

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

RICARDO HARRIS, *et al.*,
on behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

**GEORGIA DEPARTMENT OF
CORRECTIONS, *et al.*,**

Defendants.

Case No. 5:18-cv-00365-TES

CLASS ACTION

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

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Introduction

People in the custody of the Georgia Department of Corrections (“GDC”) depend on GDC for the most basic necessities of life, including food, medicine, and healthcare. But GDC fails to provide these necessities to prisoners who are deaf and hard of hearing (“Class Members”).¹ GDC does not effectively alert Class Members to meals and medication distribution, and it denies them effective communication with healthcare providers. These failures exclude Class Members from equal access to meals, medication, and healthcare in violation of the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act (“Section 504”) and expose Class Members to an ongoing and imminent risk of serious harm and even death. Pursuant to Federal Rule of Civil Procedure 65(a), Plaintiffs therefore move for a preliminary injunction requiring GDC to remedy two specific and urgent failures. *First*, GDC must provide accessible daily announcements of meals and medication. *Second*, GDC must provide effective communication in medical, dental, and mental health encounters.

Statement of Facts

I. Class Members Miss Medication and Meals Because GDC Fails to Provide Accessible Daily Alerts.

GDC staff typically announce meals (“chow call”) and medication distribution (“pill call”) by making spoken or shouted announcements at the entrance to housing units that house dozens of prisoners.² These spoken announcements are the only way GDC informs people when

¹ Class Members are defined by this Court as “deaf and hard of hearing individuals in GDC custody, who require hearing-related accommodations and services to communicate effectively and/or to access or participate equally in programs, services, or activities available to individuals in GDC custody.” Order Granting Pls.’ Mot. for Class Certification at 25, ECF No. 121 (“Class Certification Order”).

² See Ex. A, Declaration of Carlos Herrera (“Herrera Decl.”) ¶ 5; Ex. B, Declaration of Mark Birdow (“Birdow Decl.”) ¶ 7; Ex. C, Declaration of Ulysses Blackshear, Jr. (“Blackshear Decl.”) ¶ 18; Ex. D, Declaration of Shanwick Stone (“Stone Decl.”) ¶ 3; Ex. E, Declaration of Norman Simmonds (“Simmonds Decl.”) ¶ 9; Ex. F, Declaration of Erica Brown (“Brown Decl.”) ¶ 9.

chow call or pill call are occurring.³ These events do not occur at the same time each day, even within a single dorm: for example, breakfast may be at 4:45 a.m. or 8 a.m., Ex. A, Herrera Decl. ¶ 6, and pill call at 3 p.m. or 9 p.m., Ex. E, Simmonds Decl. ¶ 8.⁴ The meal or medication distribution happens immediately after GDC staff announce it, and people who remain in their dorms or bunks or otherwise do not respond to the spoken announcement miss it.⁵

Because of their disabilities, many Class Members cannot hear these announcements.⁶ GDC provides no visual or tactile alerts and makes no effort to confirm that Class Members receive them.⁷ Class Members are thus denied equal access to the most basic parts of prison life—food and medicine—and some resort to risky measures to compensate for GDC’s failures.

A. Class Members Are Excluded from Accessing Lifesaving Medication.

Because GDC does not provide accessible notice of pill call, Class Members go without daily medication for chronic and serious conditions. For instance: Norman Simmonds, currently in Valdosta State Prison, has moderate to severe hearing loss in his right ear and profound hearing loss in his left ear. Ex. E, Simmonds Decl. ¶ 3. Mr. Simmonds has post-traumatic stress

Sometimes, officers don’t even enter the dorms, and simply shout or bang at the windows or gate. *See* Ex. G, Declaration of Jimmy Don Hill (“Hill Decl.”) ¶ 9; Ex. H, Declaration of Ricardo Harris (“Harris Decl.”) ¶ 8; Ex. E, Simmonds Decl. ¶ 9.

³ *Id.*

⁴ *See also* Ex. G, Hill Decl. ¶ 9; Ex. B, Birdow Decl. ¶ 11; Ex. F, Brown Decl. ¶ 10.

⁵ *See* Ex. E, Simmonds Decl. ¶ 9; Ex. F, Brown Decl. ¶¶ 13–14; Ex. G, Hill Decl. ¶¶ 8–12; Ex. A, Herrera Decl. ¶¶ 5–6; Ex. C, Blackshear Decl. ¶¶ 22, 24; Ex. H, Harris Decl. ¶¶ 9–11; Ex. D, Stone Decl. ¶¶ 3–4.

⁶ *See* Ex. B, Birdow Decl. ¶ 8; Ex. F, Brown Decl. ¶¶ 8–10; Ex. H, Harris Decl. ¶¶ 8–11; Ex. C, Blackshear Decl. ¶¶ 17–19; Ex. G, Hill Decl. ¶¶ 6–7; Ex. I, Declaration of Jorae Smith (“Smith Decl.”) ¶¶ 7, 12; Ex. A, Herrera Decl. ¶¶ 4–5; Ex. E, Simmonds Decl. ¶¶ 6, 9–10.

