. After negotiations, the New York County District Attorney's Office agreed to allow Mr. Randolph to participate in Manhattan Drug Court (MDC) and receive a treatment-oriented sentence instead of jail. *It must also be noted that Mr. Randolph spent nearly 1.5 years at Rikers Island, pre-bail reform, waiting and hoping to be released into court mandated treatment.* Mr. Randolph has a lengthy criminal record consisting primarily of misdemeanor theft and drug possession charges. In 2005, almost fifteen years prior to this 2018 arrest, Mr. Randolph was convicted of Attempted Robbery in the Second Degree for which he served a 3 year prison sentence. As a result of this conviction, Mr. Randolph required the prosecution's consent to have his case transferred to the Manhattan Drug Court for consideration of Judicial Diversion.

Under New York County Indictment 1409/2018, Mr. Randolph pled guilty to two counts of Third Degree Burglary to cover the two thefts of NyQuil and DayQuil from Duane Reade, on March 13, 2018 and April 21, 2018, respectively. The Drug Court judge released Mr. Randolph into a residential drug treatment program in August 2019. While in the program, Mr. Randolph became overwhelmed, intimidated by the structure, and left. Mr. Randolph was returned to court after being re-arrested for shoplifting in the Bronx in May 2020. Mr. Randolph had been homeless, relapsed and was stealing to survive. Mr. Randolph was given a second chance at treatment in July 2020 at the height of the COVID-19 pandemic, and again, became utterly overwhelmed, was in deteriorating health, in pain, and left an inpatient rehabilitation program after a few weeks. Following his departure from the program, When Mr. Randolph returned to court the last time, in January 2021, we found him to be a different, far weaker person, frail and in rapidly deteriorating health. Mr. Randolph is deeply ashamed and remorseful that he failed at beating his addiction through the Judicial Diversion program and is disappointed in himself. He is also remorseful for his criminal behavior that led to his being charged in the instant matter. But he has by no means given up hope. We are confident that Mr. Randolph's residing in a supportive housing program along with community outpatient treatment while receiving continued medical care at Bellevue, something he has never had in the past, will give him the tools he needs to feel supported and to remain sober and stable, and to thrive for the first time in his adult life.

Medical Vulnerability

Mr. Randolph suffers from blindness, glaucoma, cataracts, COPD, asthma, schizoaffective disorder, schizophrenia, and polysubstance abuse disorder, and homelessness. Each of these conditions individually can be enough to substantially impair one's ability to participate in major life activities. Mr. Randolph suffers from all of them.

Glaucoma, Cataracts, and Blindness

As stated above, Mr. Randolph is blind in his right eye and partially blind in his left eye. His blindness is caused by glaucoma. Mr. Randolph has a type of glaucoma known as "glaucomatous atrophy" (cupping) of the optic disc, indicating a progressive form of glaucoma. Glaucoma is damage of the optic nerve and slow vision loss. It is the leading cause of blindness in individuals over the age of 60. Mr. Randolph is in dire need

of medical treatment to halt the progression and save his vision. Mr. Randolph also has cataracts, which, in addition to the glaucoma, further limits his remaining vision in his left eye.

This condition is particularly deleterious to Mr. Randolph as an incarcerated person for a number of reasons. First, his glaucoma is a progressive form of the disease, which requires specialized medical intervention. As Dr. Alexander Bardey, M.D., noted on September 28, 2021, “Mr. Randolph has in the past and is presently noted for significantly concerning rapid loss of vision on the left eye which is particularly worrisome given his total blindness in his right eye. Needing the expertise that only a hospital or community medical clinic can provide, he has, including very recently, been referred to Bellevue Hospital Center for consultations with ophthalmologists who have diagnosed him with cataracts and low-pressure glaucoma on his left eye. Recommendations were made for him to undergo surgical repair of these ailments. *However significant delays in providing Mr. Randolph with the treatments he needs at Rikers Island have pushed back, possibly for a long time, the vision-saving surgery he requires presently.*” (Letter from Dr. Alexander Bardey, M.D, dated September 28, 2021)

