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A Black Man's P.O.M.E. (Product of My Environment)

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**A BLACK MAN’S P.O.M.E.
(A PRODUCT OF MY ENVIRONMENT)**

*Antoine Henderson**

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INTRODUCTION

Take a look into my eyes and you’ll see all the pain the ghetto brings¹

As an adolescent growing up, life seemed like a hopeless dream. I was a serious child instead of a happy kid. Looking back in hindsight, I was a man trying to survive in a little boy’s body. My life was chaotic and abnormal; I witnessed things no child should have to experience: drug addiction (dealing and using), alcohol abuse, gun violence, domestic violence, you name it. It was all learned behavior. Confusion, hurt, disappointment, and rejection were just some of my feelings and emotions. To sum it all up into one word, trauma!

I remember mentioning to my girlfriend that my goal was to retire at 35 from being a drug dealer. Her exact words were “babe, don’t say

* Antoine Henderson has experienced hardship in the Federal Bureau of Prisons in the midst of multiple pandemics. Antoine is currently serving a 14-year sentence. He would like to thank the *Fordham Urban Law Journal* editors for their helpful comments on earlier drafts and the opportunity to voice his experiences with the systems (judicial, prison, and police) and the concerns and matters that Black America deals with today.

1. JIM JONES, *My Diary, on HARLEM: DIARY OF A SUMMER* (Diplomats & KOCH Records 2005).

that.” Two days before my 30th birthday, my wish came true — not by choice but by force. I was indicted on a federal drug offense.

In my environment, brothers and sisters like myself can easily become a product. But being a product of my environment doesn’t necessarily mean I am stuck in a physical state but rather a mental state of mind. So strap into your seats: this Essay takes you through my emotional roller coaster ride.

I. MY ADOLESCENT STAGES

How you wake up in the mornin’ feelin’ evil?

Uhh, trauma

When them drugs got a hold of your mama

And the judge got a hold on your father

Go to school, bullet holes in the locker²

One time, as a young adult, I asked my uncle if I could borrow some money. “Man, I’m so broke I can’t even pay attention,” he replied. I was broke and paying a lot of attention. I witnessed my mother and father battle their own demons. The “street life” resulted in years of incarceration, unstable living conditions, and drug and alcohol abuse. But I was a mama’s boy, and there wasn’t anything wrong anyone could tell me about that lady. My dad was like my favorite basketball player, only with different skills: he would hold down a block while passing the rock³ and was always ready to shoot if he had to protect himself or us.

At that time, I was too young to understand what was going on. Sometimes I went days, weeks, and maybe even months without seeing my parents. I would reside temporarily with different family members — both of my grandmothers, aunts on both sides, my dad’s girlfriend, my mother’s father, and my dad’s oldest brother. When I was in my mother’s custody, we would frequently reside with strangers who I assumed to be her friends. For a period of time, my mother stayed with a guy she considered to be her boyfriend. On the first day I met him, I witnessed him beat my mother for getting her nose pierced. That sent me into a rage and I hit the dude.

There were times when we had to sleep in shelters and under staircases. One night when we were in our neighborhood in the Bronx, also known as “the hood,” my mother was searching for my dad. Once we found him, all hell broke loose. My mom did her best to embarrass

2. MEEK MILL, *Trauma*, on CHAMPIONSHIPS (Atlantic Records & Maybach Music 2018).

3. Selling drugs.

him in front of his homeboys and fellow drug dealers. I can't remember what she said, but for that moment, I was happy to have both of my parents in my presence.

My dad's girlfriend was upset about my poor living conditions. She told my dad that he could do whatever he pleased, but she was not going to allow him to drag me along through the streets. She sheltered me with her four children, but that was not where I wanted to be. I wanted my mother, and I wasn't going to be happy until I was back with her.

As time passed, I found myself going back and forth from grandmother to grandmother, seeing my mom for months, and seeing my dad only from time to time when he decided to stop by his mother's house. I was frustrated and confused because I missed my mom, and no one would tell me her whereabouts. Eventually, my mother's oldest sister gained custody of me. I resided with her and her two daughters in Queens. My dad's sister also resided in Queens and contributed to raising me in my parents' absence. They informed me that my mother was going away for a while because she wanted to get treatment for her drug addiction. My dad was arrested and sentenced to four years in the New York State Department of Corrections. I had started to feel out of place and unwanted.

The father figures I had left were my mother's dad and my dad's oldest brother. The only times you might catch me sporting a half smile was when I was with these guys — my dad was Michael Jordan, and they were Magic and Kareem. They both worked for the City. My grandfather was a postal worker, and my uncle was a bus driver. They were my mentors, and I took something from all of them.

My mother regained custody of me after her rehabilitation. With the help of my grandmother, she moved us into a basement apartment in Queens. But it wasn't long before my mother started falling back into her old ways. This time she hustled drug dealers and danced at a gentlemen's club. One time, her friend brought me to her job. My mother spoiled me. I had new sneakers and clothes every week, a house phone to myself, and even a beeper. Always at home alone, I had a refrigerator full of snacks and unlimited cable. I was winning then. I guess my mom just wanted to make up for all of those rainy days and cloudy skies.

