

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA**

CLIFTON BELTON, JR., JERRY
BRADLEY, CEDRIC FRANKLIN,
CHRISTOPHER ROGERS, JOSEPH
WILLIAMS, WILLIE SHEPHERD,
DEVONTE STEWART, CEDRIC SPEARS,
DEMOND HARRIS, and FORREST
HARDY, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SHERIFF SID GAUTREAUX, in his official
capacity as Sheriff of East Baton Rouge; LT.
COL. DENNIS GRIMES, in his official
capacity as Warden of the East Baton Rouge
Parish Prison; CITY OF BATON
ROUGE/PARISH OF EAST BATON
ROUGE,

Defendants.

Case No. 3:20-cv-000278-BAJ-SDJ

PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs hereby move this Court, pursuant to Federal Rule of Civil Procedure 65, for a temporary restraining order and order of release pursuant to 28 U.S.C. § 2241. The grounds for this motion are set forth in the Memorandum in Support of Plaintiffs' Emergency Motion for Temporary Restraining Order, filed herewith, and the accompanying Declarations and Exhibits in support.

Because of the imminent and grave risk of serious illness and death from continued confinement at the East Baton Rouge Parish Prison ("EBRPP" or the "Jail"), Plaintiffs request that this Court consider this motion on an emergency basis and that the Court grant a temporary restraining order requiring the release of members of the Medically Vulnerable Subclass pending

briefing and argument, pursuant to 28 U.S.C. § 2241 and/or Rule 65 of the Federal Rules of Civil Procedure.

Because this motion is being filed contemporaneously with the complaint, there is not yet an attorney of record for Defendants in this case. Pursuant to Local Civil Rule 65, Plaintiffs' counsel certifies that he has emailed copies of this motion, the Amended Complaint, and all other filings in this case to counsel for Defendants against whom the undersigned has litigated matters regarding the jail before, to wit: Cathy St. Pierre, Esq., one of the lawyers for Defendants Sheriff Gautreaux and Warden Grimes, and Michael Schillage, Esq., one of the lawyers for the City of Baton Rouge/East Baton Rouge Parish;

Plaintiffs' counsel is prepared to appear by telephone immediately. Each day that passes risks Plaintiffs' lives. This case cannot wait.

Respectfully submitted, this 27th day of May, 2020.

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I hereby certify that on May 27, 2020 at approximately at 11:00 a.m. (EST) a copy of the foregoing was sent to all parties via electronic mail upon the following:

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**MEMORANDUM IN SUPPORT OF PLAINTIFFS' EMERGENCY MOTION
FOR TEMPORARY RESTRAINING ORDER**

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INTRODUCTION

This motion seeks urgent – and modest relief – in light of extraordinary circumstances. An outbreak of the novel coronavirus is occurring in the East Baton Rouge Parish Prison (the “Jail”), where approximately 1,200 detainees are held in life-threatening conditions. Plaintiffs sleep as close as two feet from each other, have limited or no access to hygiene products and cleaning supplies, are not properly quarantined when sick, and do not have access to medical care or equipment anywhere near sufficient in quality or volume to respond to a COVID-19 outbreak. Above all, those detainees who are medically vulnerable to the COVID-19 disease face the highest risk of sickness and death in the Jail. In Louisiana alone, at least 167 Department of Corrections officials have contracted COVID-19, and several high-level officials have died. Because social distancing cannot be meaningfully implemented at the current population levels and the Jail has failed to implement additional basic mitigating measures, this number will multiply exponentially at a rapid pace. *See* Ex. 9 to Pet. for Writ of Habeas Corpus and Compl. (“Compl.”), Declaration of Dr. Fred Rottnek ¶¶ 30-31 (“Rottnek Decl.”); Ex. 27 to Compl., Declaration of Dr. Susan Hassig ¶ 9 (“Hassig Decl.”).

As COVID-19 spreads inside and outside the Jail, time is running out to save Plaintiffs’ lives and to prevent the Jail from becoming an epicenter of community infection. Plaintiffs seek immediate relief for medically-vulnerable detainees, requiring Defendants to immediately release from confinement the subclass of people who, because of age or preexisting medical conditions, are at particularly grave risk of death from COVID-19—a risk that cannot be sufficiently mitigated by safeguards or preventive measures in the Jail. Because the risk of infection, illness and death is both excessive in relation any legitimate government interest and deliberately indifferent to the medical needs of medically vulnerable prisoners, their continued detention violates the Fourteenth

and Eighth Amendments, respectively. Because continued detention is in violation of the Constitution, this Court should order release of medically vulnerable detainees either through 28 U.S.C. § 2241 or, in the alternative, through 42 U.S.C. § 1983.

This extraordinary moment requires the Court’s immediate intervention. The “horizon of risk for COVID-19 in this facility is a matter of days, not weeks.” Ex. 4 to Compl., Declaration of Dr. Adam Luring ¶ 45, *Russell v. Wayne Cty.*, No. 20-cv-11094 (E.D. Mich. May 4, 2020), ECF No. 1-15 (“Luring Decl.”). Immediate relief is also in the public interest. A rapid outbreak within the Jail population would drain the Baton Rouge metropolitan area of limited healthcare resources, including ventilators. For these reasons, and for the reasons explained further below, the Court should grant Plaintiffs’ motion for temporary restraining order.

BACKGROUND AND FACTS

I. The COVID-19 Crisis is a Health Crisis Unmatched in Living Memory.

We are in the midst of an unprecedented public health emergency. The number of people infected by COVID-19 has grown exponentially in this country since the first case was identified in January.¹ By March 11, 2020, the World Health Organization had classified the outbreak as a global pandemic.² As of May 26, over 1,600,000 people have been diagnosed with COVID-19 in the United States, with over 97,000 deaths.³ Without effective public health interventions, the Centers for Disease Control and Prevention (“CDC”) project that as many as 2.2 million Americans will die.⁴

¹ See Ctrs. for Disease Control & Prevention, *Coronavirus 2019: Cases in the U.S.*, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last visited May 26, 2020).

² See *WHO Announces COVID-19 Outbreak a Pandemic*, World Health Org. (Mar. 12, 2020), <http://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/news/news/2020/3/who-announces-covid-19-outbreak-a-pandemic>; see also *Fifteen Days to Slow the Spread*, WhiteHouse.gov (Mar. 16, 2020), <https://www.whitehouse.gov/articles/15-days-slow-spread/>

³ *Coronavirus 2019*, *supra* n. 1.

⁴ See Sheri Fink, *White House Takes New Line After Dire Report on Death Toll*, N.Y. Times (Mar. 16, 2020), <https://www.nytimes.com/2020/03/16/us/coronavirus-fatality-rate-white-house.html>.

Louisiana has reported over 37,000 cases and over 2,500 deaths, with nearly ten percent of those cases (3,386) in East Baton Rouge Parish.⁵ This number is sure to rise if conditions in this country's jails and prisons are not addressed rapidly.⁶

COVID-19 is a highly contagious virus that can severely damage lung tissue, impede cardiac functions (causing heart failure), and permanently harm other organs. Ex. 11 to Compl., Declaration of Dr. Jonathan Louis Golob ¶¶ 7, 8, *Dawson v. Asher*, Case No. 2:20-cv-00409-JLR-MAT (D. Or. Filed March 16, 2020), ECF No. 5 ("Golob Decl."). The experience of a severe case of COVID-19 has been compared to "drowning in [one's] own blood."⁷ Approximately 20% of people infected experience life-threatening complications; between 1% and 3.4% die.⁸ The fatality rate is about ten times higher than a severe seasonal influenza, even in countries with highly effective health care systems.⁹ Complications manifest at an alarming pace, and the required levels of medical support—which include highly specialized equipment like ventilators as well as an entire team of care providers—have been rapidly overwhelming hospitals nationally and globally.¹⁰ There is no vaccine against COVID-19, nor any known medication to prevent or treat infection from the virus. Hassig Decl. ¶ 3. The only effective measure to reduce the risk of infection and thus severe illness or death to vulnerable individuals is to enforce regular social distancing. *Id.*

⁵ COVID-19, La. Dep't of Health (May 26, 2020), <http://ldh.la.gov/Coronavirus/>.

⁶ See Lisa Freeland, David Patton, & Jon Sands, *We'll See Many More Covid-19 Deaths in Prisons if Barr and Congress Don't Act Now*, Wash. Post (Apr. 6, 2020), <https://www.washingtonpost.com/opinions/2020/04/06/covid-19s-threat-prisons-argues-releasing-at-risk-offenders/>; Udi Ofer & Lucia Tian, *New Model Shows Reducing Jail Population will Lower COVID-19 Death Toll for All of Us*, ACLU (Apr. 22, 2020), <https://www.aclu.org/news/smart-justice/new-model-shows-reducing-jail-population-will-lower-covid-19-death-toll-for-all-of-us/>.

⁷ See, e.g., Lizzie Presser, *A Medical Worker Describes Terrifying Lung Failure From COVID-19 — Even in His Young Patients*, ProPublica (Mar. 21, 2020), <https://www.propublica.org/article/a-medical-worker-describes--terrifying-lung-failure-from-covid19-even-in-his-young-patients>.

⁸ *Id.*

⁹ *Id.*

¹⁰ Alexandra Villarreal, *'I feel defeated': inside New Jersey hospitals overwhelmed by Covid-19*, The Guardian (Apr. 10, 2020), <https://www.theguardian.com/us-news/2020/apr/10/new-jersey-coronavirus-hospital-overwhelmed>.

Accordingly, public health experts and officials urge that people isolate from others at a minimum distance of six feet, as well as wash their hands frequently, use hand sanitizer, and frequently clean and disinfect high touch surfaces and objects. *See, e.g.*, Rottnek Decl. ¶ 14. These measures are particularly important in jail, a setting that can rapidly become a “public health disaster unfolding before our eyes.”¹¹

Although everyone is at risk of contracting COVID-19, some populations are at higher risk for severe health outcomes. Hassig Decl. ¶ 4. Certain underlying medical conditions—including lung disease, asthma, chronic obstructive pulmonary disease, chronic liver or kidney disease, diabetes, epilepsy, hypertension, compromised immune systems, blood disorders, inherited metabolic disorders, strokes, and pregnancy—increase the risk for individuals of any age. *Id.* People over the age of sixty-five also face greater chances of serious illness or death. *Id.* The only known effective measure to mitigate these more extreme risks is to prevent infection in the first instance. *Id.* ¶ 5.