⁷ *See* Ex. B, Birdow Decl. ¶ 7–9; Ex. C, Blackshear Decl. ¶¶ 18–19, 22, 24; Ex. E, Simmonds Decl. ¶¶ 9–10; Ex. H, Harris Decl. ¶ 6; Ex. A, Herrera Decl. ¶¶ 5–7; Ex. G, Hill Decl. ¶ 13; Ex. I, Smith Decl. ¶¶ 8–12.

disorder (“PTSD”) and schizophrenia, and GDC has prescribed him daily medication.⁸ *Id.* ¶ 12. GDC announces pill call in his unit via a spoken announcement only, which Mr. Simmonds never hears. *Id.* ¶¶ 9–10. No one from GDC has ever sought him out individually to inform him of pill call.⁹ *Id.* ¶ 20. Because he cannot hear the announcements, Mr. Simmonds could only access pill call two or three times per week and was consequently experiencing constant withdrawal symptoms and receiving few benefits of his medication. *Id.* ¶ 12. As a result, he recently gave up on taking this medication. *Id.* Mr. Simmonds wants to resume his medication, but he cannot because he does not know when pill call is. *Id.* Without his medication, Mr. Simmonds is now experiencing hallucinations and increased anxiety. *Id.* ¶ 13.

Jorae Smith, housed at Baldwin State Prison, is deaf and uses American Sign Language (“ASL”). Ex. I, Smith Decl. ¶¶ 2–3. GDC prescribed him twice-daily medication for a seizure disorder. *Id.* ¶ 9. Staff announce pill call only through spoken announcements which Mr. Smith cannot hear. *Id.* ¶ 12. Because GDC does not provide accessible announcements, Mr. Smith recently missed five doses of medication in a week and had three seizures. *Id.* ¶¶ 14–16. During two of those seizures, no GDC staff were in or near the dorm and there was no way to summon help; another prisoner ultimately called a family member to alert GDC staff. *Id.* ¶¶ 15–16.

Ulysses Blackshear, housed at Hays State Prison, lost hearing in both ears after having a stroke in prison ten years ago. Ex. C, Blackshear Decl. ¶¶ 1–3. He can hear almost nothing in his

⁸ While GDC contracts with Centurion to provide medical services, public entities are prohibited from discrimination against people with disabilities, whether “directly or through contractual . . . arrangements” 28 C.F.R. §§ 35.130(b)(1), (b)(3).

⁹ However, conditions in Valdosta are so dire that it is not clear that staff could find him if they wanted to. Ex. E, Simmonds Decl. ¶ 20. Mr. Simmonds’ unit is so controlled by gangs—rather than GDC staff—that many of the members of the gang have kicked out non-gang members from their cells and forced them to sleep elsewhere, including the floor. *Id.* Without knowledge of where incarcerated people are, GDC staff cannot find any particular person in their cell, even if they wanted to. *Id.*

left ear and only slightly more in his right. *Id.* ¶ 3. GDC prescribed him medication to treat his stroke symptoms. *Id.* ¶ 20. GDC staff only announce pill call verbally, and he can almost never hear it. *Id.* ¶¶ 18–19. As a result, he misses pill call two to three times per week, placing him at increased risk of severe medical consequences. *Id.* ¶ 23. Indeed, Mr. Blackshear had another stroke just a few weeks ago. *Id.* ¶ 28. When Mr. Blackshear has been in “the hole” for disciplinary reasons, he has missed his medications four to five times per week. *Id.* ¶ 24.

Shanwick Stone, housed at Rutledge State Prison, has severe eardrum damage and cannot hear announcements in large, crowded dorms unless he has functioning hearing aids. Ex. D, Stone Decl. ¶¶ 1–3. For much of 2026, GDC failed to provide functioning hearing aids to Mr. Stone. *Id.* ¶ 8. GDC medical providers prescribed Mr. Stone medication for sleep and depression. *Id.* ¶ 6. For months, he missed these medications two to three times per week because officers did not alert him to pill call. *Id.* ¶ 7. His prescriber moved him to evening pill call to make access easier, but he still misses doses two to three times per month. *Id.* ¶ 8. If he is ever prescribed morning medication, he will be unable to obtain it regularly. *Id.*

Missed medication exposes individuals to serious physical harm, especially those who take life-sustaining medications for conditions like epilepsy, diabetes, heart disease, and schizophrenia. Ex. J, Declaration of Dr. Homer Venters (“Venters Decl.”) ¶¶ 8–15.

B. Class Members Are Denied Access to Meals.

Like pill call, GDC announces mealtimes only through spoken announcements and does so at inconsistent times. *See supra* at 1–2 nn.2–4. Because GDC provides no accessible announcements, Class Members miss meals with alarming regularity. For instance: Carlos Herrera, who is deaf and housed at Wilcox State Prison, frequently misses meals because he cannot hear announcements and no one from GDC alerts him. Ex. A, Herrera Decl. ¶¶ 1–2, 4, 8. He has lost roughly eighty-nine pounds, is constantly hungry, and often feels dizzy and

lightheaded. *Id.* ¶ 8. At Valdosta, Mr. Simmonds misses roughly twelve meals per week because he cannot hear the announcements. Ex. E, Simmonds Decl. ¶ 14. He lost approximately fifty pounds and has symptoms such as memory loss from missed meals. *Id.*

The problem is systemwide. At Central, Mr. Harris misses lunch or dinner two to three times a week, and breakfast every day, Ex. H, Harris Decl. ¶¶ 8–10, while Mr. Hill often arrives late and must “beg the staff to let [him] eat,” Ex. G, Hill Decl. ¶ 10. At Rutledge, Mr. Stone misses breakfast two to three times a week. Ex. D, Stone Decl. ¶ 4. At Pulaski, Erica Brown misses breakfast three to four times a week and lunch twice per week. Ex. F, Brown Decl. ¶ 13.