My new role models were my mother's drug-dealing friends. I even remember when one of them let me hang out the sunroof of a limo. But my mind was polluted. I was even shot at by an older guy because a friend of mine was picking on his little brother.

Eventually, my mother was arrested on federal drug trafficking charges. I found out in the fourth grade when I came home to my mother's friend waiting to tell me. She took me back to my grandmother's apartment in the Bronx. I was hurt and disappointed, but I understood more than before. My mother did what she did for me. She sacrificed everything just to try to make sure I had everything.

My mother was sentenced to 27 months in the Federal Bureau of Prisons (BOP). I fell into a deep state of depression and was dysfunctional at school. It was hard for me to focus on my education, and I always felt like an outcast in class. I started to hate school and everyone around me. I went from having Nike sneakers and Polo clothes to Payless sneakers and clothes from the Salvation Army. My mother was still living, but it damn sure felt like she was dead. I was teased every day at school and snuck away the old sneakers that my mother brought me just to avoid being laughed at. I cried every morning in the bathroom while brushing my teeth.

Not too long after my mom's arrest, my dad was released from prison, and soon after that, so was my mom. I was just happy to have my parents physically present, even if I only saw them periodically. My mother was still in a halfway house, and my dad was living with his girlfriend. Then, my paternal grandmother passed away from cancer. I was torn up because I had been spending most of my time with her. My dad was broken as well. I could see that he wasn't himself, even though he never showed his emotions in front of others.

My dad and aunt relocated to Virginia, where my grandmother had left them a piece of property. My dad's girlfriend also moved not too far from them. I spent my summers with them and even thought about staying permanently, but I was a mama's boy. Once my mom was released from the halfway house, I was on the next thing smoking back to the City. We moved in with my maternal grandmother and my mother's youngest sister back in the Bronx. They resided in the same apartment building but in separate apartments.

Then another aunt relocated from Queens to Pennsylvania, near the Poconos. I asked to go live with her and her family so that I could play basketball at the high school there. I had hated junior high school in the City, and my grades were lousy. When I arrived in October, it was nice to be outdoors, but then it got colder. My aunt's electricity had been shut off for months. We used the fireplace to cook and stay warm, coolers with ice to store food, and flashlights and candles for light. It felt like Alaska. Eventually, my aunt worked hard enough to get the lights back on, but by that time, I was over it. I returned to New York, back with my mother, grandmother, and aunt.

Not too long after that, my mother discovered she was pregnant with my little brother and decided it was time for us to move out. My mother could afford it because she had returned to her old job at the gentlemen's club, and my little brother's father was a drug dealer and a great provider. My mother manipulated the system so that we could live comfortably in our own space. We started off in a shelter so we could receive Section 8 vouchers for an apartment. I was angry at first because I really didn't want to go through that process again. But my mother cried and begged me to come. We managed to get our own apartment.

Within a few months of my brother's birth, my mother relapsed again. To wean herself off her drug of choice, she decided to enroll in a methadone program. My brother's father was only coming around to drop off money, so at the age of 14, I became a brother and a father. I was just entering my freshman year of high school in the Bronx, but I never went. I hated leaving home because it was hard for my mother to take care of my little brother while on methadone.

Our financial state spiraled. Life was just a mess, again. So I stopped going to school and stayed home to help care for my little brother. At times when I felt like I needed a mental health day off, I stayed with my uncle and his family. I was jealous of everybody else's families who seemed like they were living the American Dream. One day, my mother never returned home from her daily visit to the clinic. I found out later that she had gotten arrested for selling her dosage to an undercover cop. So my brother and I returned to the Poconos to live with my aunt. I was 16 raising my two-year-old brother. My mother was mandated by the courts to attend a drug rehabilitation program. Not long after, my little brother's father came to pick him up and drop him off with my mother. The program was a mother and child drug program which allowed children under nine the opportunity to do treatment with their mothers. At that point, being alone was the norm.

But soon after, my brother's father was arrested on federal drug charges and sentenced to 17 years in prison. Then my grandfather passed away from cancer. Besides that, things were actually a lot better for me living outside of the City. I attended high school for two years at Pocono Mountain Academy. But my aunt was only able to maintain a roof over our heads and food in our stomachs. So, I decided to start dealing drugs. My cousin's boyfriend first introduced me to weed, and I began selling it to other students outside of school. I felt like I was finally back on track with my education and financially independent. But then, in 12th grade, my aunt was evicted, and we had to return to the City. What a disappointment. For once in my life, I thought I would be able to accomplish something — my high school diploma.

But once again, I found myself passed around like a hot potato, living some days with my grandmother and other days with my uncle.