II. A COVID-19 Jail Outbreak is an Extreme Threat to Public Health.

People incarcerated in jail are at heightened risk of infection and death from COVID-19.¹² According to public health experts, “the risk posed by COVID-19 in jails and prisons is significantly higher than in the community . . . in terms of risk of transmission, exposure, and harm to individuals who become infected.”¹³ This is due to a number of factors, including forced proximity of detained individuals, their inability to protect themselves through social distancing,

¹¹ Jan Ransom & Alan Feuer, *We’re Left for Dead: Fears of Virus Catastrophe at Rikers Jail*, N.Y. Times, (Mar. 30, 2020), <https://www.nytimes.com/2020/03/30/nyregion/coronavirus-rikers-nyc-jail.html>.

¹² *See* Ex. 3 to Compl., Ctrs. for Disease Control & Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, 2 (Mar. 23, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidancecorrectional-detention.html>.

¹³ *See, e.g.*, Ex. 7 to Compl., Declaration of Dr. Jaimie Meyer ¶ 7, *Velesaca v. Wolf*, No. 1:20-cv-01803-AKH (S.D.N.Y. Mar. 16, 2020), ECF No. 42 (“Meyer Decl.”).

lack of medical and hygiene supplies, heavy reliance on outside hospitals for serious medical care, forced labor of incarcerated people in cleaning the facilities with insufficient supplies, constant cycling of people through the jails, and inadequate medical care within jails and prisons. Rottnek Decl. ¶¶ 15-17.

The growing devastation in jails around the country is a harbinger for what has already impacted East Baton Rouge Parish and what it should expect. In New York City, less than a month from the detection of the first case at Rikers Island, 167 detainees, 114 correction staff, and 20 health workers tested positive for COVID-19, and two jail officers had died.¹⁴ The COVID-19 infection rate in New York City’s jails is far higher than the rates for the most infected regions of the world.¹⁵ In Louisiana, the warden and medical director at the state prison in Avoyelles Parish died of COVID-19-related conditions.¹⁶ East Baton Rouge Parish (the “Jail”) is at risk for a similar explosion.

An outbreak cannot be contained inside the Jail. What happens to the people trapped inside this “ticking time bomb”¹⁷ affects others who cycle through, including correctional and medical staff. *See, e.g.*, Rottnek Decl. ¶ 57, 64. The outbreak then spreads to staff’s families and the community. *Id.* Prison outbreaks can quickly overwhelm regional hospitals, making resources unavailable to treat others suffering from COVID-19 or unrelated life-threatening conditions like heart attacks. *Id.* ¶ 10. As courts have noted, “[t]he more people we crowd into [a] facility, the more we’re increasing

¹⁴ See Jan Ransom & Alan Feuer, *‘We’re Left for Dead’: Fears of Virus Catastrophe at Rikers Jail*, N.Y. Times (Mar. 30, 2020), <https://www.nytimes.com/2020/03/30/nyregion/coronavirus-rikers-nyc-jail.html>.

¹⁵ Asher Stockler, *More Than 700 People Have Tested Positive for Coronavirus on Rikers Island, Including Over 440 Staff*, Newsweek (Apr. 8, 2020), <https://www.newsweek.com/rikers-island-covid-19-new-york-city-1496872>.

¹⁶ Lea Skene, *Coronavirus Hits Louisiana Prisons: Medical Director, Head Warden, First State Inmate Die*, The Advocate (Apr. 20, 2020), https://www.theadvocate.com/baton_rouge/news/coronavirus/article_697c5eb6-8354-11ea-a205-9726a420e972.html.

¹⁷ St. Louis Univ., *“Ticking Time Bomb,” Prisons Unprepared For Flu Pandemic*, ScienceDaily (2006), <https://www.sciencedaily.com/releases/2006/09/060915012301.htm>.

the risk to the community.” *United States v. Stephens*, __ F. Supp. 3d __, No. 15-CR-95, 2020 WL 1295155, at *2 (S.D.N.Y. Mar. 19, 2020) (internal citation omitted).

III. Defendants Are Not Able to—and at Present—Cannot Take Necessary Steps to Prevent A Widespread Outbreak in the Jail.

The Jail is designed to hold nearly 1,600 detainees, the majority of whom are members of the Pre-Trial Subclass. The Jail also holds individuals on work-release, and post-conviction detainees serving sentences with the Department of Corrections. Currently, the jail confines over 1,235 people. Prior to the outbreak of COVID-19, the detainees slept in “lines” designated by letters, which are open spaces with dozens of bunk beds. At the end of each line (or pair of lines) is a shared bathroom and shower facility. The detainees all share “day rooms,” where they socialize, watch television, and speak with their loved ones.

Aggressive measures are required to stop the spread of COVID-19 between and within the lines, as an outbreak in one part of the Jail would all but guarantee a spread of the virus to other detainees and staff. *See, e.g.*, Rottnek Decl. ¶ 12. This risk is not hypothetical given the number of Jail staff and detainees who have already contracted COVID-19. Defendants are well aware of COVID-19 and its grave risks,¹⁸ but they have failed to undertake the necessary measures to protect detainees from contracting the virus, instead directly placing detainees in harm’s way.¹⁹ Indeed, for medically vulnerable detainees, because proper social distancing is not possible in the Jail, there can be no measures to protect them from serious illness or death short of release, as least until there is a vaccine. *See infra* Section J.

¹⁸ *See, e.g.*, Warden, Medical Director of Louisiana Prison Die After Contracting Coronavirus, State Says, WDSU News (Apr. 20, 2020), <https://www.wdsu.com/article/2-new-covid-19-related-deaths-reported-by-louisiana-prison-system-1-inmate-1-employee/32214252>.

¹⁹ This is not new for the Jail, which has a lengthy history of detainee deaths. *See, e.g.*, Teresa Mathew, *More Than 40 People Have Died in Custody of the East Baton Rouge Jail. Will Voters Oust the Sheriff?*, The Appeal (Oct. 9, 2019), <https://theappeal.org/more-than-40-people-have-died-in-custody-of-the-east-baton-rouge-jail-will-voters-send-the-sheriff-packing/>.

This is compounded by the parish's detainee intake procedures. Instead of entering the Jail directly, many detainees are processed through central booking, where they can stay for several days before being transferred to the Jail. Ex. 1, Declaration of Cedric Franklin ¶ 7 ("Franklin Decl."). The cells in central booking are rarely mopped or cleaned, and detainees get cycled in and out through the day. *Id.* None of the cells have mattresses or bedding, and the detainees sleep on the wooden benches or concrete floor. *Id.* ¶ 8. Detainees report that central booking does not test for COVID-19. *See id.* ¶ 9.

A. Social Distancing is Impossible at the Jail and Sanitation and Hygiene is Dangerously Insufficient.

At current populations, social distancing is impossible throughout the Jail. On the F, J, and Q lines of the Jail, where the detainees normally reside, social distancing is unachievable. Detainees are brought to the day room twice a day for roll call and shift change, during which they must stand next to each other while the staff completes the process, and cannot practice social distancing. Ex. 2, Declaration of Willie Shepherd ¶ 6 ("Shepherd Decl."); Ex. 3, Declaration of Christopher Lee Rogers ¶ 48 ("Rogers Decl."). Both roll call and shift change each take one hour to complete. Rogers Decl. ¶48. All of the beds in the Q line, for example, are contained in one open room, spaced about two feet apart. Ex. 4, Declaration of Forrest Hardy ¶¶ 5-6 ("Hardy Decl."); Ex. 5, Declaration of Jerry Bradley ¶ 4 ("Bradley Decl."). The detainees can easily touch other beds while laying in their own. Shepherd Decl. ¶ 5. Detainees are also permitted to visit the day room at certain hours to socialize and watch television, but it is not designed for social distancing. The benches and tables in the room are bolted to the ground and cannot be moved. Hardy Decl. ¶ 7; Shepherd Decl. ¶ 6. Prior the beginning of April, the detainees were also forced to violate social distancing norms in the dayroom for "pill call" twice a day, during which they received their medication. Ex. 6, Declaration of Cedric Spears ¶ 28 ("Spears Decl.").

The guards do not spray surfaces such as the toilet, sink, or door handles as part of their cleaning protocol in the Jail. Rogers Decl. ¶ 22. Plaintiffs are prevented from adequately cleaning any of these surfaces and spaces more frequently themselves because the Jail controls access to basic cleaning supplies, like mops and buckets, and provides them to detainees, at most, twice a day. Rogers Decl. ¶ 25; Ex. 7, Declaration of Demond Harris ¶ 23 (“Harris Decl.”); Hardy Decl. ¶ 16. This failure to provide cleaning supplies is especially important in the bathroom because “[i]f two guys are using the toilets next to each other, their legs could touch.” Hardy Decl. ¶ 6. Detainees also are generally not given bleach to clean these shared surfaces, even though the Jail staff apparently has such chemicals available for this purpose. Ex. 8, Declaration of Joseph Williams ¶ 21 (“Williams Decl.”); Rogers Decl. ¶ 24; Spears Decl. ¶ 10 (describing guards’ use of bleach to kill leeches in the bathroom drain). Most days, phones and tablets, shared by all detainees on a given floor to communicate with loved ones or attorneys, are not cleaned. Bradley Decl. ¶ 14. Many detainees resort to placing socks over their hands when they handle the communal phone. *Id.*; Hardy Decl. ¶ 17; Shepherd Decl. ¶ 28. Finally, laundry is now done twice a week, but the detainees do not believe that the Jail is using proper detergents to sanitize their one uniform and set of sheets. Spears Decl. ¶ 25.

B. Defendants’ testing and identification of COVID-19 has been inadequate

Even though COVID-19 has already infiltrated the Jail, Defendants are not taking adequate measures to prevent the virus from spreading by providing appropriate care for detainees who may be or are positive for COVID-19. Although the first detainee tested positive for COVID-19 on March 9 (and later died in the hospital), the Jail did not change its procedures to account for the virus until late March. Spears Decl. ¶ 27. And when Defendants did introduce steps to identify detainees with COVID-19, they started only by checking the detainees’ temperatures. Hardy Decl. ¶ 10; Harris Decl. ¶ 6; Bradley Decl. ¶ 5. Some detainees who had high temperatures were then

sent back to the line. Spears Decl. ¶ 11. Testing for COVID-19 was introduced only in the second week of April, though not all detainees have been tested. *See* Franklin Decl. ¶ 19; Ex. 9, Declaration of Clifton Belton, Jr. ¶ 4 (“Belton Decl”).