Jennifer Grossman, R.N., also noted, “While low tension glaucoma should be aggressively managed, Mr. Randolph is in the very unfortunate situation of having to wait for medical care to be delivered at the slow pace of the Department of Correction. *Appointments with specialists can take months and each time that an appointment is not kept due to issues such as a lockdown or COVID-19 restrictions the visits are further delayed. This means that diagnoses and treatments that can occur outside corrections facilities within weeks takes months to years when a person is incarcerated.*” (Jennifer Grossman letter, dated July 19, 2021, emphasis added)

Moreover, Mr. Randolph’s conditions cause other unique and grave dangers to him as an incarcerated person. As Dr. Bardey noted, “If Mr. Randolph must continue in a carceral setting, he is at great risk of further damaging his barely functioning left eye. Dust, debris, or even worse being assaulted by another inmate, will have frightening and dire consequences on his attempt to preserve his left eye for surgery. It must be noted that Mr. Randolph is already at risk for falls and injury. Notably he reportedly slipped and fell in a shower at Rikers Island during this lengthy incarceration causing him to potentially tear a ligament and resulting in him currently ambulating with a or cane. As a blind detainee, Mr. Randolph will also rely on other prisoners to help him get around, read his mail, and fill out forms. He is again, further vulnerable to being victimized and the recipient of violent acts against him.”

Mr. Randolph was transported by NYC DOC to see an ophthalmic surgeon at Bellevue Hospital on September 24, 2021 regarding his left eye. On September 27, 2021, HHC’s Correctional Health Services informed the undersigned that Mr. Randolph and the Bellevue optometry team met with Mr. Randolph at Bellevue on September 24, 2021 and discussed the risks and benefits of cataract surgery in his left eye. Given his monocular vision, Mr. Randolph was informed that there is significant risk that if there are any complications following surgery, “the patient’s vision can worsen with the remaining eye.” Mr. Randolph was prescribed several eye drops to reduce pressure on his left eye to prepare him for the inevitability of surgery. An appointment has been scheduled at Bellevue Hospital in November to prepare him for surgery. It also bears mentioning that Mr.

Randolph is in daily risk of worsening/exacerbating his only remaining working eye in a carceral setting. Mr. Randolph currently describes fights all around him at Rikers Island and insufficient staffing to ensure his safety. There are also overflowing broken toilets that have gone unrepaired for weeks; fecal matter, urine, and blood on floors and walls. He is extremely concerned about his eye becoming infected or inadvertently or intentionally traumatized further a jail setting. Should that occur, he will become fully blind while in jail.

COPD, Asthma, and history of Tuberculosis

Mr. Randolph also suffers from chronic respiratory conditions which include COPD, asthma, and a history of tuberculosis. Dr. Alexander Bardey, M.D., pointed out, “According to current and past correctional health records, Mr. Randolph is afflicted with chronic respiratory conditions, specifically Chronic Obstructive Pulmonary Disease (COPD), a debilitating lung disease that makes it challenging for him to breathe. Mr. Randolph’s COPD leaves him with compromised lung function and very vulnerable to any assault on his lung tissue. In addition, Mr. Randolph’s history of tuberculosis, which has likely caused permanent scarring of lung tissue, will significantly weaken his capacity to tolerate the effects of COVID-19, a respiratory virus that is especially lethal to individuals with compromised lung function . . . It goes without saying that Mr. Randolph is by no means medically stable and he is in fact in significant risk of worsening his medical conditions.” (Letter from Dr. Alexander Bardey, M.D, dated September 28, 2021, Letter from Dr. Rachel Bedard, Dated May 5, 2020)

Needless to say, these conditions are concerning as the COVID-19 pandemic continues to evolve and disproportionately harm prison inmates. Mr. Randolph remains at the highest risk, as Dr. Rachel Bedard pointed out in May, 2020 and Dr. Bardey reiterated on September 28, 2021. A letter submitted by Dr. Rachel Bedard of HHC’s Correctional Health Services states that Mr. Randolph is in the highest risk category due to his age (at the time 56) and underlying medical condition. (Letter from Dr. Rachel Bedard, Dated May 5, 2020)