When it came time to enroll in school, I learned that I couldn't be placed in the 12th grade because high school credits in Pennsylvania were completely different from those in New York. It would have taken me two years and night school to graduate. I felt defeated and began to lose hope. At the age of 17, and with no guidance, I started consuming alcohol and smoking weed. Having no one to support me financially, I returned to distributing drugs to survive and provide for myself.

As time passed, my mother graduated and completed her drug recovery program. But I found myself in a little bit of a rut. While returning to the Poconos, I was arrested for possession of marijuana and discovered I had an outstanding warrant for a simple assault incident that had occurred when I resided there. I served a short period in a juvenile facility in Reading, Pennsylvania.

II. STILL A BOY

They don't understand what I've been through

They don't understand what I go through

You think everything's all good

But you only see what I show you⁴

Once released from the juvenile facility, I decided that I had to make some changes, and my life started to take a positive turn. For successfully completing her drug treatment program, my mother was granted a two-bedroom apartment in a newly built apartment building. This brought us a lot of relief. I got a job at Staples in the Bronx, while my mother worked as a front desk receptionist at the Times Square Hotel. I started off as a merchandiser and, after a few months, was promoted to Office Supply Leader. My mother was promoted to Front Desk Supervisor. I was blessed with my first child.

In almost a year of supervising an overnight crew at Staples, my crew broke records in store sales during the 2002 back-to-school season, ranking us the number two store in the nation. For my outstanding work ethic and leadership, I was promoted to Assistant Manager; at 20, I was the youngest employee to become Assistant Manager. For the first time in my life, I was proud of myself.

A stable home, great job, beautiful daughter, and a happy mother. The sun finally shined some light on us. But what I wasn't prepared

4. JUELZ SANTANA, *Nobody Knows, on GOD WILL'N* (Skull Gang 2013).

for was the responsibility that came with supporting a family, and I didn't know how to manage my finances. I spent 12 to 15 hours a day at work, and on my days off, I would spend my paycheck drinking and partying. I realized later that I never got to enjoy my life as a kid, so I abused everything in my beginning stages as a young adult. I was making up for lost time.

As time passed by, I found myself in deep depressions and didn't know why. It got so bad that I found myself drinking at work. I managed the overnight shift and oversaw the whole store, but I started to lose control of my staff. Employees came in late or did not show up; some stole merchandise, and others, like me, drank on the clock. I felt like a failure and was so disappointed in myself that I quit with no reason or notification to the staff. I gave up on everything and once again found myself making poor decisions. I coped by drinking alcohol, which made matters worse. This time, I bailed on my family and relocated to Maryland without notifying them of my whereabouts. The feeling of letting my family down crushed me mentally.

Throughout my twenties, I found myself constantly in trouble with law enforcement. I spent three-quarters of my twenties in prison, just like my father; selling drugs and carrying guns became my livelihood. I drank outrageously and found myself exploring other drugs like ecstasy. One time I visited my parole office reeking of alcohol. She gave me a breathalyzer and informed me that I reached the maximum it could read. Damn, I was pathetic.

I was on the verge of a mental breakdown and would get into a lot of altercations because I was mad at the world. I was stabbed in the head inside of a Wal-Mart over something immature. I called my dad, and he immediately relocated from Virginia to Maryland to ensure my safety. But my dad started experiencing his own troubles with the law again. He found himself serving time in the Maryland Department of Corrections. There was a time when he and I were housed in the same unit in a detention center. We would eat, play cards, and crack jokes together. Like father like son! I felt at fault because my dad sacrificed everything he had going for him back in Virginia for my safety and much-needed support in Maryland. I suddenly realized that this cycle needed to be broken.

III. A GROWN MAN

Entering my 30s, I decided I had to stop thinking selfishly. I was the father of four daughters. One of my daughters was from my previous relationship, and I've helped to raise her since she was 18 months old. She is now 14. Her biological father was serving a long sentence in the

BOP and was absent before she was even born. I took on the responsibility as a father figure to her and love her as if she was my own.

It was time for a change, for my daughters and me. During my transformation, I accomplished a lot. I worked for a pawnbroker and as a sales associate at True Religion and co-owned a vending machine business with my girlfriend called AK Canteen, LLC. I started a daycare business, Daddy Daycare, LLC, inspired by Eddie Murphy's movie.⁵ But then I learned that felons were not allowed to take care of kids, so it was put on hold. I attended truck driving, GED, and personal trainer courses at Hagerstown Community College. I had a beautiful townhouse with a beautiful family and even two dogs. I finally felt like I was living the American Dream.

Although my girlfriend provided financial support, we still needed money. We had a large family, and I had to pay for my tuition out of pocket. I was trying my best to figure out a way to stop dealing drugs. I really hated the lifestyle but needed the money.

On January 17, 2020, I was arrested on federal drug charges. My 35th birthday was January 19, and I had plans to celebrate. I was looking forward to walking into my home or a community building with my girlfriend, only to be surprised by close friends and family and showered with hugs and gifts. Instead, I was surprised with my door being knocked in, handcuffed, and served with a warrant for a federal indictment on a drug conspiracy charge. The Drug Enforcement Administration (DEA) also went to my girlfriend's job and served her with a warrant, which led to her arrest. I felt like I was stuck in the matrix.