Detainee Christopher Rogers, for example, reported that he wasn’t feeling well in the middle of April. Rogers Decl. ¶ 8. He was told by one of the nurses that because no one on his side of the Jail had the virus, nothing was wrong with him and they would take his temperature later. *Id.* In fact, Rogers was left on the line for several days with a bad headache and body aches, and only had his temperature checked on April 20. *Id.* ¶ 9. He was then tested for coronavirus, and received a positive result four days later, at which point he was transferred from his line to a different location in the Jail. *Id.* In all, Rogers was left on the line for nearly one week while exhibiting symptoms of coronavirus, *see id.* ¶¶ 8-9—potentially exposing hundreds of other detainees. Similarly, Willie Shepherd was left on the line for three days with a headache and body aches before being transferred from the line, and he too tested positive for coronavirus. Shepherd Decl. ¶ 7.

Other detainees similarly report that in spite of the fact that they reported symptoms of coronavirus to the nurses, they were not provided adequate treatment unless their temperatures were above the normal level. Ex. 10, Declaration of Devonte Stewart ¶ 5 (“Stewart Decl.”). During April, there was widespread sickness on the lines, but the Jail was either unable or unwilling to control the spread of disease. Spears Decl. ¶ 11 (describing numerous sick detainees in his line who were never transferred).

C. Defendants maintain dangerous conditions at the Jail.

The Jail’s living conditions are abhorrent. Defendants are not taking basic measures to maintain safe, hygienic conditions at the Jail and are instead creating and perpetuating a dangerous, unsanitary environment that is putting detainees at risk. On the “lines” where the detainees reside,

there is “mold growing and rust everywhere,” the roof leaks, and there is mold and scum in the bathrooms. Hardy Decl. ¶ 4; Shepherd Decl. ¶ 27. Detainees report that there is “blood and other bodily fluids” on the walls, and that some of the lines have cockroaches, leeches, and gnats. Spears Decl. ¶ 5. There is not sufficient air circulation on the lines, and the cells can reach in excess of 100 degrees on some days. Rogers Decl. ¶ 18.

The bathrooms and showers the detainees share are unsanitary or often not even functioning. The shower mats have mold on them, and the showers themselves are rusted. Rogers Decl. ¶ 27. In some of the bathrooms, up to half the urinals are broken, as are some toilets. Spears Decl. ¶ 10. Detainees estimate that the showers are fully sanitized approximately once a week, even though at least 80 detainees share each set of showers, in an area that is not large enough for detainees to have sufficient personal space. Hardy Decl. ¶ 18; Spears Decl. ¶ 19 (describing how the detainees must clean the showers, and are rarely given bleach to do so). The showers that do work are “ice cold,” and some detainees resort to using the sink to shower. Shepherd Decl. ¶ 17; Harris Decl. ¶ 23; Williams Decl. ¶ 23. The drains in the bathrooms are often clogged with waste water, and when the showers are used, water “pour[s] out onto the floor and leak[s] down the whole line.” Rogers Decl. ¶ 27.

Detainee Cedric Spears, who worked in the kitchen from mid-February to mid-March, describes it as such:

The kitchen is filthy. You can smell the spoiled food when you walk into the kitchen. There is also old food caked into the cracks in the serving line area, on the counter, and on the walls. There are food particles everywhere. They don’t sanitize anything properly, most of the dishes aren’t cleaned properly, and they use the same broom for sweeping the floors and cleaning out the hot box where food is stored.

Spears Decl. ¶ 7.

D. Defendants’ use of “lockdown” to treat detainees with COVID-19

For those detainees identified as sick, the Jail has established a policy of isolation and

denial of basic medical services, placing detainees at increased risk of medical distress. In response to the outbreak of COVID-19, the Jail re-opened the A, B, and C blocks of the Jail, which had been closed down two or three years earlier for “safety concerns.”²⁰ Harris Decl. ¶ 8; Rogers Decl. ¶ 13; Bradley Decl. ¶ 9.

The conditions in the decrepit A, B, and C blocks are even worse than the conditions on the F, J, and Q lines. Because these areas of the Jail had not been outfitted for human habitation for several years, there are rats, cockroaches, and spiders in the cells, and the detainees have seen fibers or hairs in the water and do not know if the sinks in their cells are safe to drink from. Harris Decl. ¶ 8; Rogers Decl. ¶ 22; Franklin Decl. ¶ 37; Shepherd Decl. ¶ 14; Williams Decl. ¶ 11 (“I have to store [my property] high up so the rats can’t get into it” and describing a rat “the size of an opossum”); Bradley Decl. ¶ 9. Many of the showers, toilets, and sinks are leaking, and mold grows abundantly in those areas. Rogers Decl. ¶ 27. The guards only rarely clean the blocks, and this limited sanitation is confined to the hallway floor, not door handles or other communal areas. Rogers Decl. ¶ 22. The cells are so close to one another that detainees can reach out through the iron bars of their cell into an adjacent cell, which they did to pass items such as food and toilet paper. Williams Decl. ¶ 9; Rogers Decl. ¶ 17; Harris Decl. ¶ 9. Detainees are given a single piece of paper towel to clean down their cells, and were not provided with any cleaning supplies apart from soap and water from their sinks. Bradley Decl. ¶¶ 10, 12.

Detainees in the A and C blocks are held in solitary confinement, while detainees in the B block share their cells with up to two other detainees. Williams Decl. ¶ 8; Harris Decl. ¶ 8. Within the B block cells, it is impossible for the detainees to practice social distancing. Williams Decl. ¶

²⁰ See also Lea Skene, *Officials Close Three Wings at Aging East Baton Rouge Prison Because of Safety Concerns*, The Advocate (Dec. 31, 2018), https://www.theadvocate.com/baton_rouge/news/article_56230150-0315-11e9-b84f-97327cf57814.html.

10 (“We can’t stay 6 feet apart from the people in our cell because there’s not that much space in the cell.”). Not all of the detainees in the blocks have tested positive for COVID-19, and detainees who have tested positive for COVID-19 are sometimes placed in the same cells as those who have tested negative. Shepherd Decl. ¶ 8.

Detainees on “lockdown” in the A, B, and C blocks are locked in their cells for most of the day. Some detainees report that they were kept in their cell the entire day for their first week in lockdown, and were only permitted to leave their cells for up to an hour thereafter (and some for less time), permitting them finally to shower or use the phone to call their loved ones. Harris Decl. ¶ 11; Rogers Decl. ¶ 14; Stewart Decl. ¶ 13; Shepherd Decl. ¶ 15. Detainee Devonte Stewart explains that he has been threatened with mace and beatings if he asks to be let out of his cell for more than thirty minutes. Stewart Decl. ¶ 16. While in isolation, the detainees are largely prohibited from speaking with their families or receiving any news from the outside world. Shepherd Decl. ¶ 8; Rogers Decl. ¶¶ 14, 21, 33 (describing the lack of a television in the day room in Block B).

E. Defendants in lockdown lack access to basic medical services

Because detainees in lockdown are isolated from the rest of the Jail, they are often denied the same access to medical care even though they are most vulnerable. Detainees report that the guards rarely visit the cells in the blocks, and therefore fail to respond to the detainees’ concerns. Harris Decl. ¶ 20 (“The nurses were so scared to go back to the lockdown lines that they would only come back to check our temperatures and then literally run out of there”); Stewart Decl. ¶ 17. The nurses, who are supposed to visit twice a day for pill call, do not arrive every day, and jail staff with no experience or training in medicine are left to administer medication. Rogers Decl. ¶ 37. Sometimes the nurses do temperature checks during pill call, and sometimes they do not. Franklin Decl. ¶ 42.

Willie Shepherd has high blood pressure and a bleeding ulcer. Shepherd Decl. ¶ 4. On April 11, 2020, he reported that he had a headache and body aches. *Id.* ¶ 7. Three days later, a Jail nurse administered a COVID-19 test to Shepherd. Five days later, Shepherd tested positive for Covid-19. *Id.* For a total of eight days, Shepherd remained in the Q3 line with 45 other detainees while he exhibited symptoms of COVID-19. *Id.* ¶¶ 5, 7. Shepherd was transferred to the B3 Block, and was placed in a cell with four other detainees who had tested *negative* for COVID-19. *Id.* ¶ 8. Shepherd describes the medical care he received in the B3 Block:

We didn't get any real medical care on B3. Medical staff came back twice a day for pill calls, when they would give us our prescription medications. I got medications for my high blood pressure and bleeding ulcer at pill call. But all they gave us for coronavirus was Tylenol. After about a week and a half on B3, the nurses also began giving us vitamins. That was all we got. We didn't even get Gatorade, and we barely got any water. I don't know why they moved us if they weren't going to do anything for us but give us Tylenol and vitamins. The nurses didn't give us any other medical care during pill call.

Id. ¶ 9. One day, Shepherd was throwing up blood. *Id.* ¶ 11. It took Jail staff five hours to respond, by which time Shepherd had cleaned up any traces of blood from the toilet into which he vomited. *Id.* As a result, the nurse refused to give him any medical treatment. *Id.* He received water in his cell only sporadically, and the water in the sink in his cell was “really hot, and if it sat for a little while, brown stuff came out of the sink.” *Id.* ¶ 14. Three weeks later, Shepherd was moved back to the Q line, but was never given any paperwork to corroborate that he in fact tested negative for COVID-19. *Id.* ¶ 20.

Jerry Bradley is currently in lockdown. Previously confined on the Q9-10 line with over 100 other detainees, he was moved to Block C01 on April 13, 2020, even though he did not report any body aches or other symptoms, and his temperature was under 100 degrees. Bradley Decl. ¶¶ 4, 6. He learned that he tested positive for COVID-19 on April 14, and was transferred with five other positive detainees to lockdown. *Id.* ¶ 8. His first night in lockdown, the Jail staff brought

him only one cup of drinking water, and other nights he was given no water at all. *Id.* ¶ 11. He received no cleaning supplies apart from soap, water, and a paper towel. *Id.* ¶ 12. For medical treatment, Bradley received vitamins, Mucinex, and Tylenol, none of which are proven to treat COVID-19. *Id.* ¶ 15. He received no other medical care, and was transferred to the A1 Block after about a week, where he has remained—on lockdown—for over a month. *Id.* ¶ 17. During the time he has been on lockdown, he has seen more and more sick detainees brought to his block, and he fears becoming sick again. *Id.* ¶ 21. Nor is he improving; Bradley tested negative for COVID-19 on May 1, positive on May 4, and positive again on May 19. *Id.* ¶ 22.