Missed meals deprive these individuals of adequate nutrition and threaten their health, especially those who have medical conditions that are closely related to nutrition, like diabetes. Ex. J, Venters Decl. ¶ 11. Further, missing meals forces Class Members to rely on packaged commissary items, which can exacerbate many chronic health conditions such as diabetes, seizure disorders, and cardiac conditions. *Id.*

C. Class Members Resort to Exhausting and Dangerous Workarounds to Compensate for GDC’s Failures.

Class Members have been forced to undertake exhausting, dangerous, and expensive workarounds to gather the information that GDC fails to provide. Class Members attempt to stay on “high alert,” watching their surroundings constantly in an attempt to see when officers walk into a dorm, or when other incarcerated people move to the door. Ex. I, Smith Decl. ¶ 21.¹⁰ But when, inevitably, Class Members are asleep, or happen not to be looking in the right direction at

¹⁰ See also Ex. A, Herrera Decl. ¶ 5 (“If I see other people move to the door, then I know it’s time to go for a meal.”); Ex. F, Brown Decl. ¶ 10 (“I have to watch the clock and check the schedule, and follow people when they leave for chow.”); Ex. H, Harris Decl. ¶ 7 (“The only way I know when there is an announcement or notification is when I see other incarcerated people start to leave the day room.”); Ex. B, Birdow Decl. ¶ 11 (“I have to always stay alert and look at the door in case staff comes in to make announcements.”); Ex. G, Hill Decl. ¶ 13 (“I have to watch other people all the time.”).

the right time, they miss announcements.¹¹ Class Members describe constantly watching their surroundings as “very exhausting,” Ex. B, Birdow Decl. ¶ 11, “very frustrating and unfair,” Ex. A, Herrera Decl. ¶ 6, and causing them to “feel stressed all the time,” Ex. G, Hill Decl. ¶ 13.

Constant vigilance is also dangerous. As Mr. Simmonds explains, “standing around staring at the door all day, waiting to see the officers come in” is “dangerous” because “[p]eople might think that you are a snitch, or are up to something,” Ex. E, Simmonds Decl. ¶ 8, and a moving crowd is “often not something you want to be going towards . . . because that could be dangerous.” *Id.* ¶ 11. While staying in the dayroom helps Ms. Brown avoid missing announcements as often, it forces her to endure harassment from other prisoners who “mistreat” her by spilling drinks on her and “mess[ing] with [her] things.” Ex. F, Brown Decl. ¶ 13.

To avoid missing breakfast, Class Members attempt to wake up very early in the morning, but this is made more difficult by GDC’s failure to provide watches or clocks with accessible alert systems, such as vibrating watches. Mr. Herrera tries to wake up at 4:45 a.m. to avoid missing breakfast. Ex. A, Herrera Decl. ¶ 6. To wake up that early without a clock, he drinks a lot of water before going to sleep hoping that the need to use the bathroom will wake him up before breakfast. *Id.* Ms. Brown tries to wake up at 3:30 a.m. because breakfast is sometimes at 4 a.m. but she, too, does not have a vibrating watch. Ex. F, Brown Decl. ¶¶ 10, 16.

Another widespread practice that Class Members use to compensate for GDC’s failures is

¹¹ See Ex. G, Hill Decl. ¶ 7 (“Sometimes I wake up, and the dorm is empty. That is how I know I missed an announcement.”); Ex. E, Simmonds Decl. ¶ 12 (missing pill call four to five times a week), ¶ 14 (missing 12 meals a week); Ex. A, Herrera Decl. ¶¶ 4–8 (missing meals often); Ex. I, Smith Decl. ¶¶ 13–16 (missed pill call five times in a five-day period); Blackshear Decl. ¶ 23 (missing pill call two to three times a week); Ex. H, Harris Decl. ¶ 9 (missing meals multiple times a week); Ex. D, Stone Decl. ¶¶ 4, 7 (missing meals and morning pill call two or three days a week); Ex. F, Brown Decl. ¶ 13 (missing breakfast three to four times a week, lunch a couple times a week).

asking or even paying other prisoners to alert them of pill call and chow call. Mark Birdow, at Augusta State Medical Prison, has no hearing in his right ear and “only a small amount” of hearing in his left ear. Ex. B, Birdow Decl. ¶¶ 2–3. Because Mr. Birdow cannot hear spoken announcements, he gives commissary items to multiple prisoners in his dorm in exchange for receiving notifications of announcements. *Id.* ¶¶ 8, 10. At Hays, Mr. Blackshear pays “seven or eight other inmates on a weekly basis” to inform him of announcements. Ex. C, Blackshear Decl. ¶ 21. At Valdosta, Mr. Simmonds sometimes pays another prisoner to get his attention for meals and medication, but can only get this help when he has money on his books.¹² Ex. E, Simmonds Decl. ¶ 18. At Wilcox, Mr. Herrera relied on another prisoner who “sometimes helped” him by notifying him of events, until that prisoner was transferred. Ex. A, Herrera Decl. ¶ 7. At Pulaski, Ms. Brown’s roommate “sometimes” lets her know when it is mealtime. Ex. F, Brown Decl. ¶ 11.

But depending on other incarcerated people is not only expensive and unreliable; it can also be dangerous. As Mr. Simmonds notes, it is “a risky situation to be relying on another prisoner like that. Your life is on the line in this prison.” Ex. E, Simmonds Decl. ¶ 18; *see also* Ex. B, Birdow Decl. ¶ 10; Ex. J, Venters Decl. ¶ 13 (relying on other prisoners “creates a dangerous situation”).

II. GDC Denies Class Members Equal Access to Healthcare.

GDC routinely fails to ensure effective communication in medical, dental, and mental health encounters. Class Members cannot describe their symptoms, understand their conditions and treatment options, ask or answer questions, or give informed consent, thereby excluding them from equal access to healthcare. This denial of effective communication creates “serious

¹² Because GDC does not pay incarcerated people for any work details, Class Members can only pay others (in cash or commissary items) if they have family or friends outside to send them money, or if they happen to have money on their books.

risks,” Ex. J, Venters Decl. ¶ 16, including the risk of incorrect diagnosis and treatment, *id.* ¶ 17, and the risk of treatment without the “foundational requirement” of informed consent, *id.* ¶ 26. These failures mean that GDC provides Class Members “a lower standard of medical and mental health care . . . simply because of a refusal to accommodate” their disabilities. *Id.* ¶ 37.