First, we were charged by the Washington County Narcotics Task Force and the DEA in a joint investigation for the distribution of fentanyl along with possession and possession with the intent to distribute. I was already out on bond for a previous drug offense, so I had no chance of a get-out-of-jail-free card. Our case was picked up by the government. I was detained at the Washington County Detention Center in Hagerstown, Maryland, for four months. Then

5. The goal of my daycare business was to help fathers — who have missed years of their children's lives due to incarceration or other unfortunate experiences — come together to support single mothers by providing father figures to children and young people. We would assist with after-school programs, transportation, planning events and trips, summer camp, sports leagues, and more. Additionally, we would help those who need a job after being released from prison, provide manhood programs for those inside of prison, or even provide legal assistance. I now want to convert it into a non-profit organization and rename it "The Good Guys."

the U.S. Marshals came and transferred me to the U.S. District Court of Maryland. That was when I realized they were playing hard.

After my initial appearance, I was transferred and detained at the Chesapeake Detention Facility in Baltimore, Maryland. My girlfriend was granted home detention, but they informed her that if we had any communication, they would revoke it. It was a messed up feeling for me. I couldn't imagine how she felt because we were each other's best friends.

I was fighting an uphill battle with bulges of rocks coming down along with everything mother nature could throw. Not only was I in the boxing ring with the District Attorney (DA), but I felt as if my first attorney was also in his corner. When I first came into contact with my attorney, I asked him what kind of plea the DA had to offer. This was my mistake because I had shown no fight, giving them an advantage. And that's exactly what they tried to do — take advantage of my lack of knowledge of the law. My attorney came to me with a plea from the Government, offering me 240 months for a non-violent drug offense with an alleged amount of 280–400 grams.⁶ Wow! I am not the smartest man in the world, nor am I the dumbest, but that kind of time sounded to me like someone who committed murder. “Who did I kill?” I asked my attorney.

After a few months of legal visits with my attorney, tensions started to rise as we continued to butt heads. It felt like I was sitting with a prosecutor instead of my attorney. I thought he was arrogant. One time he told me I was mad at him because of my poor decision leading up to my arrest, and another time he told me I would kiss his ring if he got me a deal for 17 years. During the same visit, he informed me that the State of Pennsylvania wanted to press charges against me as well. I was dumbfounded, as I never stepped foot in that state during their investigation. He told me I was the cause of multiple overdoses — people I had never met or heard of. My attorney presented me with another plea offer for 17.5 years. I requested and was granted a new attorney.

While waiting for new legal representation, I started doing my own research. The Government did its best to enhance me on everything⁷

6. For more information on the use of harsh plea deals among federal prosecutors, see *An Offer You Can't Refuse; How US Federal Prosecutors Force Drug Defendants to Plead Guilty*, HUM. RTS. WATCH (Dec. 15, 2013), <https://www.hrw.org/report/2013/12/05/offer-you-cant-refuse/how-us-federal-prosecutors-force-drug-defendants-plead#> [<https://perma.cc/V693-PWZB>].

7. See generally John F. Stinneford, *Dividing Crime, Multiplying Punishments*, 48 U.C. DAVIS L. REV. 1955, 1957 (2015).

— 851,⁸ career offender,⁹ leadership role, and guns.¹⁰ They weren't playing fair.

My new attorney, Brian McDaniels, was genuine and willing to fight for me. He told me that the Government would not budge on the plea offer. He understood my frustration and concerns and told me he would give it his best fight, but to think on it and get back to him. He asked what I felt comfortable with, and I told him 10 to 15 years. Within a week, he came back with exactly that. In exchange though, I had to agree that I was a leader of the drug conspiracy and so was responsible for the deaths of people who overdosed. Even though I had nothing to do with the incidents, I agreed to sign.

The day of sentencing was rough. The courtroom was packed, though only three people were there for me — my mother, brother, and youngest daughter's mother. The worst part was the testimonies from the victims' families — I was in a room full of people, feeling their wrath. It was a horrible feeling. The judge seemed fair, but he sentenced me to 14 years. A few months later, he sentenced my girlfriend to three years. I decided I was mentally at peace. I had once said I wanted to retire from dealing drugs at 35, and now I had.

Things could have been worse when I was first arrested; I thought that was my last ride in the free world. Instead, God gave me what he knew I could handle. Another opportunity to continue my journey in society as a better Black man. With the mental support of my family, my time behind these walls hasn't been that bad. They made me realize that I was only doing what a man is intended to do by trying to take care of his family. They would remind me what a great father, son, boyfriend, and brother I was and still am. That alone is worth all of the money in the world.