Joseph Williams, is also currently in lockdown, transferred there after recording a temperature of approximately 100 degrees on April 24 and testing positive on a test administered the next day. Williams Decl. ¶¶ 5, 7, 13. He shares his cell with one other detainee, but they cannot stay six feet apart because the cell is only ten by six feet. *Id.* ¶ 10; Shepherd Decl. ¶ 8. Several days after his positive test, he was given Tylenol to manage the symptoms. Other detainees around him were not as fortunate; he describes how he beat on the door of his cell for 15-20 minutes to get medical attention for one of the other detainees, until the guards finally stopped ignoring him. *Id.* ¶ 16. And Williams describes his own experience when he suffered chest and stomach pains, including vomiting:

I tried to get medical care by beating on the door for 20-30 minutes, but no one responded. I had to call my aunt to get some help. She and several other members of my family called . . . to try to get me some medical attention. Guards finally came on the line to check on me, and I told them to call medical. They kept asking me why, but one of the guards finally called medical. The nurse was mad at me when she got to the line. She just checked my temperature and blood pressure, then gave me Tylenol and another pill for three days. I don't know what that pill was, and I didn't have a temperature. The nurse left immediately after.

Id. ¶ 17. Defendants are failing to provide basic medical services to the most vulnerable detainees, including those in lockdown.

F. Defendants do not provide basic personal hygiene supplies or sufficient personal protective equipment to detainees in response to COVID-19.

In the face of this global pandemic, Defendants have not and do not provide detainees with enough of the basic hygiene supplies that are critical to preventing the spread of COVID-19. Although the CDC advises that handwashing is one of the best ways to protect against COVID-19,²¹ the Jail only provides a single small bar of soap per week to detainees, and even then only sometimes. Hardy Decl. ¶ 19. If the detainees want extra soap, those who can afford it must purchase it from the commissary, an overwhelming burden given that the vast majority of detainees live below the poverty line.²² Rogers Decl. ¶ 28; Williams Decl. ¶ 25. In addition to using the soap for their personal hygiene, detainees must use the single bar of soap to sanitize their cells and communal spaces. Harris Decl. ¶ 26; Williams Decl. ¶¶ 20. Defendants do not otherwise provide Plaintiffs or putative class members with supplies for hand sanitization. Spears Decl. ¶ 23.

The detainees also are not given access to sufficient personal protective equipment, such as masks and gloves. No detainee received any sort of mask until April 7—a full week after the CDC issued its guidance to prisons—and the masks were provided only to a portion of the detainees. See Compl. ¶ 46; Harris Decl. ¶ 16. For the detainees who received masks, they were instructed to use them for a full week. Williams Decl. ¶ 27. Other detainees were given bandanas instead of masks, which they are given the option to turn in for cleaning once a week. *Id.*; Rogers Decl. ¶ 12; Hardy Decl. ¶ 20; Shepherd Decl. ¶ 19. No detainees are given gloves. Rogers Decl. ¶ 12; Spears Decl. ¶ 20. And even the staff does not consistently wear personal protective

²¹ See Ctrs. for Disease Control & Prevention, *When and How to Wash Your Hands*, <https://www.cdc.gov/handwashing/when-how-handwashing.html> (last visited May 26, 2020).

²² Grace Toohey, *East Baton Rouge Parish jails people at rates far higher than New Orleans and Lafayette: Here's Why*, The Advocate (Sept. 14, 2019), https://www.theadvocate.com/baton_rouge/news/courts/article_aa68a582-c45b-11e9-8439-a7110c42fa80.html.

equipment when they interact with the detainees. Shepherd Decl. ¶ 22; Williams Decl. ¶ 27; Bradley Decl. ¶ 5.

Following the outbreak of the virus, the guards now bring food to the detainees in their cells. Hardy Decl. ¶ 21; Shepherd Decl. ¶ 13. Some guards wear masks and gloves while they deliver the food, and others do not. Rogers Decl. ¶ 35. Jail staff will sometimes serve food to detainees on the same carts that are used for collecting trash. Spears Decl. ¶ 18; Hardy Decl. ¶ 22.

G. Defendants fail to provide adequate and timely medical care.

1. Defendants’ medical procedures are inadequate and have been for years.

For years, Baton Rouge policymakers have acknowledged that the old closed part of the jail is unfit for the safe detention of people and the provision of health care.²³ In 2015, Sheriff Gautreaux told the Parish’s Metro Council the “old part of the prison is really in deplorable condition. We have issues with ventilation; with plumbing. Really it’s laid out in the old way, that poses a problem from a safety standpoint for the safety of the inmates in the prison . . . ”²⁴ He concluded that the current facility is “not adequate for providing health care” and admitted the “if [investigators from the federal Department of Justice] came in that prison today, they would shut half of it down.” The Metro Council also heard that Dr. Rani Whitfield, who had worked in the jail for 16 years, witnessed a “significant decline in care to patients” due to underfunding and

²³ See Lea Skene, *Officials Close Three Wings at Aging East Baton Rouge Prison Because of Safety Concerns*, The Advocate (Dec. 31, 2018), https://www.theadvocate.com/baton_rouge/news/article_56230150-0315-11e9-b84f-97327cf57814.html

²⁴ See Ex. 17 to Compl., City of Baton Rouge/Parish of East Baton Rouge, Jan. 14, 2015 Metro. Council Mtg., Items 13P and Q Part 1.

understaffing.²⁵ Councilwoman Banks-Daniel presciently described the health care situation in the jail as “catastrophic.”²⁶

Even for those not on lockdown, the process for obtaining medical attention—for COVID-19 symptoms or more routine medical care—is woefully deficient. To request medical attention, detainees are required to fill out a “medical request form,” and the nurses are supposed to check on the detainees when they distribute pills. Bradley Decl. ¶ 15; Stewart Decl. ¶ 25 (“I asked them for extra medicine, and they said my injuries are not serious enough and they need paperwork to treat them”). During pill call, detainees speak to the nurses without masks, and are not permitted to wash their hands before handling and taking their pills. Spears Decl. ¶ 28. And even when detainees are able to make formal requests for medicine or treatment, their requests are often delayed or ignored. Rogers Decl. ¶ 39; Stewart Decl. ¶ 16. In addition, since the outbreak of COVID-19, detainees believe that the medical staff has been less attentive to other medical needs of the detainees. Shepherd Decl. ¶ 25; Spears Decl. ¶ 31 (“I can’t talk to the social worker about my [mental health] diagnosis or my medications because she won’t come back on the line to talk to us.”).

Many detainees report that they cannot get medical attention when they require it. Christopher Rogers recalls that there were times when his leg was numb while he had COVID-19 but no one came to help him when he called to the nurse for help. Rogers Decl. ¶ 40. For those who are brought to the infirmary, it is described as “nasty,” with gnats and pooled water. Belton Decl. ¶ 8. There is also no buzzer or call button to alert the staff in the case of an emergency, and all of the infirmary facilities are shared, regardless of the ailments of the detainees in the infirmary.

²⁵ Ex. 18 to Compl., City of Baton Rouge/Parish of East Baton Rouge, Aug. 26, 2015 Metro. Council Mtg. 28:10, Item 9 Part I and II.

²⁶ *Id.* at 51:39.

Id.

Finally, some detainees report that the Jail has now stopped providing even the rudimentary protections it previously permitted, such as checking temperatures and testing for the virus. Spears Decl. ¶ 27; Shepherd Decl. ¶ 24.

2. Defendants ignore and retaliate against detainees for filing grievances concerning the lack of medical care or unsanitary conditions of confinement

Although the Jail has a formal process for filing “grievances,” it has ignored most grievances related to COVID-19. In order to file a grievance, a detainee must complete a specific form. Spears Decl. ¶ 33. Because the box in which the detainees must place the grievance form is outside the living area, the detainees must give the grievance forms to the guards, and rely on them to put them in the box. *Id.* In addition, the forms are only sometimes available, and the staff will make excuses as to why a detainee cannot receive a form at the moment. *Id.* at ¶ 27.

Because the Jail has discouraged grievances since the COVID-19 outbreak and responded to only a very few grievances submitted, detainees fear retaliation if they continue to push for a response. Hardy Decl. ¶ 24. In fact, some detainees have been punished for raising grievances. Christopher Rogers asked to speak with the Jail Captain and Warden regarding his grievances as to the conditions in the B Block, and was told that the Sergeant in charge of responding to grievances would not visit the B Block to speak with him. Rogers Decl. ¶ 43. After filing a second grievance related to the inability for detainees to use chemical cleaning products in their cells, the Deputy involved came to Rogers’ cell, questioned him aggressively, and shoved Rogers into a wall. *Id.* ¶ 44. Rogers received no other response to this grievance.

H. Defendants’ failure to control the COVID-19 outbreak and use of punitive solitary confinement threatens the mental health and safety of all detainees

In addition to the physical ailments that the detainees are forced to endure with limited medical attention, their mental health is also suffering as a result of the Jail’s policies towards

COVID-19. Many of the detainees are worried that they are at high risk of contracting the virus because of the close quarters, and because there is frequent transfer of detainees between the different blocks, increasing the likelihood that healthy detainees are put into contact with those who have contracted the virus.

Several detainees report anxiety because they know that the Jail is not adequately prepared to help them:

- “I feel like my life might be in danger if I get the coronavirus in here. I’m really stressed because no one is listening to me in here.” Spears Decl. ¶ 32;
- “I’m really stressed on B3 because I could be home but I’m stuck here on a parole hold and I’m locked in a cell around sick people . . . ” Williams Decl. ¶ 29.
- “It was really stressful to be on the B3 line because we were bored, isolated, we didn’t know what was going on, and there were older people back there in way worse condition. One man was really sick. We would bring him water when we could, but it was depressing and stressful to watch him struggle. I have been diagnosed with depression and anxiety, and being on B3 was making me more depressed and stressed. Even after I thought I’d beat coronavirus, I was stuck back there with sick people, and I was constantly afraid I’d get sick again.” Rogers Decl. ¶ 42;
- “It’s really tough being in lockdown. I’m depressed, angry, and stressed back here. And I’m often very hungry, too.” Stewart Decl. ¶ 28;
- “They’re really not doing this ‘isolation’ thing well. They aren’t social distancing us at all, and they’re mixing people who haven’t been confirmed to have coronavirus with those who have tested positive.” Franklin Decl. ¶ 43.

That anxiety is surely heightened for those held—even for period of weeks—in punishing solitary confinement. It is well-documented that solitary confinement, even for a period of days or weeks can have profound psychological and physical effects, such as a heightened state of anxiety and nervousness, obsessive thoughts, paranoia, hallucinations, headaches, insomnia, lethargy or chronic fatigue, nightmares, heart palpitations, suicidal ideations and fear of impending

nervous breakdowns.²⁷

Because the Jail is failing to take even remedial steps to assuage the fears of the detainees, legal recourse is necessary in order to protect the detainees' wellbeing.

