

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

KEITH SETH, *et al.*

Plaintiffs/Petitioners

vs.

MARY LOU MCDONOUGH

Defendant/Respondent.

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Case No: PX 20-cv-01028

**DEFENDANT MARY LOU MCDONOUGH'S ANSWER
TO CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND
PETITION FOR WRITS OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §2241**

Defendant Director Mary Lou McDonough, by and through the undersigned, and in answer to the Class Action Complaint for Declaratory and Injunctive Relief and Petition for Writs of Habeas Corpus pursuant to 28 U.S.C. §2241 filed herein, states as follow:

STATEMENT OF THE CASE

1. That Defendant denies the allegations in paragraph 1 of the Complaint.
2. That Defendant denies the allegations in paragraph 2 of the Complaint.
3. That Defendant denies the allegations in paragraph 3 of the Complaint.
4. That Defendant admits the allegations in paragraph 4 of the Complaint.
5. That Defendant denies the allegations in paragraph 5 of the Complaint.
6. That Defendant denies the allegations in paragraph 6 of the Complaint.
7. That Defendant denies the allegations in paragraph 7 of the Complaint.
8. That Defendant denies the allegations in paragraph 8 of the Complaint.
9. That Defendant denies the allegations in paragraph 9 of the Complaint.
10. That Defendant denies the allegations in paragraph 10 of the Complaint.

11. To the extent that Plaintiffs' statement is a question of law, no answer is required.

JURISDICTION AND VENUE

12. That Defendant admits that this Court has jurisdiction pursuant to 28 U.S.C. 1331, 1343(a) and denies the remaining allegations in paragraph 12 of the Complaint.

13. That Defendant admit the allegations in paragraph 13 of the Complaint.

PARTIES

14. That Defendant denies that Keith Seth is currently detained at the Prince George's County Correctional Center. Defendant has insufficient knowledge to either admit or deny Plaintiff's allegation that "he has chronic bronchitis for which was hospitalized last year." Defendant is without sufficient information and knowledge to either admit or deny "[Plaintiff] is currently experiencing symptoms of COVID-19, including loss of taste, diarrhea, coughing, and severe shortness of breath." Defendant denies the Keith Seth would be required to pay for medical treatment of COVID-19 symptoms. Defendant denies that Plaintiff has not received mental health treatment.

15. That Defendant admits that David Smith is currently detained pretrial in Housing Unit 9 at the Prince George's County Correctional Center. Defendant denies that Plaintiff "suffers from chronic bronchitis. Since the outbreak, the Jail has not provided Mr. Smith with needed mental health treatment." Defendant admits that "Mr. Smith filed a motion for bond reconsideration on April 8, 2020. That the motion is scheduled for a hearing on April 24, 2020."

16. That Defendant denies that Plaintiff Mario Burch is currently detained pretrial in Housing Unit 8 at the Prince George's County Correctional Center. Defendant denies that no one has cleaned or sanitized any surfaces in the housing unit. Defendant is without sufficient information and knowledge to either admit or deny Plaintiff's fear of contracting COVID-19.

17. That Defendant admits that John Doe No. 1 is an inmate at the Prince George's County Detention Center. Defendant is without sufficient information and knowledge to either admit or deny remaining allegations in paragraph 17 of the Complaint.

18. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 18 of the Complaint for John Doe No. 2.

19. That Defendant admits that John Doe No. 3 is an inmate at the Prince George's County Detention Center. Defendant is without sufficient information and knowledge to either admit or deny remaining allegations in paragraph 19 of the Complaint.

20. That Defendant admits that John Doe No. 4 is an inmate at the Prince George's County Detention Center. Defendant is without sufficient information and knowledge to either admit or deny remaining allegations in paragraph 20 of the Complaint.

21. That Defendant admits that John Doe No. 5 is an inmate at the Prince George's County Detention Center. Defendant is without sufficient information and knowledge to either admit or deny remaining allegations in paragraph 21 of the Complaint.

22. That Defendant admits the allegations in paragraph 22 of the Complaint.

FACTUAL ALLEGATIONS

23. That Defendant admits the allegations in paragraph 23 of the Complaint.

24. That Defendant admits the allegations in paragraph 24 of the Complaint.

25. That Defendant admits the allegations in paragraph 25 of the Complaint.

26. That Defendants admits the allegations in paragraph 26 of the Complaint.

27. That Defendants admits the allegations in paragraph 27 of the Complaint.

28. That Defendant admits the allegations in paragraph 28 of the Complaint.

29. That Defendant admits the allegations in paragraph 29 of the Complaint.

30. That Defendant admits the allegations in paragraph 30 of the Complaint.

31. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 31 of the Complaint.

32. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 32 of the Complaint.

33. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 33 of the Complaint.

34. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 34 of the Complaint.

35. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 35 of the Complaint.

36. That Defendant admits the allegations in paragraph 36 of the Complaint.

37. That Defendant admits the allegations in paragraph 37 of the Complaint.

38. That Defendant admits the allegations in paragraph 38 of the Complaint.

39. That Defendant admits the allegations in paragraph 39 of the Complaint.

40. That Defendant admits the allegations in paragraph 40 of the Complaint.

41. That Defendant admits the allegations in paragraph 41 of the Complaint.

42. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 42 of the Complaint.

43. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 43 of the Complaint.

44. That Defendant admits the allegations in paragraph 44 of the Complaint.

45. That Defendant admits the allegations in paragraph 45 of the Complaint.

46. That Defendant admits the allegations in paragraph 46 of the Complaint.

47. That Defendant admits the allegations in paragraph 47 of the Complaint.

48. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 48 of the Complaint.

49. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 49 of the Complaint.

50. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 50 of the Complaint.

51. That Defendant admits the allegations in paragraph 51 of the Complaint.

52. That Defendant admits the allegations in paragraph 52 of the Complaint.

53. That Defendant admits the allegations in paragraph 53 of the Complaint.

54. That Defendant admits the allegations in paragraph 54 of the Complaint.

55. That Defendant admits the allegations in paragraph 55 of the Complaint.

56. That Defendant admits the allegations in paragraph 56 of the Complaint.

57. That Defendant admits the allegations in paragraph 57 of the Complaint.

58. That Defendant admits the allegations in paragraph 58 of the Complaint.

59. That Defendant admits the allegations in paragraph 59 of the Complaint.

60. That Defendant admits the allegations in paragraph 60 of the Complaint.

61. That Defendant admits the allegations in paragraph 61 of the Complaint.

62. That Defendant is without sufficient information and knowledge to either admit or deny

the allegations in paragraph 62 of the Complaint.

63. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 63 of the Complaint.

64. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 64 of the Complaint.

65. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 65 of the Complaint.

66. That Defendant admits the allegations in paragraph 66 of the Complaint.

67. That Defendant denies the allegations in paragraph 67 of the Complaint.

68. That Defendant admits the allegations in paragraph 68 of the Complaint.

69. That Defendant admits the allegations in paragraph 69 of the Complaint.

70. That Defendant admits the allegations in paragraph 70 of the Complaint.

71. That Defendant admits the allegations in paragraph 71 of the Complaint.

72. That Defendant denies the allegations in paragraph 72 of the Complaint.

73. That Defendant admits the allegations in paragraph 73 of the Complaint.

74. That Defendant admits the allegations in paragraph 74 of the Complaint.

75. That Defendant admits the allegations in paragraph 75 of the Complaint.

76. That Defendant denies the allegations in paragraph 76 of the Complaint.

77. That Defendant denies the allegations in paragraph 77 of the Complaint.

78. That Defendant denies the allegations in paragraph 78 of the Complaint.

79. That Defendant admits the allegations in paragraph 79 of the Complaint.

80. That Defendant admits the allegations in paragraph 80 of the Complaint.

81. That Defendant denies the allegations in paragraph 81 of the Complaint.

82. That Defendant admits the allegations in paragraph 82 of the Complaint.

83. That Defendant denies the allegations in paragraph 83 of the Complaint.

84. Defendant admits that initially inmates were not provided hand sanitizer, but denies that inmates are not currently provided hand sanitizer and denies the remaining allegations in paragraph 84 of the Complaint.

85. That Defendant denies the allegations in paragraph 85 of the Complaint.

86. That Defendant denies the allegations in paragraph 86 of the Complaint.

87. That Defendant denies the allegations in paragraph 87 of the Complaint.

88. That Defendant denies the allegations in paragraph 88 of the Complaint.

89. That Defendant denies the allegations in paragraph 89 of the Complaint.

90. Defendant admits that inmates do not have their own cleaning supplies, but are provided cleaning supplies as requested and paper towels are not rationed.

91. That Defendant denies the allegations in paragraph 91 of the Complaint.

92. That Defendant admits the allegations in paragraph 92 of the Complaint.

93. That Defendant denies the allegations in paragraph 93 of the Complaint.

94. That Defendant admits the allegations in paragraph 94 of the Complaint.

95. That Defendant denies the allegations in paragraph 95 of the Complaint.

96. That Defendant denies the allegations in paragraph 96 of the Complaint.

97. That Defendant denies the allegations in paragraph 97 of the Complaint.

98. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 98 of the Complaint.

99. That Defendant admits that inmates are released 10 at a time for recreation and denies the remaining allegations in paragraph 99 of the Complaint.

