



1 (as there was a centipede infestation in the dorm in which Ms. Atterbury is housed, with the  
2 insects constantly falling from the ceiling onto the inmates).

3 The nurse seeing Ms. Atterbury advised her to use a hair tie to keep her hair up from  
4 the back of her neck, so that the infection could be adequately treated. The nurse provided  
5 Ms. Atterbury with a slip permitting her have a hair tie. Ms. Atterbury subsequently showed  
6 the hair tie to several of the guards, and explained that she had permission to have it due to  
7 medical need.  
8

9 On Friday, November 21, 2008, at approximately 9:30 AM, a guard at the Butler  
10 County Jail performed a “shakedown” of Ms. Atterbury’s possessions, found the hair tie, and  
11 stated that she could “lock down”<sup>1</sup> Ms. Atterbury for possessing it. Ms. Atterbury explained  
12 that she needed the hair tie for a medical reason, and that she had permission from the nurse  
13 to have it.  
14

15 Later that day, at approximately 12:30 PM, the same guard returned and continued to  
16 inspect Ms. Atterbury’s possessions. Shortly thereafter, Ms. Atterbury was told that she was  
17 on “disciplinary restriction,” which means that she is confined to her bed. Later that day,  
18 after receiving visits from her sister, Pat Hatcher, and her husband, Dr. Schneider, Ms.  
19 Atterbury was returned to her bed restriction. At this time, another inmate came to her bed,  
20 and Ms. Atterbury gave her the telephone numbers for Dr. Schneider and Ms. Hatcher so that  
21 the other inmate could inform the family if Ms. Atterbury was indeed placed in solitary  
22 confinement as was threatened by the guard.  
23

24 On Saturday, November 22, 2008, at approximately 9:45 AM, Ms. Atterbury was  
25 placed in solitary confinement. At approximately 3 PM that day, she was told that she was  
26 placed in solitary confinement because the hair tie that was in her possession was

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<sup>1</sup> This means placing the inmate in solitary confinement.

1 “contraband.” Such a charge normally carries 10 days in solitary confinement. Ms.  
2 Atterbury was told that if she pleaded “guilty” to the charge, her time in solitary would begin  
3 to run the day she was confined. On the other hand, if she did not plead guilty, her time  
4 would not begin to run until her “disciplinary review,” which was scheduled for Tuesday,  
5 November 25, 2008. If not released at the disciplinary review, she will remain in solitary  
6 confinement until December 5<sup>th</sup>.  
7

## 9 ARGUMENT

10 Courts have long recognized that pre-trial detainees, if denied bond, are held for the  
11 sole purpose of security. Such detainees may not be punished pre-trial. *See, e.g., Stack v.*  
12 *Boyle*, 342 U.S. 1 (1951); *Hudson v. Parker*, 156 U.S. 277, 285 (1895) (“[The] traditional  
13 right to freedom before conviction permits the unhampered preparation of a defense, and  
14 serves to prevent the infliction of punishment prior to conviction.”). “Under the due process  
15 clause of the Fifth Amendment a defendant may not be punished prior to an adjudication of  
16 guilt conducted in accordance with due process of law.” *United States v. Gallo*, 653 F. Supp.  
17 320, 334-35 (E.D.N.Y. 1986) citing *Bell v. Wolfish*, 441 U.S. 520, 535 (1979); *Ingraham v.*  
18 *Wright*, 430 U.S. 651, 671-672 n.40, 674 (1977); *Kennedy v. Mendoza-Martinez*, 372 U.S.  
19 144, 165-67, 186 (1963); *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).  
20

21 Ms. Atterbury’s constitutional rights have been violated, and continue to be violated  
22 by the Butler County Jail. It is clear that the jail’s actions are not “administrative,” but rather  
23 punitive. Ms. Atterbury obtained a hair tie in order to treat an infection resulting from the  
24 unsanitary conditions in the jail. She had permission to possess the item, but was  
25 nevertheless placed in 24-hour solitary confinement for a period of ten days (14 including the  
26

1 “waiting period” resulting from Ms. Atterbury’s refusal to plead guilty to the “charge”).  
2 Such treatment is unfair and cruel, and it violates Ms. Atterbury’s constitutional rights.

3 But this most recent violation is not isolated. When it is combined with other aspects  
4 of Ms. Atterbury’s imprisonment at the Butler County Jail – including, but not limited to, the  
5 shameful incident involving inmate Stacy Hill (addressed before Judge Bostwick under seal),  
6 the government’s pervasive use of taping telephone conversations with family as a discovery  
7 tool, and the previous incident in which Ms. Atterbury was sent to the “hole” for attempting  
8 to talk to the media, and the lack of adequate medical care for Ms. Atterbury’s various  
9 conditions – it is clear that the violations of Ms. Atterbury’s rights have been extensive and  
10 egregious. The Butler County Jail’s administrative “rules” notwithstanding, Linda Atterbury  
11 is in the custody of the Court and the United States Marshal Service, and the Court must take  
12 care to protect her rights as a pretrial detainee.  
13  
14

15  
16 **CONCLUSION**

17 Therefore, the defendant respectfully requests the Court to intervene, and to release  
18 the defendant in light of the cruel and punitive conditions she has endured, in violation of her  
19 constitutional rights. In the alternative, the defendant prays the Court to order that Ms.  
20 Atterbury be placed in the general population.

21 Respectfully Submitted,

22  
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24  
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**CERTIFICATE OF SERVICE**

I certify that on November 26, 2008, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send notice of electronic filing to:

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