In October 2019, after two years in prison, I was classified by my Unit Team at the Federal Correctional Institution Petersburg Medium as a medium-security prisoner.¹¹ My custody points were calculated to an 11. Combined with the time that I had remaining, which was less

8. 21 U.S.C. § 851. For more on § 851 and its impact, see U.S. SENT'G COMM'N, APPLICATION AND IMPACT OF 21 U.S.C. § 851: ENHANCED PENALTIES FOR FEDERAL DRUG TRAFFICKING OFFENDERS (2018).

9. See generally U.S. SENT'G COMM'N, REPORT TO THE CONGRESS: CAREER OFFENDER SENTENCING ENHANCEMENTS (2018).

10. See generally Kendall C. Burman, *Firearm Enhancements Under the Federal Sentencing Guidelines*, 71 U. CHI. L. REV. 1055 (2004).

11. See Brandon Garrett, *Altering the PATTERN*, CTR. FOR SCI. & JUST.: BLOG, DUKE L. (May 29, 2020), <https://sites.law.duke.edu/csj-blog/2020/05/29/altering-the-pattern/#:~:text=Known%20as%20PATTERN%2C%20for%20Prisoner,or%20any%20crime%2C%20upon%20release> [https://perma.cc/8L3D-SAB8].

than ten years, I was considered minimum-security status, making me eligible for camp, a minimum-security facility.¹² Because I was housed at a medium-security prison and rules prohibit jumping security levels, I had to be moved to a low-security facility first.

I arrived at the Metropolitan Detention Center, Brooklyn, in February 2020 as a “holdover inmate.” Holdover inmates are in transit — in the process of reaching our assigned destination — and often stop at multiple locations before reaching the assigned destination. Some people in transit are more fortunate than others. Some might have a straight shot to their facilities. Others may go to a facility to wait for another bus without knowing when it will arrive. Others are transferred to the airlift to be flown and bussed to their next destination. The estimated time of arrival is left open for all people in transit, and I’m one of the unfortunate ones stuck at a facility — one considered to be the worst of the worst — labeled a holdover inmate.

I’m a non-violent offender with a history of non-violent offenses. I am considered by the prison system to be a very low-risk inmate, posing little danger. But I am treated as if I was being transferred to a U.S. penitentiary to serve a life sentence. I am housed on the same unit as pre-trial detainees, a safety risk for both parties — one guy with a high-security status facing life in prison with another guy who is low-security status on his way out the door.¹³ Combined with this pandemic, I feel like a death row inmate with the possibility of never making it back to the free world.

IV. HERE AND NOW

It's bigger than black and white

It's a problem with the whole way of life

It can't change overnight

But we gotta start somewhere¹⁴

12. See *About Our Facilities*, FED. BUREAU PRISONS, https://www.bop.gov/about/facilities/federal_prisons.jsp [https://perma.cc/8QQ3-PG5E] (last visited Jan. 10, 2021).

13. If an individual receives any citation after being sentenced, for example, for fighting, possession of contraband, and things of that nature, it can affect his security status. Individuals who are pre-trial can receive punishment, but they don't have any security level at that moment and have a chance to be found not guilty in court and go home. If both individuals were to bump heads, it mostly impacts the person who is already sentenced.

14. LIL BABY, *The Bigger Picture*, on MY TURN (Capitol Records, Motown, Wolfpack & Quality Control 2020).

My experience as an inmate in the prison system has caused physical, psychological, and emotional harm. With every moment I am here, I acknowledge the actions and situations which brought me here. Simultaneously, I understand I am a human being with natural-born rights. I know one of my rights is to report the prison's terrible conditions during the global COVID-19 pandemic.

A. COVID-19 at MDC Brooklyn

When the news of COVID-19 first broke, I was in the process of being transferred to a prison in Maryland. In late March 2020, the President of the United States declared a state of emergency in response to the massive spread of COVID-19. This was when the chaos began. By early April 2020, the prison world was in a frenzy. Outside, recommendations of social distancing became routine but were not initially applied within the prison system. There was no urgency to enforce social distancing, and when it was enforced, it resulted in hours of us being on lockdown — confined to cells normally occupied only in the evenings and for emergencies. Personal Protective Equipment were not provided as regularly as they should have been. I was forced to use the same mask for weeks at a time and was not provided hand sanitizer.¹⁵

To try and stay safe, I stored bleach and watered it down to sanitize myself and the objects around me. To prevent overcrowding, shower time was minimized, and sometimes we were only allowed to shower every two or three days. Commissary¹⁶ was constantly delayed, meaning that we were not only out of food but also sanitizing and hygiene products that ensured our safety. For weeks at a time, we were not allowed to purchase items, and when we were allowed, it was very limited. This caused me psychological and physical harm. It became difficult to have a nutritious meal, which I know is essential to maintaining an equipped immune system. As other inmates became sick and many passed away, I spent hours locked in my cell feeling I would soon be infected and worrying about what would happen to my

15. At first, MDC prohibited guards from bringing their own hand sanitizer, and soap was in short supply on site. See Stephen Rex Brown, *Citing Lack of Masks and Soap, Congresswoman Nydia Velazquez Fears Brooklyn Federal Jail Is 'Powder Keg of Coronavirus Infection,'* N.Y. DAILY NEWS (Apr. 7, 2020, 4:00 AM), <https://www.nydailynews.com/new-york/ny-mdc-brooklyn-jail-coronavirus-20200407-o5wrhffchjfvpk5b7thglvzury-story.html> [https://perma.cc/2THJ-E67M].