100. That Defendant denies the allegations in paragraph 100 of the Complaint.

101. That Defendant denies the allegations in paragraph 101 of the Complaint.

102. That Defendant denies the allegations in paragraph 102 of the Complaint.

103. That Defendant denies the allegations in paragraph 103 of the Complaint.

104. That Defendant admits the allegations in paragraph 104 of the Complaint.

105. That Defendant denies the allegations in paragraph 105 of the Complaint.

106. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 106 of the Complaint.

107. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 107 of the Complaint.

108. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 108 of the Complaint.

109. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 109 of the Complaint.

110. That Defendant denies that any inmate was charged \$4.00 for COVID treatment and is without sufficient information and knowledge to either admit or deny the allegations in paragraph 110 of the Complaint.

111. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 111 of the Complaint.

112. That Defendant is without sufficient information and knowledge to either admit or deny

the allegations in paragraph 112 of the Complaint.

113. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 113 of the Complaint.

114. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 114 of the Complaint.

115. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 115 of the Complaint.

116. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 116 of the Complaint.

117. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 117 of the Complaint.

118. That Defendant denies the allegations in paragraph 118 of the Complaint.

119. That Defendant admits the allegations in paragraph 119 of the Complaint.

120. That Defendant denies the allegations in paragraph 120 of the Complaint.

121. That Defendant denies the allegations in paragraph 121 of the Complaint.

122. That Defendant denies the allegations in paragraph 122 of the Complaint.

123. That Defendant denies the allegations in paragraph 123 of the Complaint.

124. That Defendant denies the allegations in paragraph 124 of the Complaint.

125. That Defendant denies the allegations in paragraph 125 of the Complaint.

126. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 126 of the Complaint.

127. That Defendant is without sufficient information and knowledge to either admit or deny

the allegations in paragraph 127 of the Complaint.

128. That Defendant admits the allegations in paragraph 128 of the Complaint.

129. That Defendant denies the allegations in paragraph 129 of the Complaint.

130. That Defendant denies the allegations in paragraph 130 of the Complaint.

131. That Defendant denies the allegations in paragraph 131 of the Complaint.

132. That Defendant denies the allegations in paragraph 132 of the Complaint.

133. That Defendant denies the allegations in paragraph 133 of the Complaint.

134. That Defendant denies the allegations in paragraph 134 of the Complaint.

135. That Defendant denies the allegations in paragraph 135 of the Complaint.

136. That Defendant denies the allegations in paragraph 136 of the Complaint.

137. That Defendant admits the allegations in paragraph 137 of the Complaint.

138. That Defendant admits the allegations in paragraph 138 of the Complaint.

139. That Defendant admits the allegations in paragraph 139 of the Complaint.

140. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 140 of the Complaint.

141. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 141 of the Complaint.

142. That Defendant denies the allegations in paragraph 142 of the Complaint.

143. That Defendant denies the allegations in paragraph 143 of the Complaint.

144. That Defendant denies the allegations in paragraph 144 of the Complaint.

145. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 145 of the Complaint.

146. That Defendant denies the allegations in paragraph 146 of the Complaint.

147. That Defendant denies the allegations in paragraph 147 of the Complaint.

148. That Defendant denies the allegations in paragraph 148 of the Complaint.

149. That Defendant denies the allegations in paragraph 149 of the Complaint.

150. That Defendant denies the allegations in paragraph 150 of the Complaint.

151. That Defendant denies the allegations in paragraph 151 of the Complaint.

152. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 152 of the Complaint.

153. That Defendant denies the allegations in paragraph 153 of the Complaint.

154. That Defendant denies the allegations in paragraph 154 of the Complaint.

155. That Defendant denies the allegations in paragraph 155 of the Complaint.

156. That Defendant denies the allegations in paragraph 156 of the Complaint.

157. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 157 of the Complaint.

158. That Defendant denies the allegations in paragraph 158 of the Complaint.

159. That Defendant denies the allegations in paragraph 159 of the Complaint.

160. That Defendant admits the allegations in paragraph 160 of the Complaint.

161. That Defendant denies the allegations in paragraph 161 of the Complaint.

162. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 162 of the Complaint.

163. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 163 of the Complaint.

164. That Defendant denies the allegations in paragraph 164 of the Complaint.

165. That Defendant denies the allegations in paragraph 165 of the Complaint.

166. That Defendant denies the allegations in paragraph 166 of the Complaint.

167. That Defendant denies the allegations in paragraph 167 of the Complaint.

168. That Defendant admits that “prisoners who are transferred to the Medical Unit to be tested for COVID 19 are placed in medical isolation cells” and denies the remaining allegations in paragraph 168 of the Complaint.

169. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 169 of the Complaint.

170. That Defendant admits “prisoners must remain in these cells until the results of their COVID-19 tests come back” and denies the remaining allegations in paragraph 170 of the Complaint.