For example: during in-person settings, Mr. Birdow relies on lip-reading and a small amount of auditory input, Ex. B, Birdow Decl. ¶ 4, but he cannot understand video conferences, including telemedicine, without captioning. *Id.* ¶¶ 4, 15. Although half of his medical care occurs via telemedicine, GDC has failed to provide captioning *Id.* ¶ 15. In April 2026, Mr. Birdow discovered that GDC had scheduled him for invasive bladder surgery. *Id.* ¶ 16. Staff claimed they had discussed the procedure with him, but he had never received that information. *Id.* He halted the procedure because he had received no accessible information about its risks, benefits, or alternatives. *Id.* Mr. Birdow believes GDC has documented that he declined the procedure outright, which is not true. *Id.* Mr. Birdow wants medical care, but needs to understand his condition, proposed treatment, and risks, benefits, and alternatives before consenting. *Id.*

In August 2026, Mr. Smith, who communicates via ASL, was attacked by another prisoner. He was punched and hit over the head with a broomstick, causing a prolonged seizure and hospitalization. Ex. I, Smith Decl. ¶ 24. After his hospitalization, Mr. Smith had numerous medical appointments about his injury and seizure and had many questions about his health. *Id.* ¶¶ 26–35. However, GDC failed to provide interpreters (either in-person or via Video Remote Interpretation (“VRI”)) at any of his follow-up medical appointments, leaving him unable to ask questions, describe his symptoms, or learn about his health. *Id.* At a recent appointment, Mr. Smith requested VRI but was again forced to lip-read; although he “did [his] best to understand,” he “didn’t really understand a lot of what [the doctor] said.” *Id.* ¶ 28. He still does not know

whether he had a concussion, *id.* ¶ 26; whether the attack worsened a prior traumatic brain injury or how to care for it, *id.* ¶ 29; or why he struggles to regulate his body temperature, *id.* ¶ 34.

Mr. Herrera, housed at Wilcox, is deaf and communicates through ASL. Ex. A, Herrera Decl. ¶¶ 1–2. He cannot read or write English beyond a few short words. *Id.* He has few remaining teeth and struggles to chew. *Id.* ¶¶ 9–10. At a recent dental appointment, GDC failed to provide interpreters, and the dentist attempted to communicate by writing down a few words and pointing to some of Mr. Herrera’s teeth. *Id.* ¶ 9. Mr. Herrera could not understand the words or gestures. *Id.* He “had to make a lot of guesses about what’s happening” and does not know what problem or solution the dentist described. *Id.* ¶ 10. At medical appointments for conditions including high blood pressure, too, GDC fails to provide Mr. Herrera with interpreters, forcing him to attempt to communicate by “writing and gesturing and pointing,” which “doesn’t work.” *Id.* ¶¶ 11, 14. As a result, Mr. Herrera does not “know what is happening with [his] blood pressure because [he] can’t communicate at all” at medical appointments. *Id.* ¶ 14.

At Central, GDC fails to provide Mr. Hill, an ASL user, with interpreters at medical encounters “[m]ost of the time.” Ex. G, Hill Decl. ¶ 14. He must instead attempt to write out his questions and symptoms, but he struggles to “know how to spell [words] or put the words in the right order.” *Id.* ¶ 15. Mr. Harris, who also uses ASL and is housed at Central, has faced similar struggles. In April 2026, Mr. Harris started feeling tingling in his legs and filled out a sick call slip. Ex. H, Harris Decl. ¶ 14. At his appointment, medical providers drew blood but did not provide interpreters, so Mr. Harris could not ask questions or convey his symptoms. *Id.* He never received the results of this blood draw. *Id.* In May and October 2026, Mr. Harris again had blood draws and again could not communicate with GDC staff. *Id.* ¶¶ 15–16. After three blood draws, and no interpreters, Mr. Harris still does not understand the cause of his symptoms, whether they

are related to his high cholesterol, or what he needs to do to take care of his health. *Id.* ¶ 17.

At Pulaski, Ms. Brown, an ASL user who finds it “really hard . . . to read and write,” has high blood pressure, diabetes, glaucoma, anxiety, and depression. Ex. F, Brown Decl. ¶¶ 4, 17. At numerous appointments, GDC has provided no interpreter, forcing her to exchange written notes with providers or rely on another prisoner who knows some signs. *Id.* ¶¶ 19–20. She was uncomfortable relying on another prisoner but felt she “ha[d] no choice.” *Id.* ¶ 20.

Mr. Stone can understand one-on-one conversations in a quiet room only with functioning hearing aids. Ex. D, Stone Decl. ¶ 2. For several months in 2026, GDC failed to provide him with hearing aids. *Id.* ¶ 8. At telemedicine appointments with a psychiatrist, Mr. Stone could not understand the provider and was forced to exchange typed messages with his psychiatrist during short, ten-minute appointments. *Id.* ¶¶ 6, 8–9. This slow and unwieldy system severely limited Mr. Stone’s ability to communicate with the psychiatrist and get proper treatment. *Id.* ¶¶ 8–9. Mr. Stone worries that his hearing aid will break again, and that he will again be denied effective communication in his mental healthcare. *Id.*

These illustrations are just some examples of how GDC’s failures to convey daily announcements and communicate effectively in healthcare are injuring Class Members across the state, and why the need to remedy these ongoing failures is urgent.