I. Defendants fail to provide information about COVID-19 and its spread.

Defendants have done little to educate the detainees in their care about the pandemic; detainees are instead forced to rely on the news or information from loved ones—when they can access it—for details about the virus and how to best protect themselves. Although some signs about keeping clean and not touching their faces have been posted, Jail staff have not explained the symptoms or warning signs of the virus to detainees. Spears Decl. ¶ 29; Hardy Decl. ¶ 23 (“The guards don’t give us any information or updates about the coronavirus, and they didn’t tell us about washing our hands.”). As detainee Cedric Spears explains:

The guards don’t tell us anything about the coronavirus or how to take care of ourselves during the pandemic. We haven’t seen the Warden since the beginning of the pandemic, and no ranking officer comes back to tell us anything. The guards mostly just try to get off the line quickly. They act like they’re in danger being around us, but they’re the ones who go into the community and get exposed to the virus. We might have had a sign up with information about coronavirus at one point, but I don’t think I saw signs on each of the lines I was on. We try to get our information about the coronavirus when we watch the news – there are two 32-inch tvs in the day room.

Spears Decl. ¶¶ 29-30. But those detainees who were transferred into the A, B, and C blocks are prohibited from going to the day room or watching television, leaving them with no “information about coronavirus, how to protect ourselves, or what was going on in the world.” Rogers Decl.

²⁷ See, e.g. Craig Haney, *Infamous Punishment: The Psychological Effects of Isolation*, 8 Nat’l Prison Project Journal 3 (1993); Stuart Grassian, *Psychopathological Effects of Solitary Confinement*, Am. J. of Psychiatry, 140 at 1450- 54 (1983); Peter Smith, *The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature*, in Michael Tonry (Ed.), *Crime and Justice* (2006) at 441-528; Hans Toch, *Men in Crisis: Human Breakdowns in Prisons*. Aldine Publishing Co. (1975) at 50-55; Jeffrey Metzner & Jamie Fellner, *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, 38 J. of the Academy of Psychiatry and Law 104, 104 (2010), http://www.hrw.org/sites/default/files/related_material/Solitary%20Confinement%20and%20Mental%20Illness%20in%20US%20Prisons.pdf.

¶ 33; Williams Decl. ¶ 19. Demond Harris crystallizes the general attitude of his fellow detainees:

I think the jail staff is trying to create an atmosphere of fear around lockdown so that guys won't report symptoms to avoid going on the line. They took away almost all of our privileges on lockdown, including commissary, access to hygiene products, mail, open access to phones, and tvs. Why else would they take all of our privileges away? If people on the line heard about that, they wouldn't want to tell the nurse they were sick and they would be scared to go to lockdown. So they kept their symptoms quiet, and the jail staff let the virus spread throughout the jail. I think this is how the jail has kept their positive-case count down.

Harris Decl. ¶ 33. In sum, Defendants created and have now perpetuated an environment in which the named Plaintiffs and all class members face grave risks to their health, and endure continual violations of their constitutional rights.

J. Expert Medical Opinion Demonstrates that Release from Detention is the Only Remedial Measure that Will Protect Medically Vulnerable Detainees.

The overwhelming medical and scientific consensus is that social distancing of at least six feet is required to reasonably reduce the risk of transmission of the novel coronavirus. Hassig Decl. ¶ 3; Luring Decl ¶ 42; Rottnek Decl. ¶ 13. As Dr. Carlos Franco-Paredes explains, measures short of social distancing like the ones recommended by the CDC are important but “insufficient to interrupt the transmission of COVID-19 infection, unless social distancing is also meaningfully implemented.”²⁸ Not only is this the judgment of the prominent local and national medical experts,²⁹ but the Centers for Disease Control and Prevention (CDC),³⁰ the American Medical

²⁸ See Ex. 5 to Compl., Declaration of Dr. Carlos Franco-Paredes at 1, *Cameron v. Bouchard*, No. 20-cv-10949 (E.D. Mich. April 17, 2020), ECF No. 1-6 (“Paredes Report”); see also Order at 6, *Wilson v. Williams*, No. 20-cv-794 (N.D. Ohio Apr. 22, 2020), ECF No. 22 (“Respondents say that soap and disinfectant are readily available . . . However, these supplies can only be so useful in an environment where the inmates are constantly in close proximity to each other.”).

²⁹ See Meyer Decl. ¶ 9 (“When infectious diseases are transmitted from person to person by droplets, the best initial strategy is to practice social distancing.”); *id.* ¶ 23 (“As infectious diseases spread in the community, public health demands mitigation strategies, which involves social distancing and closing other communal spaces . . . to protect those most vulnerable to the disease.”); see also Ex. 13 to Compl., Declaration of Robert B. Greifinger ¶¶ 4, 8, *Dawson v. Asher*, Case No. 2:20-cv-00409-JLR-MAT (D. Or., filed Mar. 16, 2020), ECF No. 4; Ex. 8 to Compl., Declaration of Elizabeth Y. Chiao ¶ 12, *Russell v. Harris Cty.*, No. 4:19-cv-00226 (S.D. Tex. Mar. 27, 2020), ECF No. 32-2.

³⁰ Ctrs. for Disease Control & Prevention, *Social Distancing, Quarantine, and Isolation*, (Apr. 4, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>; Ctrs. for Diseases Control

Association,³¹ the American Red Cross,³² and the Florida Department of Health³³ have all concluded that social distancing is essential to preventing transmission of the deadly infection.

Because social distancing at the jail is impossible, *see* Hassig Decl. ¶ 9; Rottnek Decl. ¶ 16, medical experts have concluded, Hassig Decl. ¶ 10; Laring Decl. ¶¶ 36–37; Paredes Decl. Executive Summary; Stern Decl. ¶¶ 12–13, the *only* way to protect the subclass from the imminent threat of death or life-threatening illness is to order them removed from the jail.³⁴ Medically-vulnerable detainees should be prioritized, as they are at greatest risk of contracting and spreading COVID-19 and because their underlying morbidities make them highly susceptible to serious illness and death. *Id.* This risk is not only to other detainees; staff, medical professionals, and their communities and families are at increased risk of infection if they work in dangerous conditions. Rottnek Decl. ¶ 57. Nor should detainees be transferred to other facilities where there may be more space, as the transport process often “places both detainees and accompanying staff in potentially risky proximity,” and introduces the possibility of introducing infection into new facilities. Hassig Decl. ¶¶ 10, 11.

The Chief Justice of the Louisiana Supreme Court has likewise recognized the perils of not releasing medically vulnerable detainees, encouraging district court judges to release

& Prevention, *How to Protect Yourself & Others* (Apr. 13, 2020) (explaining the paramount importance of social distancing, even if taking other precautions such as a mask).

³¹ AMA, AHA, ANA: *#StayHome to confront COVID-19*, Am. Medical Ass’n (Mar. 24, 2020), <https://www.ama-assn.org/press-center/press-releases/ama-aha-ana-stayhome-confront-covid-19>.

³² *Coronavirus – What Social Distancing Means*, Am. Red Cross (Apr. 14, 2020), <https://www.redcross.org/about-us/news-and-events/news/2020/coronavirus-what-social-distancing-means.html>.

³³ *How Do I Prevent and Prepare For COVID-19?*, Fla. Dep’t of Health (Apr. 24, 2020), <https://floridahealthcovid19.gov/prevention/>.

³⁴ *Malam v. Adducci*, __ F. Supp. 3d __, 2020 WL 1672662 (E.D. Mich. Apr. 5, 2020) at *4 (“[T]he public health recommendation is to release high-risk people from detention, given the heightened risks to their health and safety” (citing declaration by infectious disease epidemiologist Joseph Amon)); *see also Thakker v. Doll*, __ F. Supp. __, 2020 WL 1671563, at *9 (M.D. Pa. Mar. 31, 2020).

detained persons because a coronavirus outbreak in jails and prisons would be “catastrophic for jail staff, the families of jail staff, and inmates.”³⁵

ARGUMENT

Plaintiffs and the class members they seek to represent are at imminent risk of death or serious injury. If this litigation is decided in the ordinary course, many class members, particularly the subclass of medically vulnerable detainees (“Medically Vulnerable Subclass), will become seriously ill and die before final judgment.³⁶ Numerous others will suffer severe pain or organ damage. In order to protect the safety and lives of the subclass members, the Court should issue a temporary restraining order requiring their release from the unsanitary, infectious jail environment because there are no measures that Defendants can take within the facility to protect these detainees from an unconstitutionally high risk of death or serious bodily harm. Their lives depend on how quickly they are released—subject to reasonable conditions—to preserve the status quo, namely the health and life of subclass members. This relief is appropriate either through 28 U.S.C. § 2241 or, in the alternative, through 42 U.S.C. § 1983.

Under Rule 65, “[a] plaintiff seeking a preliminary injunction must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). *Lake Charles Diesel, Inc. v. General Motors Corp.*, 328 F.3d 192, 195 (5th Cir. 2003). The Court likewise has

³⁵ See Chief Justice Bernette Joshua Johnson, Letter to the Louisiana District Judges (Apr. 2, 2020) <https://www.lasc.org/COVID19/2020-04-02-LASC-ChiefLetterReCOVID-19andjailpopulation.pdf>; see also Javonti Thomas, *Louisiana Chief Justice calls for reduced jail populations to combat COVID-19 outbreak*, KALB (Apr. 3, 2020) <https://www.kalb.com/content/news/Louisiana-Chief-Justice-calls-for-reduced-jail-populations-to-avoid-COVID-19-outbreak--569348241.html>.

³⁶ Plaintiffs are contemporaneously filing a motion for certification of a class of all persons detained at EBPP, as well as a (i) subclass of medically vulnerable detainees who are the subject of this motion; (ii) subclass of pretrial individuals; (iii) subclass of post-conviction individuals.

independent authority under habeas corpus, 28 U.S.C. § 2241, to order immediate release from unconstitutional confinement. *See infra* Section (IV).

As explained below, the Medically-Vulnerable Subclass members satisfy each of these Rule 65 elements and that release pursuant to habeas and this Court’s inherent equitable powers is mandated. There is voluminous evidence in the record showing that the Subclass members are particularly vulnerable to severe illness and death, through their likely exposure to the surging COVID-19 virus. The evidence demonstrating the serious risk they face to their health, including a risk of death, constitutes the clearest form of irreparable harm that the law recognizes. There is no remediation to the risk medically vulnerable subclass members face that Defendants could take, short of release.