16. For a discussion of prison commissaries, see Stephen Raher, *The Company Store: A Deeper Look at Prison Commissaries*, PRISON POL'Y INITIATIVE (May 2018), <https://www.prisonpolicy.org/reports/commissary.html> [https://perma.cc/QXQ9-6268].

fellow inmates and me because of the lack of adequate medical care available.

I have been asthmatic since I was 13 years old. Back in March, I was experiencing some cold symptoms along with minor breathing complications. I sent requests to medical staff and the administration asking to be provided with medical assistance and my inhaler. For four months, I sent multiple sick-call paper forms and emails stating I was experiencing asthma attacks, only to go untreated. Instead, an official told me that when I arrived at their facility, I had denied having asthma. Eventually, someone asked if I could confirm that I have a medical condition so that they could re-evaluate me. With help from my family, I obtained and provided my medical records from Jacobi Hospital in the Bronx, where I was first diagnosed with my health condition as a child.

I never received my medication. Apparently, assistance and treatment are only available for those in the free world. In the midst of a deadly respiratory virus that has spread across the world, killing millions, especially those with pre-existing conditions, we damn sure don't feel we get treated like we are human beings.

Due to the frequent lockdowns and suspension of visitation, access to my family and loved ones also decreased tremendously, and I can only imagine their anxieties and worries about me. We inmates spent weeks without access to computers or phones, even for those of us who had been granted more time. The letters, books, magazines, and pictures my family sent in the mail struggled to reach me, making me more anxious and worried. I really wish the BOP would develop a way for better communication and contact with our families during this devastating time.

In June 2020, when the world became aware of the most recent tragedies of victims at the hands of police brutality in the free world, inside the prison system, MDC Brooklyn made news for multiple avoidable inmate deaths — and not from COVID-19. Jamel Floyd, also known as “Smoke,” an asthmatic man whom I met when I first arrived, died after guards maced him.¹⁷

We were housed in the same unit when Smoke was killed. To this day, none of us know the reason for the incident, but Smoke was a good

17. See Stephen Rex Brown & Noah Goldberg, *‘They Murdered My Son’: Brooklyn Inmate Who Died After Being Maced by Guards Was Asthmatic, Family Says*, N.Y. DAILY NEWS (June 4, 2020, 12:46 PM), <http://www.nydailynews.com/new-york/ny-brooklyn-inmate-mdc-death-mace-asthma-release-20200604efwqrabnm5ehlqippp4jylsly-story.html> [https://perma.cc/ZRC6-ABKW]. That could have easily been me or any of “us” with the same health condition.

brother and was for the people. Regardless of what the issue was, he didn't deserve to lose his life like that behind these walls. Where is the fight and protest for us? Do we not have human rights just because we are in the prison system? What happened to "innocent until proven guilty"?¹⁸ I'm lost about how this system is supposed to work for us, because it looks like it's against us. Rest In Power, Smoke!

B. COVID-19 at FCI Loretto

On October 29, 2020, I was transferred to my designated location, Federal Correction Institution, Loretto (FCI Loretto). The correction officers (COs) placed me in an isolated unit and told me I had to quarantine for 14 days. I had to take two laboratory tests, one on the day that I arrived and another 14 days later.¹⁹ I tested negative for both, and after 17 days, I was moved to general population.²⁰ While in general population, I noticed that the warden posted a memo on the inmate bulletin, dated November 10, 2020, that two of her officers had tested positive for COVID-19.²¹

On November 22, 2020, three inmates tested positive for COVID-19, two of whom were from my unit and one from the unit next to mine. The two on my unit were located in two separate rooms in which they both had cellmates. Both rooms held four inmates, I believe. Their cellmates were tested. Their results came back negative, but they still had to be placed in isolation for further testing.

The facility was placed on lockdown, and the following day we were all given laboratory tests. I had already been experiencing discomfort on the left side of my chest prior to arriving, but a few days after, I started to feel fatigued and discomfort on the left side of my chest. I didn't bother to mention it to medical staff because I hadn't been seen by my assigned physician assistant (PA) for medical intake yet. I decided that I would mention my concerns to her then. I began experiencing flu-like symptoms such as headaches over my left eye, body aches, fevers, and breathing complications. I also lost my sense of smell and taste, experienced dizziness, and felt extremely sluggish.

18. The vast majority of people housed at MDC are being detained pre-trial or pre-sentencing, and so have not been found guilty. *See* OFF. OF THE INSPECTOR GEN., U.S. DEP'T OF JUST., REVIEW AND INSPECTION OF METROPOLITAN DETENTION CENTER BROOKLYN FACILITIES ISSUES AND RELATED IMPACTS ON INMATES 2 (2019), <https://oig.justice.gov/reports/2019/e1904.pdf> [<https://perma.cc/Z3TN-9EL7>].