Schizoaffective Disorder, Schizophrenia, and History of Substance Abuse

Mr. Randolph has been diagnosed with serious mental illnesses, namely, Schizoaffective Disorder and Schizophrenia. Dr. Bardey stated, “Mr. Randolph has been diagnosed with schizophrenia and schizoaffective disorder, as well as a number of substance use disorders. These disorders, individually and collectively, can cause significant impairments in the afflicted individual’s ability to test reality, i.e. distinguish reality from fantasy. They can impair the ability to think logically and consequentially and can impact the ability to resist engaging in impulsive behaviors.” (Letter from Dr. Alexander Bardey, M.D, dated May 25, 2020)

Mr. Randolph continues to acknowledge that his involvement in the criminal legal system is inextricably tied to his addiction to heroin and crack cocaine, his history of trauma and mental illness, and his homelessness. Recognizing how his addiction has negatively impacted and in many ways derailed his life, he has struggled to get started in

traditional long-term residential treatment settings. He is remorseful for his mistakes of the past, including the instant matter, and wants nothing more than to live a productive, healthy and safe life filled with people who will love and support him despite his past.

Dr. Bardey noted, “Some of Mr. Randolph’s illnesses are treatable and curable and some are treatable but chronic. The natural history of a disease such as schizoaffective disorder is that recurrences of disordered mood and psychosis will occur. *In Mr. Randolph’s case, this may be occurring concurrently. In other words, he can and will experience decompensation when the individual is exposed to significant stress in his or her environment. Prolonged exposure to jail, as I saw first-hand as Director of Mental Health Services at Rikers Island, would very much be one such significant environmental stressor.*” (Letter from Dr. Alexander Bardey, M.D, dated May 25, 2020, emphasis added)

Mr. Randolph’s Time at DOC

Mr. Randolph has been incarcerated at Rikers Island for over 800 days following his April 2018 arrest for stealing NyQuil and other cough medicines from Duane Reade. He was eligible for parole on July 18, 2021. However, Mr. Randolph’s transfer upstate to DOCS was canceled, reportedly due to his medical conditions. He is still at Rikers Island awaiting a transfer upstate. He has yet to see the parole board.

Mr. Randolph is also a gentle and frail man who is in declining health. Sadly, Mr. Randolph notes that he has lost 40 pounds in jail and his weight has gone from 180 to 140 pounds. He has had no disciplinary history while in custody at Rikers Island, which is the only facility where he has been housed since his April 2018 arrest. He has no disciplinary violations at all during his incarceration. Mr. Randolph would likely have been paroled to the community by now. Mr. Randolph is serving a concurrent sentence 2-4 years.

Since Mr. Randolph’s arrest, many changes have taken place in response to changing public attitudes towards the way that individuals should be punished for committing nonviolent crimes. Among these changes has been an increased emphasis on alternatives to incarceration. In 2019, the NYS Legislature passed Bail Reforms, which Governor Cuomo signed into law. Had Mr. Randolph been charged with this conduct following the enactment of 2019 Bail Reform Laws, the charges which Mr. Randolph would not be considered bail eligible offenses, and he likely would not have been held with monetary bail for almost 1 1/2 years prior to his release from Drug Court that was set at his criminal court arraignment.

