



1675 Broadway, 19th Floor
New York, NY 10019-5820

TEL 212.223.0200
FAX 212.223.1942
www.ballardspahr.com

Michael P. Robotti
Tel: 646.346.8020
Fax: 212.223.1942
robottiM@ballardspahr.com

April 4, 2024

TO BE FILED UNDER SEAL

Via ECF and Email

Honorable LaShann DeArcy Hall
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Joseph Elias, 22-CR-317 (LDH)

Dear Judge DeArcy Hall:

We write in response to the government's letter regarding the conditions at the Metropolitan Detention Center ("MDC") (ECF No. 66). The MDC has largely admitted the facts set forth in our letter dated March 25, 2024, which detail the abysmal conditions that our client has been facing at the jail (ECF No. 62):

- First, the MDC admits that it has been serving Joseph and other inmates insect-infested food, conceding the presence of weevils in the beans provided to inmates.¹ The MDC claims its insect-infested food was limited to "one bag" of beans with weevils in it. But the MDC's claim that this squalid condition is limited to one bag of weevil-infested beans is highly suspect.

Since March 15, Joseph has reported maggots in his food to us on four separate occasions, most recently on April 2, 2024. Joseph's account is corroborated by similar accounts from numerous other inmates, whose counsel have reported maggots in their clients' food to the Federal Defenders, following the submission of our March 25 letter to the Court regarding this issue. *See* Def. Ex. A. Indeed, eight different SHU inmates

¹ A weevil is "any of a superfamily (Curculionoidea) of beetles which have the head prolonged into a more or less distinct snout and which include many that are destructive especially as larvae to nuts, fruit, and grain or to living plants; especially: any of a family (Curculionidae) having a well-developed snout curved downward with the jaws at the tip and clubbed usually elbowed antennae." *See* <https://www.merriam-webster.com/dictionary/weevil>.

Honorable LaShann DeArcy Hall
April 4, 2024
Page 2

(where Joseph is housed) and two inmates from unit 43 have reported maggots (identified as “white worms”) in the meat and beans that the MDC has served to them over the last three weeks. *Id.* One detailed account from March 31 specifies that the inmate has had maggots in his food every other day for two weeks—too many to pick out—which he has eaten, so that he does not go hungry. *Id.* The inmates have repeatedly complained to MDC personnel, and nothing has changed. *Id.*

- Second, the MDC concedes that Joseph’s Bible was taken from him in connection with his hunger strike, which he had started *because* he was receiving insect-infested food and food to which he is allergic. The MDC provided Joseph neither insect-free food nor “non-fish options” in the SHU while he was on his hunger strike, and the MDC failed to respond to our request to provide him with Ensure, so that he could receive basic sustenance in the face of his significant weight loss.
- Third, we find it galling that, [REDACTED], the MDC admits Joseph subsequently went 22 days without being seen by a psychiatric professional and is now designated for the lowest level of mental-health care.
- Fourth, we dispute the MDC’s claim that Joseph was only warned that his Suboxone would be discontinued. As noted on page one of Exhibit B of the government’s letter, on March 6, 2024, his medical records state: [REDACTED]
- Finally, the government references Joseph’s disciplinary record at the MDC in Exhibit A of the government’s letter. The three recent infractions in March all post-date Joseph’s hunger strike and [REDACTED], and support Joseph’s contention that he is receiving unjustified infractions from MDC staff based on false accusations.

These appalling conditions at the MDC are completely unacceptable. No matter the crimes of which they have been accused, inmates should not be housed in such “cruel and unjust” conditions. *United States v. Gustavo Chavez*, 22-CR-303 (JMF) (S.D.N.Y. 2024), ECF No. 31 at 18. Joseph should not be condemned to spend another day in federal custody under these conditions, and we request a sentence of time served.

Honorable LaShann DeArcy Hall
April 4, 2024
Page 3

Because portions of this letter discuss a sensitive medical issue and quote sealed medical records, we request to file those portions of the letter under seal. We will file a redacted version of the letter on the public docket.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M.P. Robotti", with a long horizontal stroke extending to the right.

Michael P. Robotti

EXHIBIT A

Robotti, Michael

Subject: FW: Update on reports of maggots in food at MDC

From: Deirdre von Dornum <Deirdre_vonDornum@fd.org>

Date: April 4, 2024 at 10:25:35 PM EDT

To: CJA Group Email <fdny-cja@googlegroups.com>

Subject: Update on reports of maggots in food at MDC

Thanks to everyone for helping to collect information on clients in MDC being served food with bugs in it. This is very disturbing, particularly because it has continued even after court filings and press reports. As recently as Wednesday, April 3, a detainee on unit 43 reported there being maggots in his food served the evening before (April 2).

We have heard from at least 8 different detainees in SHU and 2 people on unit 43 that, over the last three weeks, they have repeatedly been served meat (sloppy joes and shredded chicken) and beans (both black beans and chickpeas) with maggots in them. The clients have specifically described seeing “white worms” in the meat and beans. I have shared several of these reports with the government and MDC, including the most recent report from Tuesday April 2. The government has said they are looking into it. Please continue to send me information if you hear this is an ongoing problem.

Just as an example, here is one detailed report we received on April 1, describing maggots being in the food on March 31.

I visited XX in the SHU today and asked about his food. Below are some details I collected. Happy to discuss if you have any questions.

- Have seen maggots in his food for the last two weeks. Will appear about every other day. Whenever there are beans, chickpeas, those types of things.
 - Will be mixed into the food. Visible. A lot of them in there. Too many to pick out.
 - Can see them immediately, especially in the black beans because the color is so different. Blend more in the chickpeas.
 - Are dead. Have been cooked.
- XX will eat them because he does not want to go hungry and considers them to be “protein” – tries not to look too closely or think too much about it, doesn’t think it is going to change.

- XX has complained and heard others complain. Some people have taken the maggots out of the food and stuck them on their doors to show guards.
 - People from kitchen do walks through the SHU. Persons in the SHU complained about the maggots. The response was that they should “write it up.”
 - Nothing changed following complaints.
 - XX also said that people from “central office” have been visiting the facility frequently, including the SHU. They came last Friday and were informed about the maggot issue. But then, on Sunday (yesterday), persons in the SHU were again served black beans with maggots in them.