Subclass members are likely to succeed on their due process and habeas claims because subjecting pretrial detainees to such an unreasonable health risk constitutes impermissible punishment under the Fourteenth Amendment, particularly as the Defendants can safeguard any legitimate government interest in preventing flight through reasonable alternatives to detention. Further, Defendants are acting unconstitutionally under the Eighth Amendment “deliberate indifference” standard applicable to post-conviction subclass members as their failure to implement the basic steps recommended by health experts, the CDC, and Governor John Bel Edwards³⁷ when they are well aware of the extreme risks posed by this virus constitutes deliberate indifference.

I. SUBCLASS MEMBERS WILL SUFFER IRREPARABLE HARM IN THE ABSENCE OF A TRO MANDATING THEIR RELEASE.

³⁷ See Executive Order, (May 15, 2020), <https://gov.louisiana.gov/assets/Proclamations/2020/58-JBE-2020.pdf>.

“Perhaps the single most important prerequisite for the issuance of a preliminary injunction is a demonstration that if it is not granted the applicant is likely to suffer irreparable harm before a decision on the merits can be rendered.” *Monumental Task Comm., Inc. v. Foxx*, 157 F. Supp. 3d 573, 582-83 (E.D. La. 2016), *aff’d sub nom. Monumental Task Comm., Inc. v. Chao*, 678 F. App’x 250 (5th Cir. 2017) (quotations omitted). The Fifth Circuit requires only a “substantial threat” of irreparable injury, *DSC Commc’ns Corp. v. DGI Techs., Inc.*, 81 F.3d 597, 600 (5th Cir.1996), which is defined as “harm for which there is no adequate remedy at law,” such as monetary damages. *Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579, 585 (5th Cir. 2013). A court “need not await a tragic event” to afford injunctive relief. *Helling v. McKinney*, 509 U.S. 25, 33 (1993) (noting “It would be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their prison on the ground that nothing yet had happened to them.”).

Plaintiffs allege injuries that are irreparable and, therefore, are not suitable for resolution in the ordinary course of litigation. There is no injury that is more irreparable than death, and Plaintiffs face a heightened risk of contracting a deadly virus due to Defendants’ actions. *See In re Bahadur, No. EP-19-CV-00357-DCG*, 2020 U.S. Dist. LEXIS 33455, at *14 (W.D. Tex. Feb. 27, 2020); *Chambers v. Coventry Health Care of Louisiana, Inc.*, 318 F. Supp. 2d 382 (E.D. La. 2004) (irreparable harm found where late detection of cancer could lead to death). This risk is neither speculative nor attenuated: in a prison in Oakdale, Louisiana where COVID-19 has been allowed to spread, five people have died in less than a week.³⁸ With 93 confirmed COVID-19 cases in the Jail³⁹, the risk of death and physical devastation to subclass members is an absolute certainty of

³⁸ *ACLU Sues Louisiana Prison After 5 COVID-19 Deaths Reported*, Democracy Now (Apr. 7, 2020), https://www.democracynow.org/2020/4/7/headlines/aclu_sues_louisiana_prison_after_5_covid_19_deaths_reported.

³⁹ *See* Ex. 1 to Compl., EBRPP COVID-19 Statistics (May 14, 2020).

the kind that cries for judicial relief.

Even short of death, Plaintiffs are at grave risk of contracting severe and potentially lifelong medical conditions – including neurologic damage and the loss of respiratory capacity—and may require extensive rehabilitation or profound reconditioning—which also establishes irreparable harm. *See, e.g., Vazquez-Berrera v. Wolf*, No. 20-cv-1241, 2020 WL 1904497, at *6 (S.D. Tex. Apr. 17, 2020) (“Given Plaintiffs’ vulnerabilities to serious illness if infected with the coronavirus and the serious and imminent risk of infection if they remain in immigration detention, Plaintiffs have shown irreparable harm.”); *see also Unknown Parties v. Johnson*, No. CV- 15-00250-TUC (DCBx), 2016 WL 8188563, at *15 (D. Ariz. No. 18, 2016), *aff’d sub nom Doe v. Kelly*, 878 F.3d 710 (9th Cir. 2017) (irreparable harm where evidence demonstrated “medical risks associated with . . . being exposed to communicable diseases”).

The expert evidence in this case demonstrate that short of release, there are no sufficient measures—preventative or palliative—that Defendants can implement to protect Subclass Members from the unprecedented threats to the safety of these individuals—and those who come in contact with them, including staff, healthcare providers, and local populations. Hassig Decl. ¶¶ 9, 10; Rottnek Dec. ¶¶ 54, 57. Release is the only option. *See also* Luring Decl. ¶¶41-43 (opining that until a vaccine is developed, “For the medically vulnerable . . . immediate release is the only option. The detainees’ inability to practice physical distancing at all times, coupled with the Jail’s failure to properly screen, identify, and quarantine infection, and their widespread neglect of medical needs creates a meaningfully higher risk of death for these individuals.”). Recognizing these grave risks, courts across the country have granted immediate relief to people seeking to avoid medically-unsafe confinement.⁴⁰

⁴⁰ *See Zhang v. Barr*, No. ED CV 20-00331-AB, 2020 WL 1502607, at *6 (C.D. Cal. Mar. 27, 2020) (granting an immediate bond hearing in light of the “global pandemic by which delay in determining Petitioner’s release exposes

Moreover, Plaintiffs seek relief from violations of their constitutional rights. In the context of a preliminary injunction, the loss of a constitutional right “unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

II. SUBCLASS MEMBERS ARE LIKELY TO SUCCEED ON THE MERITS OF THEIR CLAIMS

The government has a constitutional duty to protect those it detains from “a substantial risk of serious harm.” *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). This right arises under the and under the Fourteenth Amendment’s Due Process Clause pre-conviction, *see City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983), and under the Eighth Amendment post-conviction, *see id.*; *Estelle v. Gamble*, 429 U.S. 97, 104 (1976). Subclass members are likely to succeed on their claims because Defendants are subjecting detainees to an unreasonable level of risk in violation of pretrial detainees’ Fourteenth Amendment rights and are otherwise deliberately indifferent to the substantial risk that Medically Vulnerable Subclass members will contract COVID-19 within the current conditions at the Jail, in violation of the Eighth Amendment.

It is a fundamental constitutional proposition that, when the State holds individuals in its custody, the state officials have an obligation to provide for their basic human needs, including medical care and reasonable safety. *DeShaney v. Winnebago Cty. Dep’t of Soc. Servs.*, 489 U.S. 189, 199–200 (1989).

The rationale for this principle is simple enough: when the State by the affirmative exercise of its power so restrains an individual’s liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs— e.g., food, clothing, shelter, medical care, and reasonable safety—it

him to unnecessary risk”); *United States v. Garlock*, No. 18-Cr-00418, 2020 WL 1439980, at *1 (N.D. Cal. Mar. 25, 2020) (ordering, *sua sponte*, extension of convicted defendant’s surrender date and noting “[b]y now it almost goes without saying that we should not be adding to the prison population during the COVID-19 pandemic if it can be avoided”); *Castillo v. Barr*, __ F. Supp. 3d __, CV 20-00605 TJH (AFMx), 2020 WL 1502864, at *5 (C.D. Cal. Mar. 27, 2020) (noting “the risk of infection in immigration detention facilities – and jails – is particularly high”); *Cameron v. Bouchard*, No. 20-cv-10949, 2020 WL 1929876 (E.D. Mich. Apr. 17, 2020) (emergency hearing scheduled for medically-vulnerable subclass).

transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause.

Id. (citations omitted); *accord Hare v. City of Corinth, Miss.*, 74 F.3d 633, 639 (5th Cir. 1996); *see also Youngberg v. Romeo*, 457 U.S. 307, 324 (1982) (the state has an “unquestioned duty” to provide adequate medical care for detained persons).

In the Fifth Circuit, “Pretrial detainees and convicted prisoners, however, look to different constitutional provisions for their respective rights to basic needs such as medical care and safety.” *Hare*, 74 F.3d at 639. For pretrial Subclass members, their claims must be evaluated under the Fourteenth Amendment’s Due Process Clause, *see City of Revere*, 463 U.S. at 244, which prohibits conditions that are unreasonably excessive to a legitimate government purpose such that they amount to punishment. *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). Subclass members who are post-conviction are protected by the Eighth Amendment, which prohibits “deliberate indifference to inmate health or safety.” *Palmer v. Johnson*, 193 F.3d 346, 352 (5th Cir. 1999). Defendants violate both standards. Defendants’ actions demonstrate that they are unable to abate the probability of widespread COVID-19 infection and the resultant high risk of severe illness or death. Defendants are thus violating their constitutional duties to all subclass members.

A. Subclass Members Who Are Pretrial Are Subject to Unreasonable, Punitive Conditions of Confinement in Violation of the Fourteenth Amendment.

Because those Subclass Members who are pretrial have never been adjudicated to be guilty of a crime, they enjoy substantive due process protections stemming from the Fourteenth Amendment, which accordingly protects pretrial detainees from *any* punishment, including

general conditions of confinement that become unreasonably punitive. *Bell v. Wolfish*, 441 U.S. 520, 539 (1979); *Hare*, 135 F.3d at 169.

A condition of detention amounts to impermissible punishment when “it is not reasonably related to a legitimate goal,” if it is “excessive” in relation to a legitimate goal,” or if it is otherwise “arbitrary or purposeless”—a court permissibly may infer that the purpose of the governmental action is punishment that may not constitutionally be inflicted upon detainees qua detainees.” *Wolfish*, 441 U.S. at 539; *Hare*, 74 F.3d at 640. To make this showing, a person in detention need not demonstrate the defendant’s subjective or malicious intent to punish. *Shepherd v. Dallas Cty.*, 591 F.3d 445, 452 (5th Cir. 2009). “[E]ven where a State may not want to subject a detainee to inhumane conditions of confinement or abusive jail practices, its intent to do so is nevertheless presumed when it incarcerates the detainee in the face of such known conditions and practices.” *Hare*, 74 F.3d at 644. “A pervasive pattern of serious deficiencies” that subjects an individual in detention to the risk of serious injury or death likewise amounts to punishment. *Shepherd*, 591 F.3d at 454.