19. I was informed that it usually takes three days for the lab test results to return.

20. I was transferred to general population on November 16, 2020.

21. There were no cases of any inmate testing positive at that time.

On November 29, 2020, COs informed my unit that we had to relocate to the next unit over and that we would be taking another test. There was a report that a total of 16 inmates had tested positive for COVID-19. We were bunched up together on one unit without waiting for the test results, not practicing social distancing. I was experiencing symptoms in a room with no other inmates. I chose to isolate and medicate myself with tea, cough drops, Vitamin C, and Tylenol. I wanted to distance myself from others rather than move into a room and put others in harm's way.

I decided to inform the active officer on duty that I was experiencing symptoms. I had just taken the laboratory test, but it takes three days for the results to come back. I was escorted to medical, where the nurse took my vitals and stated that everything looked fine. She informed me that she didn't hear any wheezing in my lungs after I explained to her all of my health concerns. She then gave me a rapid test, and within 15 minutes my test results came back positive. She gave me Tylenol and an albuterol inhaler for my asthma. I was escorted to the same unit that I quarantined on when I first arrived. I was the 21st reported case.

When arriving on the isolated unit, I came in contact with the 20 other inmates who had tested positive, including some from my previous unit who initially tested negative. One of the gentlemen told me he was given a rapid test on November 29, and the results came back negative; the following morning, he was given another rapid test and the results came back positive. Another man informed the nurse that he was sick while he was in isolation, and the nurse informed him that he was fine without even testing him. When they tested all of the individuals, including him, on the isolated unit, everyone came back positive. The prison officials were responsible for these individuals contracting the virus.

When I was first placed in isolation, I wasn't allowed to take my property and belongings. From that day up until present day, I'm still in the same clothes — one t-shirt, one pair of boxers, one sweatshirt, and one hat. I was only provided with institutional hygiene products and washing material when they could have allowed me to have my belongings. There was no valid reason why I could not obtain my property and why I still don't have it even after my quarantine period.

Medical staff reported every day to take vitals and temperature. I noticed on two different occasions that my temperature reading was off. One day it read 93.5, and on another, 95.2 degrees Fahrenheit. I asked the nurse why my temperature was so low, and he stated that they were only concerned if the temperature was high. He also stated that the temperature reader wasn't accurate.

Another one of my concerns was the lack of communication. I was out of phone minutes, and there were no computers on the isolation unit for me to contact my family about my health condition. Since my mother hadn't heard from me in days, she decided to call the facility. I had informed her a few days before that I was feeling under the weather. My mother was only informed that I had tested positive after calling and speaking to an executive assistant. Not only was I physically ill but also mentally distressed due to the unprofessionalism and the conditions I was placed in. I hadn't even been here for five weeks.

My chest pains were getting more intense, so I addressed my concerns to medical when they came around on their daily routine vital and temperature checks. I informed him about my previous health concerns and condition while at MDC Brooklyn. While stuck in transit for nine months, due to the pandemic, I was experiencing chest pains and breathing complications. For a long period of time, I went untreated and unattended to for my medical complaints. After seven months of submitting sick-calls, I was finally seen by my PA. While taking my vitals, my PA noticed something wrong but never informed me what it was. She asked me if I had any cardiovascular problems, and I stated no. I asked her what was wrong, and she just told me that she was going to schedule me for an EKG reading. I was transferred before that could happen.

I presented all of that information to the nurse and told him that I was concerned due to the fact that I contracted COVID-19 and the pressure and discomfort were more intense. He took my information down and stated that he would inform my PA. He also stated that it most likely wouldn't be until after the outbreak was contained. The number of cases continued to rise rapidly. It was then rumored that over 500 inmates were infected, along with 20 staff.

On December 11, 2020, I was relocated to the dorm, where they placed individuals who had already quarantined after testing positive. We were never tested to see if we were still infected. Medical staff stated that if an individual didn't show any signs or symptoms after ten days in isolation, he could move back to general population. There were at least a dozen inmates that had never tested positive on the dorm.

Later that evening, one of the dozen men informed the officer on duty that he was experiencing symptoms. Medical staff were alerted, and after giving the man a rapid test, the results came back positive. The nurse who conducted the test stated that this was the warden's call to place inmates that had not been infected with inmates that were infected on the same unit. The very next morning, medical staff conducted rapid tests on the remaining individuals that never tested

positive. When the results came back, 8 out of 11 individuals tested positive. Those individuals were then ordered to gather their belongings because they were moving to an isolation unit.

On December 14, 2020, one of the 11 individuals who had tested negative informed the nurse that he was experiencing symptoms. The nurse told him that he couldn't be infected because she just tested him the other day and that she was not going to give him another test unless he showed symptoms. After conducting another test, the results came back positive.

