

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BHARATKUMAR G. THAKKER,
et al.,

Petitioners-Plaintiffs,

vs.

CLAIR DOLL, in his official capacity as
Warden of York County Prison, et al.,

Respondents-Defendants.

Case No. 1:20-cv-00480-JEJ

Judge John E. Jones III

**PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 2241 and Federal Rule of Civil Procedure 65(a)-(b), Petitioners-Plaintiffs ("Plaintiffs") hereby move this Court for a temporary restraining order and/or preliminary injunction that bars Defendants from continuing to detain Plaintiffs. In support of this motion, Plaintiffs state as follows:

1. As set forth in Plaintiffs' Complaint for Declaratory and Injunctive Relief, Defendants are detaining Plaintiffs in conditions that violate the Fifth and Fourteenth Amendment Due Process Clauses.

2. As set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Temporary Restraining Order and/or Preliminary Injunction ("MOL"), Plaintiffs have satisfied the four-part test for the issuance of a temporary restraining

order and/or preliminary injunction. As set forth in the MOL, Plaintiffs are likely to succeed on the merits of their constitutional claims and Plaintiffs will suffer irreparable harm unless the requested injunctive relief is granted. Also as set forth in the MOL, The government has no legally cognizable interest in detaining Plaintiffs in clear violation of their constitutional rights, and granting the requested injunctive relief will not result in any foreseeable, serious harm to the Defendants or the public. To the contrary, it is in the public interest for the government to respect constitutional due process rights and avoid the rampant spread of COVID-19 in detention facilities.

3. Through the undersigned counsel, Plaintiffs gave notice to Assistant U.S. Attorney, Joanne Sanderson, about the filing of this action and motion for a temporary restraining order and/or preliminary injunction. All documents filed with this Court, including those accompanying this motion, are being served on her electronically, within moments of filing.

4. Plaintiffs request that the Court immediately schedule a hearing and issue a temporary restraining order and/or preliminary injunction enjoining Defendants from continuing to detain Plaintiffs in violation of their constitutional rights.

WHEREFORE, Plaintiffs respectfully requests that this Court enter a temporary restraining order and/or preliminary injunction to enjoin Defendants from continuing to detain Plaintiffs in violation of their constitutional rights.

Dated: March 25, 2020

Respectfully Submitted,

/s/ Will W. Sachse

Will W. Sachse, Eq. (PA 84097)
Thomas J. Miller, Esq. (PA 316587)
Kelly Krellner, Esq. (PA 322080)*
Carla G. Graff, Esq. (PA 324532)*
DECHERT, LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104
T: 215-994-4000
E: will.sachse@dechert.com
E: thomas.miller@dechert.com
E: kelly.krellner@dechert.com
E: carla.graff@dechert.com

David Fathi (WA 24893)*
Eunice H. Cho (WA 53711)*
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION, NATIONAL PRISON
PROJECT
915 15th St. N.W., 7th Floor
Washington, DC 20005
T: 202-548-6616
E: dfathi@aclu.org
E: echo@aclu.org

Michael Tan (NY 4654208)*
Omar C. Jadwat (NY 4118170) *

/s/ Witold J. Walczak

Witold J. Walczak (PA 62976)
**AMERICAN CIVIL LIBERTIES UNION
OF PENNSYLVANIA**
247 Ft. Pitt Blvd., 2d Fl.
Pittsburgh, PA 15222
T: 412-681-7864
E: vwalczak@aclupa.org

Vanessa L. Stine (PA 319569)
Muneeba S. Talukder (CA 326394)*
Erika Nyborg-Burch (NY 5485578)*
**AMERICAN CIVIL LIBERTIES UNION
OF PENNSYLVANIA**
P.O. Box 60173
Philadelphia, PA 19102
T: 215-592-1513
E: vstine@aclupa.org
E: mtalukder@aclupa.org
E: enyborg-burch@aclupa.org

American Civil Liberties Union
Foundation, Immigrants' Rights
Project
125 Broad Street, 18th Floor
New York, NY 10004
T: (212) 549-2600
E: mtan@aclu.org
E: ojadwat@aclu.org

**Petition for permission to file pro hac vice forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing motion, together with accompanying Memorandum of Law and associated exhibits, on counsel of record via the Court's ECF filing system and via email courtesy copy to Assistant U.S. Attorney, Joanne Sanderson, at the office of the United States Attorney for the Middle District of Pennsylvania.

Dated: March 25 2020

/s/ Witold J. Walczak
Witold J. Walczak (PA 62976)
AMERICAN CIVIL LIBERTIES UNION
OF PENNSYLVANIA
247 Ft. Pitt Blvd., 2d Fl.
Pittsburgh, PA 15222
T: 412-681-7864
E: vwalczak@aclupa.org

CERTIFICATE OF NON-CONCURRENCE

In accordance with Local Rule 7.1, Petitioner's counsel sought concurrence from the U.S. Attorney's Office. The U.S. Attorney's Office does not concur in the relief sought in Plaintiffs' Motion for Temporary Restraining Order and/or Preliminary Injunction.

Dated: March 25, 2020

/s/ Witold J. Walczak

Witold J. Walczak (PA 62976)

**AMERICAN CIVIL LIBERTIES UNION
OF PENNSYLVANIA**

247 Ft. Pitt Blvd., 2d Fl.

Pittsburgh, PA 15222

T: 412-681-7864

E: vwalczak@aclupa.org

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BHARATKUMAR G. THAKKER,
et al.,

Petitioners-Plaintiffs,

vs.

CLAIR DOLL, in his official capacity as
Warden of York County Prison, et al.,

Respondents-Defendants.

Case No. 1:20-cv-00480-JEJ

Judge John E. Jones III

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING
ORDER AND/OR PRELIMINARY INJUNCTION**

COME NOW, this _____ day of _____, 2020, after consideration of Plaintiffs' Verified Petition for Habeas Corpus, Motion for Temporary Restraining Order and/or Preliminary Injunction, Plaintiffs' Memorandum of Law in Support of Plaintiffs' Motion for Temporary Restraining Order and/or Preliminary Injunction, and the Declarations and Exhibits submitted in support of Plaintiffs' Motion; and it appearing that Plaintiffs will suffer immediate and irreparable harm, injury, and damage from Defendants' conduct unless they are enjoined and restrained as requested in Plaintiffs' Motion, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. The Court makes the following findings:

a. Defendants' continued detention in civil immigration custody of individuals at increased risk for severe illness, including all people over ages forty-five and older and persons of any age with underlying medical conditions that may increase the risk of serious COVID-19, violates the Due Process Clause;

b. There is a likelihood that Plaintiffs will succeed on the merits of their claims that the Defendants' actions violate Plaintiffs' constitutional rights.

c. Plaintiffs will suffer substantial and irreparable injury unless this Order is entered;

d. Greater injury will be inflicted upon Plaintiffs by the denial of the requested relief than will be inflicted upon Defendants by the granting of the requested relief;

e. Plaintiffs have no adequate remedy at law; and

f. The public interest will be served by the Order.

2. IT IS THEREFORE ORDERED THAT Defendants, together with their representatives, agents, servants, and all others acting on their behalf or in concert with them, are hereby ENJOINED and RESTRAINED, until further Order of the Court, from continuing to detain Plaintiffs.

3. Plaintiffs, by their attorneys, agents, or other designees, may serve copies of this Order upon Defendants and upon any person acting in concert or participating with them in the activities referred to above.

BY THE COURT

United States District Judge