In *Shepherd*, the Fifth Circuit found that a “jail’s evaluation, monitoring, and treatment of inmates with chronic illness was [...] grossly inadequate due to poor or non-existent procedures and understaffing of guards and medical personnel,” that “serious injury and death were the inevitable results of the jail’s gross inattention to the needs of inmates with chronic illness,” and that this amounted to punishment. *Shepherd*, 591 F.3d at 454. Similarly, in *Duvall*, the Fifth Circuit affirmed a jury’s finding that Dallas County had an unconstitutionally punitive custom or policy when it allowed infections of Methicillin-Resistant *Staphylococcus Aureus* (MRSA) to be present in a jail, and failed to take necessary measures for eradication. *Duvall v. Dallas Cty., Tex.*, 631 F.3d 203, 208-09 (5th Cir. 2011).

Because pretrial detainees cannot be punished for a crime for which they have not been adjudged guilty, the only legitimate government interest in imprisoning pretrial detainees is prevent flight risk, and to assure appearance at trial. Yet, punishment is what these pretrial detainees are being given in the cramped, unsanitary, and irremediable conditions in the East Baton Rouge jail. These conditions impose a demonstrably substantial risk of contracting COVID-19. Once they are exposed, they are all vulnerable to severe illness or death, either because of their age, or because they have underlying medical conditions. Continued detention of Plaintiffs is an imminent threat to their lives that is clearly excessive in relation to the purported government goal, and therefore amounts to punishment. Such exposure to lethal risks becomes even more unreasonable—downright arbitrary and purposeless—when the government interest can be accomplished through innumerable non-carceral alternatives to detention.

There is compelling evidence that alternatives to monetary release conditions are more effective in ensuring appearance for trial and reduce the risk of re-arrest before trial. A study in Colorado found phone calls to people dates a few days before their court dates brought failure-to-appears down to 8 percent from previous rate of 21 percent.⁴¹ Multnomah County, Oregon reduced its failure-to-appear rate by 31 percent when it started using automated court date reminders.⁴² The City of Clanton, Alabama, adopted a new policy of releasing all arrestees on a \$500 unsecured bond, *see Jones ex rel. Varden*, No. 2:15cv34-MHT, 2015 WL 5387219 (M.D. Ala. Sept. 14, 2015), as did the City of Velda City and the City of St. Ann.⁴³

⁴¹ See e.g., Oregon Knowledge Bank, <http://okb.oregon.gov/portfolio-item/auto-notification/> for more examples and studies (last visited May 26, 2020); see also Lael Henterly, *When Bail Is Set, the Rich Walk and the Poor Go to Jail* Seattle Weekly Times, (Aug. 23, 2016), <http://www.seattleweekly.com/news/when-bail-is-set-the-rich-walk-and-the-poor-go-to-jail/>.

⁴² *Id.*

⁴³ See e.g., *Pierce v. City of Velda City*, 4:15-CV-570-HEA, 2015 WL 10013006 (E.D. Mo. June 3, 2015); *Powell v. City of St. Ann*, No. 4:15-cv-840-RWS (E.D. Mo. 2015).

Other states have voluntarily made changes to avoid unnecessary pretrial detention. For example, in Washington, D.C., arrestees are released on recognizance with appropriate non-financial conditions.⁴⁴ See D.C. Code § 23-1321. In July 2017, the Chief Judge of the Circuit Court for Cook County, Illinois, issued an order prohibiting judges from using money bail to detain arrestees, and requiring any judge who imposes a secured financial condition to make a finding on the record that the individual “has the present ability to pay” the sum.⁴⁵ 90% appeared for all scheduled court dates in the subsequent months following the Order.⁴⁶ Judges of the highest court in Maryland issued a similar Order, prohibiting Judges from requiring secured financial conditions of release that result in detention due to inability to pay.⁴⁷ And a year ago, in January 2017, New Jersey virtually eliminated the use of money bail. Since then, the detained pretrial population has dropped by 34%.⁴⁸

Further, it is well documented that pretrial incarceration harms individuals’ lives far beyond their loss of liberty and the conditions they face in jails, outside of a global pandemic like COVID-19. Collateral consequences of pretrial incarceration include:

- Loss of income and wages when individuals lose their jobs because of their incarceration;

⁴⁴ The federal government and the District of Columbia both removed money bail virtually entirely from their court systems after the Department of Justice, Congress, and an overwhelming consensus of legal experts concluded that the old system of post-arrest detention based on money bail was fundamentally unfair and unconstitutional. Federal law now explicitly forbids obtaining post-arrest detention through the use of money bail that a person cannot meet. See 18 U.S.C. § 3142(c)(2) (“The judicial officer may not impose a financial condition that results in the pretrial detention of the person.”).

⁴⁵ The Order is available at: <http://www.cookcountycourt.org/Manage/DivisionOrders/ViewDivisionOrder/tabid/298/ArticleId/2562/GENERAL-ORDER-NO-18-8A-Procedures-for-Bail-Hearings-and-Pretrial-Release.aspx>.

⁴⁶ Mean Crepeau, *Cook County Jail Drops Below 6,000 Inmates to Lowest Level in Decades*, Chi. Trib., (Dec. 22, 2017) <http://www.chicagotribune.com/news/local/breaking/ct-met-cook-county-jail-under-6000-inmates-20171221-story.html>.

⁴⁷ The Maryland Court of Appeals’ Order is available at <http://mdcourts.gov/rules/rodocs/ro192.pdf>.

⁴⁸ Brentin Mock, *How New Jersey is Leading the Post-Bail Revolution*, CityLab, (Nov. 2, 2017) <https://www.citylab.com/equity/2017/11/how-new-jersey-is-leading-the-post-bail-revolution/544691/>.

- Loss of housing and missed payments on bills because individuals cannot work or pay bills while incarcerated;
- Loss of physical and/or legal custody of children;
- An increase of mental illness symptoms because conditions in jail can put an individual under a lot of stress and restrict access to needed medications, exacerbating or even causing mental illness; and
- Increased risk of assault, including sexual assault especially in the first few days of incarceration.⁴⁹

Compounding these deleterious health effects – and separating individuals from loved ones and support networks – onto the risk of imminent infection from a lethal disease crosses the threshold from unconstitutionally unreasonable to morally cruel.

B. Under a Deliberate Indifference Standard, Post-Conviction Subclass Members’ Eighth Amendment Rights Are Being Violated.

To demonstrate a violation of the Eighth Amendment, convicted persons must show both an objectively substantial risk of serious harm and that prison officials subjectively “acted with deliberate indifference to inmate health or safety” towards the hazardous condition in question. *Palmer*, 193 F.3d at 352. Courts find deliberate indifference when a detained person can show: (1) “that he is incarcerated under conditions posing a substantial risk of serious harm,” and (2) “that the official was deliberately indifferent to inmate health or safety.” *Hare*, 74 F.3d at 648 (citing *Farmer v. Brennan*, 511 U.S. 825 (1994)).

A “condition of confinement that is sure or very likely to cause serious illness and needless suffering” to someone detained – which includes “exposure of inmates to a serious, communicable disease”—is precisely the type of serious harm that the Eighth Amendment protects against. *Helling*, 509 U.S. at 33 (prison officials must protect against “exposure of inmates to a serious

⁴⁹ Melissa Neal, *Bail Fail: Why the U.S. Should End the Practice of Using Money for Bail*, Justice Policy Institute (2012), <http://www.justicepolicy.org/uploads/justicepolicy/documents/bailfail.pdf>.

communicable disease); *Jolly v. Coughlin*, 76 F.3d 468, 477 (2d Cir. 1996) (“[C]orrectional officials have an affirmative obligation to protect [forcibly confined] inmates from infectious disease.”); *see also Farmer*, 511 U.S. at 833 (“[H]aving stripped [prisoners] of virtually every means of self-protection and foreclosed their access to outside aid, the government and its officials are not free to let the state of nature take its course.”); *Johnson v. Epps*, 479 Fed. App’x 583, 591-92 (5th Cir. 2012) (holding that a policy that forced inmates to use unsterilized barber clippers constituted deliberate indifference).

1. Plaintiffs are objectively at a substantial risk of serious harm

COVID-19 is the quintessential “serious” and “communicable disease” from which the Constitution requires incarcerated people be protected. *Helling*, 509 U.S. 25 at 33-34. To date, this disease has no preventative cure or effective treatment. It can cause severe pain, and in even mild and moderate cases, it can feel like “drowning in [one’s] own blood,” with even young people in good health feeling like “they’ve been hit by a truck.” *See* Compl. ¶ 35. It has ushered nationwide shutdowns and an unprecedented toll of death and destruction, particularly among medically vulnerable populations. There can be no dispute that the risk of contracting COVID-19 is objectively unacceptable, particularly for medically vulnerable individuals.

2. Defendants have acted and are continuing to act with subjective indifference towards Plaintiffs’ substantial risk of harm.

Under the second prong of the deliberate indifference standard, the Fifth Circuit asks whether the official “knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it.” *Jones v. Texas Dep’t of Criminal Justice*, 880 F.3d 756, 759 (5th Cir. 2018). A detained person “does not need to show that death or serious illness has yet occurred to obtain relief. He must show that the conditions pose a *substantial risk* of harm.” *Gates v. Cook*, 376 F.3d 323, 339 (5th Cir. 2004) (emphasis added). In *Gates*, where

individuals on Death Row challenged overheated temperatures as violating the Eighth Amendment, the Fifth Circuit upheld a finding that the plaintiffs faced a substantial risk of serious harm based on expert testimony, such as that produced in this case, substantiating a possibility of death. *Cook*, 376 F.3d at 339.

Even under the Eighth Amendment's standard that applies to inmates who have been convicted, immediate injunctive relief is appropriate. That is because Defendants have certainly known of and disregarded an excessive risk to detainee health or safety. *Wilson v. Seiter*, 501 U.S. 294, 303 (1991); *Honshul v. Foti*, No. 94-30723, 1995 WL 153425, at *2-3 (5th Cir. Mar. 30, 1995).

With respect to an impending infectious disease like COVID-19, deliberate indifference is satisfied when corrections officials "ignore a condition of confinement that is sure or very likely to cause serious illness and needless suffering the next week or month or year," even when "the complaining inmate shows no serious current symptoms." *Helling*, 509 U.S. at 33 (holding that a prisoner "states a cause of action . . . by alleging that [corrections officials] have, with deliberate indifference, exposed him to conditions that pose an unreasonable risk of serious damage to future health"); see also *Hope v. Pelzer*, 536 U.S. 730, 738 (2002) (court "may infer the existence of [deliberate indifference] from the fact that the risk of harm is obvious" (citing *Farmer*, 511 U.S. at 842)). See also *Gates v. Collier*, 501 F.2d 1291, 1300 (5th Cir. 1974) (prison conditions, including the fact that "inmates with serious contagious diseases are allowed to mingle with the general prison population," violate the Eighth Amendment).