Moreover, the very issue of the equity of this type of prosecution – elevating conduct that would otherwise be treated as a misdemeanor to a felony - came up in the primary debates for Manhattan District Attorney. The likely incoming District Attorney Alvin Bragg states in his “Day 1 Memo” that he would likely depart from this overcharging tradition, which has been known to be a Manhattan-specific charging practice that is rare in other boroughs. “Presumption of non-incarceration is the outcome for every case. This rule may be excepted only in extraordinary circumstances based on a holistic analysis of the charges, criminal history, victim’s input (particularly in cases of violence) and any other information available. Also consider the impacts of incarceration on recidivism, the financial cost of incarceration, the impact of incapacitation on public

safety, the racially disparate impacts of incarceration, the challenges posed by reentry, and other holistic factors.” (<https://www.alvinbragg.com/day-1>, accessed on September 28, 2021). More specifically, he posits, “ADA’s in ECAB shall charge the most serious offenses that fit squarely within the conduct at issue, and shall not stretch the legal definitions of the elements of crimes to ‘over-charge’ cases. *For example, ordinary shoplifting cases should not be charged as burglaries.*” (<https://www.alvinbragg.com/day-1>, accessed on September 28, 2021, emphasis added)

Had this conduct been prosecuted as a misdemeanor shoplift, as pledged by Alvin Bragg, and as is the practice of virtually every other county District Attorney’s Office in New York City, Mr. Randolph would not be in custody today, and would face at the very most a maximum jail sentence of one year, on which he would serve 8 months, on each docket.

Prior Contacts with The Criminal Legal System

Mr. Randolph has, during his lifetime, been convicted of over 53 misdemeanors, the majority of which are non-violent theft and drug possession charges. Mr. Randolph has been convicted of felonies, including Burglary in the 3rd Degree, two counts, in the 2018 instant matter; Criminal Sale of a Controlled Substance, 2005; Attempted Robbery in the Second Degree 2005; Criminal Sale of a Controlled Substance 1999; Burglary in the Second Degree 1992, reversed by appellate court, disposition unclear; and, Grand Larceny in the First Degree 1986. Mr. Randolph has never been convicted of a sexual offense.

Life- Chronic Homelessness, Drugs, Prison and Poorly Managed Mental Illness

Prior to his arrest in the instant matter on April 21, 2018, Mr. Randolph imbibed alcohol, nasally insufflated cocaine and heroin, and smoked marijuana daily. He also reports that he regularly lost consciousness as a result of his drinking. A urine toxicology administered by correctional health services following his arrest in the instant matter was positive for cocaine and opiates. Moreover, Mr. Randolph has a long documented history of mental illness, beginning in 1999. Since the onset of his mental health symptoms, he has been inconsistent with his mental health treatment and continued to use drugs, which resulted in multiple psychiatric hospitalizations.

Addiction coupled with a poorly managed mental illness has impelled Mr. Randolph to make some poor decisions resulting in his protracted involvement in the criminal justice system. Mr. Randolph acknowledges that his involvement in the criminal legal system is directly related to his drug addiction and he desperately wants to make positive changes in his life, particularly given his advancing age and his fast-declining health conditions. Acknowledgement of an addiction is one of the initial steps to recovery, and it is clear that his blindness in particular has caused him to re-assess his life and embrace the supportive housing opportunities and supports that will be given to him in the community if he is released. He is, however, terrified at the prospect of being released into homelessness given the magnitude of his medical conditions.

Mr. Randolph's history of consistent and clinically appropriate mental health and substance abuse treatment is sparse. According to Mr. Randolph, his treatment has encompassed short-term detoxes and drug rehab at Cornerstone Medical Arts. During his

800 days of incarceration, Mr. Randolph demonstrated motivation by requesting to participate in treatment. For example, he previously, pre-pandemic, enrolled in A Road Not Taken, (ARNT), a substance abuse treatment program at Rikers Island that is designed to work with individuals who acknowledge having an addiction are motivated to address it. Mr. Randolph successfully completed 6 months of ARNT programming

Mr. Randolph's brother, Anthony Randolph, who also lives with a debilitating eye condition, believes that his brother needs support and a place to live in order to achieve sobriety and stability. Anthony is optimistic that Mr. Randolph can turn his life around with the appropriate supports. He states, "he needs treatment and housing, not jail. Jail has not helped him."