171. That Defendant admits that inmates have no access to phone and reading material while in isolation and denies the remaining allegations in paragraph 171 of the Complaint.

172. That Defendant denies the allegations in paragraph 172 of the Complaint.

173. That Defendant admits that medically vulnerable prisoners suspected of COVID-19 are held in isolation cells within the Medical Unit and denies the remaining allegations in paragraph 173 of the Complaint.

174. That Defendant denies the allegations in paragraph 174 of the Complaint.

175. That Defendant denies the allegations in paragraph 175 of the Complaint.

176. That Defendant denies the allegations in paragraph 176 of the Complaint.

177. That Defendant denies the allegations in paragraph 177 of the Complaint.

178. That Defendant denies the allegations in paragraph 178 of the Complaint.

179. That Defendant denies the allegations in paragraph 179 of the Complaint.

180. That Defendant admits the allegations in paragraph 180 of the Complaint.

181. That Defendant denies the allegations in paragraph 181 of the Complaint.

182. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 182 of the Complaint.

183. That Defendant denies the allegations in paragraph 183 of the Complaint.

184. That That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 184 of the Complaint.

185. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 185 of the Complaint.

186. That Defendant is without sufficient information and knowledge to either admit or deny the allegations in paragraph 186 of the Complaint.

187. To the extent that paragraph 187 does not contain allegations and references exhibits, no answer is necessary. Defendant is without sufficient information and knowledge to either admit or deny the allegations in the exhibits incorporated by reference in paragraph 187 of the Complaint.

188. To the extent that paragraph 188 does not contain allegations, no answer is necessary.

189. To the extent that paragraph 189 does not contain allegations, no answer is necessary.

190. That Defendant denies the allegations in paragraph 190 of the Complaint.

191. That Defendant denies the allegations in paragraph 191 of the Complaint.

192. That Defendant denies the allegations in paragraph 192 of the Complaint.

193. That Defendant denies the allegations in paragraph 193 of the Complaint.

194. That Defendant denies the allegations in paragraph 194 of the Complaint.

195. That Defendant denies the allegations in paragraph 195 of the Complaint.

196. That Defendant denies the allegations in paragraph 196 of the Complaint.

COUNT I – 42 U.S.C. §1983- Eighth and Fourteenth Amendment: Jail Conditions

197. Defendant repeats and realleges each and every response above as if set forth fully herein.

198. That Defendant denies the allegations in paragraph 198 of the Complaint.

199. That Defendant denies the allegations in paragraph 199 of the Complaint.

200. That Defendant denies the allegations in paragraph 200 of the Complaint.

201. That Defendant denies the allegations in paragraph 201 of the Complaint.

202. To the extent that paragraph 202 states a pray for relief, no answer is required.

COUNT II – 42 U.S.C §1983 – Fourteenth Amendment: Overdetention

203. Defendant repeats and realleges each and every response above as if set forth fully herein.

204. That Defendant denies the allegations in paragraph 204 of the Complaint.

205. That Defendant denies the allegations in paragraph 205 of the Complaint.

206. That Defendant denies the allegations in paragraph 206 of the Complaint.

207. To the extent that paragraph 207 states a pray for relief, no answer is required.

COUNT III – Petition for Writs of Habeas Corpus Pursuant to 28 U.S.C. §2241

208. Defendant repeats and realleges each and every response above as if set forth fully herein.

209. That Defendant denies the allegations in paragraph 209 of the Complaint.

210. That Defendant denies the allegations in paragraph 210 of the Complaint.

211. That Defendant admits that due process prohibits the exposure of inmates to severe risk of death, pain or severe permanent injury and denies the remaining allegations in paragraph 211.

DEFENSES

1. Plaintiffs Keith Seth and Mario Burch lack standing.
2. Plaintiffs' claims are moot.
3. Class action cannot be certified without a named Plaintiff as a class representative.
4. Defendant states that Plaintiffs do not satisfy the requirements for class action certification.
5. The remaining Plaintiff is not qualified to be a class representative.
6. Plaintiffs' claims are barred by the defenses of justification and truth.
7. Plaintiff's claims are barred by 42 U.S.C. § 1997e(a), the Prison Litigation Reform Act.
8. Defendant is entitled to qualified immunity.
9. All Prince George's County, Maryland Department of Corrections' COVID-19 policies, practices, and customs are constitutional.
10. Defendant states that Plaintiffs do not satisfy the requirements for class action status.
11. Plaintiff fails to state a claim upon which relief may be granted.
12. Plaintiffs' claims are barred the doctrine of comity.
13. Plaintiffs' injuries, if any, were not proximately cause by Defendant.

Respectfully submitted,

RHONDA L. WEAVER
COUNTY ATTORNEY

ANDREW J. MURRAY
DEPUTY COUNTY ATTORNEY

/s/

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