Legal Standard

A preliminary injunction is warranted where the movant shows: (1) a substantial likelihood of success on the merits; (2) a substantial threat of irreparable injury absent an injunction; (3) that the threatened injury outweighs any harm the injunction may cause the defendant; and (4) that the injunction would not disserve the public interest. *Lucero v. Trosch*, 121 F.3d 591, 599 (11th Cir. 1997). The last two factors “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

Argument

I. Plaintiffs Are Likely to Succeed on the Merits.

To succeed on an ADA claim, Plaintiffs must show that: (1) they are qualified individuals with a disability; (2) they are being excluded from participation in, or are being denied the benefits of the services or programs of a public entity, or are otherwise being discriminated against by the public entity; and (3) such exclusion, denial of benefits, or discrimination is by reason of their disability. *Shotz v. Cates*, 256 F.3d 1077, 1079 (11th Cir. 2001). Section 504 applies to recipients of federal financial assistance, and courts apply the same standards for both. *J.S., III by & through J.S. Jr. v. Houston Cnty. Bd. of Educ.*, 877 F.3d 979, 985 (11th Cir. 2017).¹³ GDC admits that it is covered by Title II of the ADA as public entity and that it is covered by Section 504 and receives federal financial assistance. *Compare* Complaint ¶ 25, ECF No. 1 (alleging that GDC “is a public entity within the meaning of Title II of the ADA” and that it “receives federal financial assistance and is covered by Section 504”), *with* First Am. Answer & Defenses ¶ 25, ECF No. 67 (“[a]dmitted”).

A. Class Members Are Qualified Individuals with Disabilities.

The certified class consists, by definition, of people whose hearing loss is as a disability under the ADA and Section 504. Class Certification Order at 25, ECF No. 125. Because they are in GDC custody, Class Members are qualified for GDC’s programs, services, and activities—including meals, medication, and healthcare. *See Pennsylvania Dep’t of Corr. v. Yeskey*, 524 U.S. 206, 211 (1998); *Bledsoe v. Palm Beach Cnty. Soil & Water Conservation Dist.*, 133 F.3d 816, 821–22 (11th Cir. 1998) (programs, services, and activities is a “catch-all phrase that prohibits all discrimination by a public entity”).

¹³ Neither the ADA nor Section 504 requires intentional discrimination, animus, or deliberate indifference for a court to order injunctive or declaratory relief. *McCullum v. Orlando Reg’l Healthcare Sys., Inc.*, 768 F.3d 1135, 1147 n.8 (11th Cir. 2014).

B. Defendants Discriminate Against Plaintiffs Because of Their Disabilities.

GDC discriminates against Class Members by denying them effective communication and an equal opportunity to access daily announcements, meals, medication, and healthcare. GDC must ensure that “communications with [people] with disabilities are as effective as communications with others,” and must provide “auxiliary aids and services” affording “an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity.” 28 C.F.R. §§ 35.160(a)(1), (b)(1); *A.L. by & through D.L. v. Walt Disney Parks & Resorts US, Inc.*, 900 F.3d 1270, 1295 (11th Cir. 2018) (quoting *Argenyi v. Creighton Univ.*, 703 F.3d 441, 449 (8th Cir. 2013)). GDC must afford deaf and hard of hearing people “an equal opportunity to participate in obtaining and utilizing services.” *Silva v. Baptist Health S. Fla., Inc.*, 856 F.3d 824, 834 (11th Cir. 2017). This obligation is affirmative: GDC must take steps—through reasonable modifications or auxiliary aids—to give people with disabilities the same opportunity to benefit from its programs as non-disabled people. *See, e.g., Delano-Pyle v. Victoria Cnty., Tex.*, 302 F.3d 567, 575 (5th Cir. 2002); *Pierce v. D.C.*, 128 F. Supp. 3d 250, 269 (D.D.C. 2015) (K. Jackson) (entity may not be “passive in [its] approach to disabled individuals as far as the provision of accommodations is concerned”).

1) Denial of Equal Access to Meals and Medication

The ADA and Section 504 require GDC to provide “effective access to prison activities and programs.” *Wright v. N.Y. State Dep’t of Corrs.*, 831 F.3d 64, 73 (2d Cir. 2016); *see also Cadena v. El Paso Cnty.*, 946 F.3d 717, 725 (5th Cir. 2020); *see also Koon v. North Carolina*, 50 F.4th 398, 405–06 (4th Cir. 2022) (“In the words of the Supreme Court, we ask whether a disabled inmate was denied ‘meaningful access’ to the benefit [of prison programs].”) (citing *Alexander v. Choate*, 469 U.S. 287, 301 (1985)). Missed sick calls, medical appointments, and meals are “[u]ndoubtedly” instances of a prisoner “being denied meaningful access to prison

services, programs, and activities.” *Wright*, 831 F.3d at 73; *see also United States v. Georgia*, 546 U.S. 151, 157 (2006) (failure to accommodate “disability-related needs in such fundamentals as mobility, hygiene, medical care, and virtually all other prison programs [plausibly] constituted exclusion from participation in or denial of the benefits of the prison’s services, programs, or activities”) (citation modified); *McDaniel v. Syed*, 115 F.4th 805, 823 (7th Cir. 2024). An ADA violation “does not occur only when a disabled person is completely prevented from enjoying a service, program, or activity,” *Shotz*, 256 F.3d at 1080; *see also Koon*, 50 F.4th at 406, and “[i]f a prisoner needs help from other prisoners to access programs, [] the general rule is that the accommodation is ineffective and inadequate.” *McDaniel*, 115 F.4th at 824 (citing *Wright*, 831 F.3d at 74, 79); *see also Randolph v. Rogers*, 170 F.3d 850, 858 (8th Cir. 1999).