Mr. Randolph's father died when Mr. Randolph was just 3 years old. His mother, an employee for Amtrak, raised Mr. Randolph and his eight siblings with minimal support. Mr. Randolph's younger siblings' father exposed him to drugs and was extremely physically abusive to Mr. Randolph, his mother and siblings. Mr. Randolph witnessed his step-father "shooting up heroin" and physically assaulting Mr. Randolph's mother.

Mr. Randolph's family re-located from their two-family home in Queens to a shelter in the Bronx and eventually to the crime-ridden Butler Housing Projects. It was then, Mr. Randolph reports, that his life spiraled completely out of control as he struggled to survive the poverty-stricken and crime riddled New York City Housing Authority development. Almost immediately, Mr. Randolph was sucked into a delinquent peer group and was arrested. Mr. Randolph stopped attending school after the eighth grade and began drinking alcohol and smoking marijuana. A review of Mr. Randolph's RAP sheet shows that his first arrest occurred when he was only 16 years old.

By the age of 19, Mr. Randolph reports that he was using "hard drugs" which included cocaine, LSD, PCP and opiates. He had no formal education beyond the 8th grade level and quickly amassed an extensive criminal record. Mr. Randolph has been trapped in an almost 40-year cycle of incarceration, drug and alcohol abuse, untreated mental illness and homelessness. At the time of his arrest, Mr. Randolph was living on the streets. Since his mother's death in 2001, Mr. Randolph has been street homeless. Mr. Randolph's grief pushed him deeper into the throes of addiction.

During an incarceration in 1999, Mr. Randolph reports being diagnosed with Schizoaffective Disorder. Since 1999, Mr. Randolph has accessed psychiatric care primarily through hospital psychiatric emergency rooms and in correctional settings. It is noted in his correctional health records clinical summary that Mr. Randolph has "a high utilization of the ER." Hospital records all illustrate Mr. Randolph as an individual who struggles with polysubstance drug addiction and poorly managed mental health. Mr. Randolph's hospitalizations have resulted in him receiving multiple diagnoses such as Bipolar Disorder, Bipolar Disorder mixed type with psychotic features, Major Depressive Disorder, Drug-Induced Mood Disorder.

Mr. Randolph openly acknowledges that his usage of multiple illicit substances stems from running out of one drug using whatever else was cheaper and available until he could afford cocaine or heroin. Mr. Randolph's immersion in substance abuse subsequently resulted in him spending most of his life in and out of jail and prison or homeless in the streets. Mr. Randolph

shares that he has attempted to detoxify, but has been unsuccessful due to the strong lure and his many years of substance dependence.

Release Plan: Mr. Randolph Has a Medical Team on the Outside, as well as Supportive And Stable Transitional Housing Ready To Accept Him Now.

If his sentence is commuted, Mr. Randolph will not return to the streets. He will instead reside in supportive transitional housing at The Redemption Center which has a bed available for him now. Per a letter from Redemption Center Executive Director Mark Graham: “The Redemption center has been operating a Transitional Supportive Housing program since July 2007, and to date has a 0.5% recidivism rate. Since the opening of our program in 2007, only 5 individuals out of 575 plus returned to prison, none of them were for violent felony offenses. We provide transitional supportive housing, outpatient drug treatment referrals, mental health referrals, medical referrals, employment placement referrals, and peer advocacy support via a Certified Peer Recovery Advocate on site. We also have 24-hour staff who live onsite. Additionally, I live next door to the Redemption Center and am very hands on with my oversight and support of the residents and staff. We are a communal setting that prohibits any type of substance use inclusive of alcohol consumption and we do not tolerate any violence, physical, emotional or psychologically negative behavior towards peers. My housing program prides itself on teaching residents, many of whom have spent years being homeless, like Mr. Randolph, with the skills needed to become independent- including their learning to cook, clean, maintain self-care, adhere to taking necessary medications, pay bills and openly communicate any concerns about their own vulnerabilities with substances should that happen. My program has a curfew of 9pm to 7am. We have a 24-hour video surveillance system and promote peace and harmony in our program.”