I was not allowed to gather my belongings, and I'm still without them. I'm still experiencing discomfort on the left side of my chest and difficulty breathing, and headaches over my left eye. In December 2020, new reporting showed that at this facility, out of a population of 856 inmates, over 620 have been infected in less than three weeks.²²

FCI Loretto went from zero COVID-19 positive inmates on October 20, 2020, to 607 COVID-19 positive inmates as of December 11, 2020.²³ Meanwhile, BOP has both made false statements regarding the availability of testing to staff and underreported the number of COVID-19 positive inmates at FCI Loretto.²⁴ One CO claimed that "FCI Loretto ha[d] never been offered testing" to its staff.²⁵

[S]ince March, all but about 90 of Loretto's 856 prisoners ha[d] contracted the virus. They had so many positives that the efforts to quarantine left prisoners scattered across the facility There were

22. See Lisa Riordan Seville, *'Like A War Zone': Prison That Freed Paul Manafort Early Now Ravaged by COVID*, NBC NEWS (Dec. 19, 2020, 6:00 AM), <http://www.nbcnews.com/news/us-news/war-zone-prison-freed-Paul-Manafort-early-now-ravaged-covid-n1251783> [<https://perma.cc/UJ8J-WHKX>].

23. See Randy Griffith, *Feds: Loretto Prison Following Guidelines*, TRIB.-DEMOCRAT (Dec. 11, 2020), https://www.tribdem.com/coronavirus/feds-loretto-prison-following-guidelines/article_eaa018fc-3b6e-11eb-80b0-8395915407e5.html [<https://perma.cc/H5KQ-Q7EA>]. As of February 6, 2021, the BOP reported that 706 inmates and 48 staff at Loretto recovered from COVID-19 and zero died. See *COVID-19 Coronavirus*, FED. BUREAU PRISONS, <https://www.bop.gov/coronavirus/> [<https://perma.cc/N5N4-ZRCC>] (last visited Feb. 6, 2021).

24. In testifying before the U.S. House Judiciary Committee on December 2, 2020, BOP Director Michael Carvajal said, "the BOP could not mandate staff to test. 'We can offer the testing People don't want to take it. We can't make them.'" Seville, *supra* note 22.

25. CO and American Federation of Government Employees Local 3951's Union President Francis Bailey claimed he "requested [testing] multiple times and ha[d] been told it [wa]s a liability issue." *Id.* "Dozens of Bailey's fellow officers ha[d] gotten sick. One staff member brought the disease home to his pregnant wife." *Id.* "In the 12 years in corrections, this is probably the scariest things I've had to deal with, and the most stressful thing," said Bailey. "We would like the Bureau to acknowledge that there's a problem and that they're doing something wrong." *Id.*

sick men on cots in the gym, the visiting room, and, according to one account, on a block without windows or ventilation²⁶

I know I am an inmate, but this label does not negate the fact that I am a human being. We all want to live, and we all long for safety and security. The lack of urgency and enforcement of the recommendations to stay safe as this global pandemic continues is a violation of my human rights. The inadequate and dismissive approach to medical care for inmates during this time is also a violation of my human rights. Decreasing communication with my loved ones without cause is also a violation of my human rights. These violations cause trauma and prevent us from rehabilitation. The condition of the facilities in the prison system during the global COVID-19 pandemic continues to be harmful to my well-being.

CONCLUSION

I'm just one of many Black men in America who either became a statistic of this cycle or witnessed others go through the same struggle. Statistically, my upbringing would have predicted a poor prognosis, but mentally, I refuse to be a statistic. We are not inviting you to a pity party but are looking to be treated equally.

We as human beings go through different stages of life, and I've experienced a few: my adolescent stages, my seesawing between man and boy, and then as a grown man. This brings me to here and now. Some of the choices I've made in life have rewarded me, while others have left me to deal with repercussions. I've been rewarded with a great companion, a wonderful mother, and four beautiful daughters, but incarceration has left me absent from my family. I've taken full responsibility for my own actions and have held myself accountable for them, but does the system? I speak for those who are physically and mentally trapped in the system, and those whom it affects even after justice has been served.

The word "system" in Black America carries trauma and a multitude of connotations — COVID-19, police brutality, racism. The judicial, police, voting, and prison systems mostly affect us and are designed to keep us stuck in this cycle, running like little hamsters on wheels. As Michelle Alexander explained, history speaks for itself and repeats.²⁷

26. *Id.*

27. See MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* 21–22 (2012).

Living in my environment is like going to war, and I think we should be treated for post-traumatic stress disorder. Instead, they figure it is easier to just place us in cages or a knee on our necks. They serve us with harsh sentences for non-violent drug offenses or pepper spray us until we die. They would rather see us kill each other, just so they can say, "look at them." More than 400 years, and Black America is still living in this crisis, crying for help every day. We are sick and tired of being sick and tired. We are tired of the police brutality! Tired of feeling less than a human! Tired of the System! Black Lives Do Matter! We just hope one day that America will notice.