Because of their disabilities, many Class Members cannot hear spoken announcements for pill call and meals. Because effective notification is necessary to access food and medicine, GDC’s failure to provide accessible announcements deprives Class Members across many facilities and with various hearing levels¹⁴ of critical medications and meals. GDC is well aware that Class Members cannot hear these announcements, and that they are missing meals and medicine as a result, yet it refuses to take steps necessary to remedy this situation.¹⁵

¹⁴ *See* Ex. A, Herrera Decl. ¶¶ 1–2 (deaf ASL user in Wilcox); Ex. B, Birdow Decl. ¶¶ 2–3 (hard of hearing prisoner in Augusta); Ex. C, Blackshear Decl. ¶¶ 1–3 (hard of hearing prisoner in Hays); Ex. D, Stone Decl. ¶¶ 1–2 (hard of hearing prisoner in Rutledge); Ex. E, Simmonds Decl. ¶ 3 (hard of hearing prisoner in Valdosta); Ex. F, Brown Decl. ¶¶ 2–4 (deaf ASL user in Pulaski); Ex. G, Hill Decl. ¶¶ 2–3 (deaf ASL user in Central); Ex. H, Harris Decl. ¶¶ 2–3 (deaf ASL user in Central); Ex. I, Smith Decl. ¶¶ 2–3 (deaf ASL user in Baldwin).

¹⁵ *See* Ex. E, Simmonds Decl. ¶ 10 (GDC staff say that missing meals because announcements are not accessible is “not their problem”); *Id.* ¶¶ 15–17 (GDC staff refused to accept emergency grievance concerning denial of meals, lack of nutrition, difficulty reading, and confusion); Ex. C, Blackshear Decl. ¶ 22 (noting that the guards know he is deaf and “don’t care” if he doesn’t show up to pill call after a spoken announcement); Ex. I, Smith Decl. ¶ 20 (GDC staff blame him for missing pill call); Ex. A, Herrera Decl. ¶ 7 (describing unsuccessfully requesting officers to

The consequences are severe. Mr. Simmonds has been forced to discontinue essential psychotropic medication and now experiences hallucinations. Ex. E, Simmonds Decl. ¶¶ 12–13. Mr. Smith misses anti-seizure medication up to five times a week and has had repeated seizures. Ex. I, Smith Decl. ¶¶ 14–16. Mr. Simmonds and Mr. Herrera have lost 50 and 89 pounds, respectively, from missed meals. Ex. E, Simmonds Decl. ¶ 14; Ex. A, Herrera Decl. ¶ 8. And Class Members’ desperate and risky attempts to rely on “workaround[s]” and depend on the assistance of other prisoners does not cure GDC’s violation; it confirms it. *Briggs v. Mass. Dep’t of Corr.*, 15-cv-40162-RGS, 2024 WL 178156, at *9 (Jan. 17, 2024); *McDaniel*, 115 F.4th at 824.

2) Denial of Effective Communication in Healthcare

GDC’s failure to provide auxiliary aids and services, including interpreters, captioning, and amplification devices, during healthcare encounters is plain disability discrimination. *Silva*, 856 F.3d at 834–40 (“[R]egardless of whether a patient ultimately receives the correct diagnosis or medically acceptable treatment, that patient has been denied the equal opportunity to *participate* in healthcare services whenever he or she cannot communicate medically relevant information effectively with medical staff.”).¹⁶ “Lack of meaningful access is *itself* the harm under Title II [of the ADA], regardless of whether any additional injury follows.” *Luke v. Texas*, 46 F.4th 301, 306 (5th Cir. 2022) (citing *Tennessee v. Lane*, 541 U.S. 509, 532–33 (2004)). While the ADA and Section 504 require GDC to ensure effective communication with Class Members across all aspects of prison life, the need for effective communication is “particularly acute in the

flick lights on and off to notify him of meals and pill call); Ex. D, Stone Decl. ¶ 4 (noting that some officers don’t bother to notify him of meal times).

¹⁶ See, e.g., *Crane v. Lifemark Hosps., Inc.*, 898 F.3d 1130, 1133–35 (11th Cir. 2018) (evidence of a “real hindrance” in exchanging medically relevant information when doctor used written notes and basic sign language during a psychiatric evaluation); *Liese v. Indian River Cnty. Hosp. Dist.*, 701 F.3d 334, 343, 351 (11th Cir. 2012) (finding evidence of ineffective communication where hospital explained emergency surgery through lipreading, gestures, and notes).

health care setting where the accurate communication of information between patient and medical provider *during the visit* can significantly impact the patient's health and well-being.” *McBride v. Mich. Dep't of Corr.*, 294 F. Supp. 3d 695, 714 (E.D. Mich. 2018).

Two-way effective communication is foundational to healthcare: both patient and provider must be able to receive and convey information effectively. Ex. J, Venters Decl. ¶ 16. Without effective communication, patients risk improper care, missed diagnoses, and treatment without informed consent. *Id.* ¶¶ 16–37. But GDC consistently fails to provide the necessary auxiliary aids and services to ensure effective communication in healthcare encounters.¹⁷

GDC healthcare providers cannot *receive information from* Class Members that is essential to understanding their conditions and reaching an accurate diagnosis. Because GDC did not provide hearing aids to Mr. Stone, he was forced to type out his mental health symptoms and wait for a nurse to read what he wrote during ten-minute appointments with a psychiatrist. Ex. D, Stone Decl. ¶¶ 2, 8, 9. Mr. Hill must try to write down his back pain symptoms for his providers because they fail to provide interpreters, leading him to worry that doctors will not understand him and will give him the wrong medicine. Ex. G, Hill Decl. ¶¶ 17–19. It is “simply not possible to provide appropriate care” for these and other conditions when the provider cannot receive information from the Class Member. Ex. J, Venters Decl. ¶ 23; *see also id.* ¶¶ 16–22, 24, 34.