Per Mr. Graham: “I am very familiar with Mr. Randolph’s circumstances – including the history of his non-violent criminal legal matter that was pending in New York County, his criminal record, his mental health and substance use dependence, and his extremely serious and fast deteriorating medical vulnerabilities that have rendered him almost completely blind. I have personally interviewed Mr. Randolph by video and determined that he is an appropriate candidate for our housing program. Mr. Randolph was forthright with me about his background, criminal history, and struggles with addiction, mental illness and homelessness. During our meeting, he was respectful and soft spoken, and articulated motivation to finally remove himself from his negative cycles. Mr. Randolph was considerably excited about the prospect of receiving stable and supportive housing after so many years of homelessness which has contributed to his lack of self-worth. Mr. Randolph and I also discussed his medical conditions that has caused him blindness in one eye and emerging blindness in the other. During our meeting, Mr. Randolph expressed significant stress about his continued incarceration with his condition and sees his worsening medical situation and advancing age as a life-changing reason to fight even harder to overcome his addiction and seek stability. Mr. Randolph wants nothing more than a stable residence so that he can maintain his sobriety and stability and seek the medical referrals he needs to meet his medical needs. Mr. Randolph expressed frustration with the fact that he has not received appropriate medical treatment while

incarcerated at Rikers Island and anxiety about a lack of proper medical care continuing should he go to state prison. Mr. Randolph is extremely concerned about going to a state prison facility and ultimately being discharged into the shelter system instead of the community supportive housing placements that are immediately available to him- knowing that the Department of Parole maintains control over the approval of housing placements from DOCCS.”

If accepted into ACMH, which is the housing counterpart to Redemption Center, Mr. Randolph will receive life changing supportive housing which has eluded him his entire adult life. Supportive housing is a combination of affordable housing and support services designed to help individuals and families use housing as a platform for health and recovery following a period of homelessness, hospitalization or incarceration. Study after study has shown that supportive housing not only resolves homelessness and increases housing stability, but also improves health and lowers public costs by reducing the use of publicly funded crisis services, including shelters, hospitals, psychiatric centers, jails, and prisons. Living without stable housing can drastically worsen health. Homelessness exacerbates mental illness, make ending substance abuse difficult, and prevent chronic physical health conditions from being addressed. People with these and other health issues often end up in crisis situations while living on the streets, and emergency rooms may be the only health care they are able to access. Mr. Randolph was interviewed by ACMH on September 29, 2021, and decision is pending.

Notably, this has been the case with Mr. Randolph in the past. The fact that he did not successfully complete or even spend much time in the residential program given to him in the Drug Court must not be determinative of his ability to thrive in a different setting. In our experience representing clients with substance use disorders and mental illness, many clients do not respond well to the structure of a residential program; whereas they thrive in less restrictive settings such as supportive housing. This is especially true for individuals who are coming out of long jail sentences and feel that a restrictive residential program is more or less a continuation of their jail sentence.

Conclusion

Mr. Randolph has more than paid his debt to society. Requiring him to remain incarcerated beyond his parole date amidst conditions that jeopardize his precarious health serve no legitimate punitive interest and constitute a violation of his State and Federal right to be free from cruel and unusual punishment. He has completed approximately 800 days of jail time for stealing cold medications from Duane Reade. He has remained in custody beyond his July 2021 parole eligibility date. Had he been transferred upstate, he would have already seen the parole board and likely have been released on parole given that he has had no infractions while in custody. Mr. Randolph’s maximum expiration date is July 18, 2023. He is currently detained in squalid and dangerous conditions at Rikers Island.

We submit that Mr. Randolph has been punished more than sufficiently for the over two years he has spent in custody for the charges to which he has pled guilty and accepted responsibility. We submit that further punishment is excessive and any DOCCS sentence will remove the life-changing supportive housing options that are in place now. We respectfully ask you to commute Mr. Randolph's sentence and to grant him clemency given the exceptional circumstances described in this letter and its attachments. If you have questions or need further information, please do not hesitate to contact us.

Respectfully submitted,

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The Legal Aid Society