Nor can GDC healthcare providers *convey information to* Class Members effectively. For example, since a violent attack caused Mr. Smith to have a prolonged seizure, he has not

¹⁷ These failures cover multiple GDC facilities and Class Members with a range of hearing disabilities and required auxiliary aids and services. *See* Ex. A, Herrera Decl. ¶¶ 1–2 (deaf prisoner in Wilcox, requires interpreters); Ex. B, Birdow Decl. ¶¶ 2–44 (hard of hearing prisoner in Augusta, requires captioning for telehealth); Ex. D, Stone Decl. ¶¶ 1–2 (hard of hearing prisoner in Rutledge, requires hearing aids); Ex. F, Brown Decl. ¶¶ 3–5 (deaf prisoner in Pulaski, requires interpreters); Ex. H, Harris Decl. ¶¶ 2–3 (deaf prisoner in Central, requires interpreters); Ex. I, Smith Decl. ¶¶ 1–2 (deaf prisoner in Baldwin, requires interpreters).

received any accessible information about his diagnosis, prognosis, treatment, or necessary care. Ex. I, Smith Decl. ¶¶ 26–32. GDC has not provided Mr. Herrera with effective communication to understand the status of his high blood pressure, including whether his medication is working or anything he should be doing to treat the condition. Ex. A, Herrera Decl. ¶ 14. GDC has failed to provide interpreters at medical appointments for Mr. Harris, leaving him without information about the causes of tingling in his legs, the results of numerous rounds of bloodwork, and whether new symptoms are related to his previously diagnosed high cholesterol. Ex. H, Harris Decl. ¶ 15. Ms. Brown has a diagnosis of glaucoma, but at a recent eye appointment, GDC failed to provide interpreters, forcing her to attempt to gather information about the results of the eye test from another incarcerated person who “knows some signs.” Ex. F, Brown Decl. ¶ 20.

Because GDC healthcare staff can neither gather adequate information from, nor convey information to, Class Members, GDC is unable to effectively communicate the risks and benefits of, and alternatives to, treatment. As a result, GDC fails to ensure informed consent (or informed refusal) for treatment. Ex. J, Venters Decl. ¶¶ 25–33. For example, because GDC failed to ensure effective communication at Mr. Birdow’s medical appointments, he did not know that he had been scheduled for bladder surgery, much less understand the risks and benefits of the procedure. Ex. B, Birdow Decl. ¶ 16. GDC marked him as “declining” this surgery, but he wants care for his condition—he just wants to understand the risks and benefits of the proposed care. *Id.* Similarly, at a recent dental appointment, Mr. Herrera’s provider appeared to indicate a plan for his teeth by writing down a few words and gesturing, but Mr. Herrera does not know what the plan is, nor does he understand the risks, benefits, or alternatives to the plan. Ex. A, Herrera Decl. ¶ 9.

II. Class Members Face Current and Future Irreparable Injury.

“Physical and psychological injury—including death—can constitute irreparable harm,” *Doe v. Georgia Dep’t of Corr.*, 730 F. Supp. 3d 1327, 1349 (N.D. Ga. 2024), as can interference

with or failure to provide medical care, *see id.* at 1350. Plaintiffs need not show certain harm, but rather that an “irreparable injury is *likely* in the absence of an injunction.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008).

Class Members are already experiencing, and will continue to experience, irreparable harm due to GDC’s failure to provide access to meals, medication, and healthcare. Because of GDC’s failure to provide effective communication and accessible announcements, Plaintiffs are consistently experiencing—and are at risk of experiencing—physical and psychological injury. *Doe*, 730 F. Supp. 3d at 1350. Class Members are missing lifesaving medications.¹⁸ Class Members are missing so many meals that they are losing significant amounts of weight. Ex. E, Simmonds Decl. ¶ 14 (losing fifty pounds); Ex. A, Herrera Decl. ¶ 8 (losing eighty-nine pounds). Class Members are seeking medical care for both urgent and chronic conditions, but cannot communicate with providers and face the constant risk of negative medical outcomes. Ex. J, Venters Decl. ¶¶ 16–37. In one instance, this nearly resulted in Mr. Birdow being subjected to an operation that he never knew about, let alone consented to. Ex. B, Birdow Decl. ¶ 16. And Class Members are facing deleterious psychological harm because of GDC’s failures, including fear of incorrect medical treatment, Ex. G, Hill Decl. ¶ 18; depression, frustration, and worry over inability to communicate with healthcare providers, Ex. I, Smith Decl. ¶ 36, Ex. H, Harris Decl. ¶ 18, Ex. D, Stone Decl. ¶ 12, Ex. F, Brown Decl. ¶ 24; frustration and worry about lack of information about planned medical care, Ex. A, Herrera Decl. ¶¶ 10, 12; and frustration over

¹⁸ Ex. E, Simmonds Decl. ¶¶ 12–13 (missing PTSD and schizophrenia medications, causing hallucinations among other symptoms); Ex. C, Blackshear Decl. ¶¶ 23–24 (missing medications for stroke symptoms two to three times per week in general population and four to five times per week when in the “hole”); Ex. I, Smith Decl. ¶¶ 14–16 (missing five doses of seizure medication and having three seizures as a result); Ex. D, Stone Decl. ¶¶ 7–8 (previously missing two to three doses of depression medication per week and currently missing two to three doses per month).

being treated differently than non-disabled prisoners, Ex. I, Smith Decl. ¶ 22.

Although this case has been ongoing for years, Plaintiffs’ present motion is timely. Plaintiffs have diligently pursued this litigation, including completing extensive discovery¹⁹ over the duration of the case, in spite of barriers and delays caused by the COVID-19 pandemic. This “history of litigation” demonstrates the importance of the issues raised now and Plaintiffs’ commitment to seeking relief for these issues. *Doe*, 730 F. Supp. 3d at 1350.

Plaintiffs also spent extensive time pursuing resolution of this matter via settlement in 2019–20 and 2024–26. *See, e.g.*, ECF Nos. 35, 236, 276. The decision not to pursue preliminary relief while settlement attempts were ongoing reflects Plaintiffs’ commitment to resolving this case. Courts in this Circuit have repeatedly found it appropriate for a party to postpone seeking preliminary relief while settlement attempts are underway. *See, e.g., Larweth v. Magellan Health, Inc.*, 841 F. App’x 146, 158–59 (11th Cir. 2021) (affirming a lower court’s finding of irreparable injury where the movant did not file a preliminary injunction motion during the parties’ “discussions regarding the . . . possibility of a settlement”); *Agape Hospice Care, Inc. v. Hospice Care of Ga., LLC*, No. 1:22-cv-00927-VMC, 2022 WL 18777532, at *10 (N.D. Ga. Nov. 2, 2022); *Citizens Asset Fin., Inc. v. Stanford Transp. of La., Inc.*, No. 1:21-cv-2336-MHC, 2021 WL 6428045, at *6 (N.D. Ga. Oct. 22, 2021). With mediation now concluded without resolution, Plaintiffs’ counsel interviewed newly incarcerated people²⁰ and other Class Members and learned that, rather than improving issues, GDC has actually made them worse.

Even if the Court believes that Plaintiffs delayed in seeking preliminary relief, delay

¹⁹ Discovery in this case through 2024 encompassed well over 250,000 pages of documents, thirty-four depositions, ten days of site visits, and sixteen purported expert reports (eight primary reports and eight rebuttal reports).

²⁰ Mr. Simmonds and Ms. Brown both entered GDC custody during the course of mediation.

alone is not a reason to deny a preliminary injunction, especially where—as here—there is no doubt that without intervention, ongoing irreparable physical harm is certain. *Citizens Asset Fin.*, 2021 WL 6428045, at *5 (“[A] showing of delay does not preclude, *as a matter of law*, a determination of irreparable harm.”). Further, this is not a case of *unexplained* delay. *See Powers v. Sec’y, Fla. Dep’t of Corr.*, 691 Fed. App’x 581, 584 (11th Cir. 2017). Plaintiffs have pursued this case diligently through litigation and settlement attempts and now seek preliminary relief to resolve an urgent and ongoing issue of life and death facing Class Members.

III. The Balance of Equities and Public Interest Favor Plaintiffs.

The balance of equities and public interest factors merge when the government is the party opposing a preliminary injunction. *Swain v. Junior*, 961 F.3d 1276, 1293 (11th Cir. 2020). “Congress has declared that it is in the public interest to allow individuals with disabilities to live on an equal footing with the non-disabled.” *Caron Found. of Fla., Inc. v. City of Delray Beach*, 879 F. Supp. 2d 1353, 1374 (S.D. Fla. 2012); *see also 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 people with disabilities). Indeed, Congress passed the ADA to provide a clear and comprehensive national mandate to eliminate disability discrimination. 42 U.S.C. § 12101(b)(1). Further, “the [government’s] responsibility to provide inmates with medical care ordinarily does not conflict with competing administrative concerns.” *Hudson v. McMillian*, 503 U.S. 1, 6 (1992). Thus, these factors support Plaintiffs’ requested injunction.

IV. Injunctive Relief Meets the PLRA’s Needs-Narrowness-Intrusiveness Inquiry.

Under the Prison Litigation Reform Act, preliminary injunctive relief must be “narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm.” 18 U.S.C. § 3626(a)(2). The requested relief meets this requirement. It requires GDC to remedy a serious, ongoing, and

urgent need: to ensure that Class Members have equal access to food, medicine, and effective healthcare. This relief is narrowly drawn to remedy the widespread harms experienced by Class Members. Although this case alleges widespread violations across virtually all aspects of prison life, *see generally* Amended Complaint, ECF No. 136-2, the relief requested here focuses on a narrow subset of those allegations and seeks preliminary injunctive relief only on the most urgent and life-threatening harms. The requested relief extends no further than necessary to correct the harms, as it requires nothing more than what the ADA and Section 504 guarantee: an equal opportunity to participate in and access basic necessities while in prison: food, medicine, and healthcare. It is the least intrusive means to vindicate these federal guarantees, leaving considerable latitude to GDC in how it will correct its violations of the law.

Conclusion

For the foregoing reasons, Plaintiffs respectfully request that this Court order the preliminary injunctive relief requested.²¹

Respectfully submitted this 21st day of October 2026,

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²¹ The Court should not set bond in this case. Federal Rule of Civil Procedure 65(c) gives the Court discretion about whether to set an injunction bond. *BellSouth Telecomms., Inc. v. MCIMetro Access Transmission Servs., LLC*, 425 F.3d 964, 971 (11th Cir. 2005). Here, Plaintiffs seek an injunction to stop the government's ongoing disability discrimination. Because there is no risk of monetary harm to Defendants if they are eventually found to have been wrongfully enjoined, bond is neither necessary nor appropriate and should not be set in this case.

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