This Court need not "await a tragic event" to find that Defendants are maintaining unconstitutional conditions of confinement amid a global pandemic. See *Helling*, 509 U.S. at 33. So long as the risk of serious harm is "likely," as it is here, the Eighth Amendment is violated, even if "the complaining inmate shows no serious current symptoms," and "the possible infection

might not affect all of those exposed.” *Id.*

Here, amid this global pandemic which has been front page news every day for months, it cannot be seriously disputed that any government officials, including Defendants, are unaware of the risks posed by the coronavirus.⁵⁰ Through government orders,⁵¹ CDC guidance aimed at jails,⁵² and nationwide publications,⁵³ Defendants have been made well aware of the risks to incarcerated people. The Sheriff’s own communications and announcements emphasize this awareness.⁵⁴ Similarly, the widespread public discussion regarding the heightened risk to medically vulnerable people makes abundantly clear that Defendants are aware of the mortal peril that Jail conditions pose to such individuals.

In addition, the overwhelming medical and scientific consensus is that social distancing of at least six feet is required to reasonably reduce the risk of transmission of the novel coronavirus.

⁵⁰ This is particularly true given the death from coronavirus of a deputy sheriff in the parish, Sergeant Gregory Warren, in April of this year. See Lea Skene, *East Baton Rouge Deputy — ‘A Dedicated Public Servant’ — Dies from Coronavirus, Sheriff Says*, *The Advocate* (Apr. 5, 2020), https://www.theadvocate.com/baton_rouge/news/coronavirus/article_27ecdac-7759-11ea-9ab3-e72613b104ed.html.

⁵¹ See Executive Order 2020-27 (Mar. 13, 2020), <https://gov.louisiana.gov/assets/ExecutiveOrders/27-JBE-2020-COVID-19.pdf>; Executive Order (May 15, 2020), <https://gov.louisiana.gov/assets/Proclamations/2020/58-JBE-2020.pdf>.

⁵² Ctrs. for Disease Control & Prevention, *Correctional and Detention Facilities*, (May 26, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/index.html>.

⁵³ See David Mills & Emily Galvin-Almanza, *As Many as 100,000 Incarcerated People in Our Prisons Will Die from the Coronavirus, Unless the US Acts Now*, *Bus. Insider* (Apr. 2, 2020), <https://www.businessinsider.com/failure-to-release-prisoners-is-condemning-thousands-to-death-2020-4>; Anna Flagg & Joseph Neff, *Why Jails Are So Important in the Fight Against Coronavirus*, *N.Y. Times* (Mar. 31, 2020), <https://nyti.ms/3aIBHjv>; Timothy Williams et al., *‘Jails Are Petri Dishes’: Inmates Freed as the Virus Spreads Behind Bars*, *N.Y. Times* (Mar. 30, 2020), <https://nyti.ms/2Jmnf4z>.

⁵⁴ Lea Skene and Jacqueline DeRoertis, *East Baton Rouge Sheriff: It’s Only a Matter of Time Before Coronavirus Arrives in Jail*, *The Advocate* (Mar. 17, 2020), https://www.theadvocate.com/baton_rouge/news/coronavirus/article_be4301c6-6887-11ea-b794-ab2c5dcccad8.html.

The CDC,⁵⁵ the American Medical Association,⁵⁶ the American Red Cross,⁵⁷ and the Louisiana Department of Health⁵⁸ have all concluded that social distancing is essential to preventing transmission of the deadly infection. The CDC itself describes social distancing as “a cornerstone of reducing transmission of respiratory diseases such as COVID-19,” as “[t]he best way to prevent illness,” and as “extra important” for vulnerable individuals.⁵⁹ Defendant Gautreaux concedes this point, imploring his employees to “please take all necessary precautions and use all available equipment and resources to protect themselves not only at work, but any time they must be out in the community.”⁶⁰

Officials’ indifference to the significant risk of permanent damage and death to the Medically Vulnerable Subclass is even more unacceptable. It is well-documented that these individuals face a risk of death or permanent organ damage far in excess of the rest of the population. See Rottnek Decl. ¶ 61; Hassig Decl. ¶ 4. This risk is evident in the COVID-19 death toll to date—for instance, in New York state, almost 90% of reported COVID-19 deaths involved at least one comorbidity, according to the state’s department of health.⁶¹ Defendants’ refusal or

⁵⁵ Ctrs. for Disease Control & Prevention, *Social Distancing, Quarantine, and Isolation* (Apr. 4, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>; Ctrs. for Disease Control & Prevention, *How to Protect Yourself & Others* (Apr. 13, 2020) (explaining the paramount importance of social distancing, even if one is already taking other precautions such as a mask).

⁵⁶ AMA, AHA, ANA: #StayHome to confront COVID-19, Am. Medical Ass’n (Mar. 24, 2020), <https://www.ama-assn.org/press-center/press-releases/ama-aha-ana-stayhome-confront-covid-19>.

⁵⁷ *Coronavirus – What Social Distancing Means*, Am. Red Cross (Apr. 14, 2020), <https://www.redcross.org/about-us/news-and-events/news/2020/coronavirus-what-social-distancing-means.html>.

⁵⁸ *Defending Against Covid-19*, La. Dep’t of Health, <http://ldh.la.gov/index.cfm/page/3938#spread> (last visited May 26, 2020).

⁵⁹ See Ex. 3 to Compl., Ctrs. for Disease Control & Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, (Mar. 23, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidancecorrectional-detention.html>.

⁶⁰ Lea Skene, *East Baton Rouge Deputy — ‘A Dedicated Public Servant’ — Dies from Coronavirus, Sheriff Says*, The Advocate (Apr. 5, 2020), https://www.theadvocate.com/baton_rouge/news/coronavirus/article_27ecdac-7759-11ea-9ab3-e72613b104ed.html.

⁶¹ *NYSDOH COVID-19 Tracker*, N.Y. State Dep’t of Health, <https://covid19tracker.health.ny.gov/> (last visited May

inability to provide circumstances that would limit the subclass’s exposure to the virus constitutes deliberate indifference. At this point, only release will sufficiently protect the medically vulnerable from their very real risk of death. *See, e.g., Cameron v. Bouchard*, -- F. Supp.3d --, 2020 WL 2569868, at *24 (E.D. Mich. May 21, 2020) (“Considering the weight of the public health evidence demonstrating the medically-vulnerable population’s unique, specific, and life-threatening susceptibility to COVID-19—paired with the communal nature of jail facilities, the Court finds that home confinement or early release is the only reasonable response to this unprecedented and deadly pandemic.”).

While the risk is great to everyone in the Jail, the members of this subclass have conditions rendering them exceptionally vulnerable to death or serious harm if exposed to COVID-19. As a result, there is no practicable way to ensure that they can avoid infection and no practicable way to ensure that, if infected, they receive prompt and adequate medical treatment within the Jail. Hassig Decl. ¶ 4. Serious illness is substantially likely, and older people and those with underlying medical conditions, such as lung disease, heart disease, or diabetes, are more likely to develop serious illnesses. *Id.* Therefore, their continued detention is a grave risk to their lives and violates the Constitution.

In the face of this awareness, Defendants’ ongoing confinement of Plaintiffs is deliberately indifferent to the risks caused by this virus and must be remedied. “Failing to take reasonable measures to abate [risk]” demonstrates disregard of such risk. *Farmer*, 511 U.S. at 847. Accordingly, Plaintiffs have shown that they are likely to succeed on the merits of their claims.

III. THE PUBLIC INTEREST AND BALANCE OF EQUITIES WEIGH HEAVILY IN PLAINTIFFS’ FAVOR.

26, 2020).

Where, as here, the government is a party to the case, the third and fourth injunction factors—the balance of the equities and the public interest—merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009); *El Paso Cty., Texas v. Trump*, 407 F. Supp. 3d 655, 665 (W.D. Tex. 2019). As an initial matter, the public interest is served by the protection of constitutional rights. See *Ingebretsen v. Jackson Pub. Sch. Dist.*, 88 F.3d 274, 280 (5th Cir. 1996); *Cohen v. Coahoma Co.*, 805 F. Supp. 398, 408 (N.D. Miss. 1992).

The balance of equities and the public interest also favor release of the Medically Vulnerable Subclass members who, as a practical matter, cannot be constitutionally held in the Jail at this time. Release of these individuals will conserve the Jail’s resources and reduce the demands on Jail staff, including guards and nurses. Further, releasing medically vulnerable individuals is the only way to eliminate the unacceptable risk to their health and the concomitant demand on public health resources—inside the jail and in the broader community—that will result when they become infected.

A worsened outbreak at the Jail has the potential to create a “tinderbox” scenario that drains the Baton Rouge metropolitan area of limited medical resources, including intensive care unit beds and ventilators.⁶² In Louisiana, the COVID-19 outbreak has already resulted in unprecedented public health demands that have strained the local health care system.⁶³

Recently, the Western District of Louisiana noted in recommending release of 13 medically vulnerable individuals from ICE detention, that “public health and safety are served best by rapidly decreasing the number of individuals detained in confined, unsafe conditions.” *Dada v. Witte*, No.

⁶² *New Model Shows COVID-19 Death Toll is 100,000 Higher Than Current Projections*, ACLU.org (Apr. 22, 2020), <https://www.aclu.org/press-releases/new-model-shows-covid-19-death-toll-100000-higher-current-projections>.

⁶³ See Ryan Whirty, *As COVID-19 cases increase, La. hospitals take care to ensure they remain resourced*, The Louisiana Weekly (Apr. 20, 2020), <http://www.louisianaweekly.com/as-covid-19-cases-increase-la-hospitals-take-care-to-ensure-they-remain-resourced/>.

1:20-cv-00458-DDD-JPM at *27 (Report and Recommendation) (adopted May 22, 2020). And, as the Western District of Texas explained in *Vazquez Barrera*, “an outbreak among the . . . detainee population will inevitably spread through the surrounding community, as MPC staff members, who live outside the detention facility, will be exposed to sick detainees . . . [and] will put additional strain on hospitals and health care resources in the community.” 2020 WL 1904497, at *7. *United States v. Raihan*, No. 20-cr-68-BMC- JO, Proc. at 10:12-19 (E.D.N.Y. Mar. 12, 2020), ECF No. 20 (“[t]he more people we crowd into that facility, the more we’re increasing the risk to the community”).

The consensus of public health expertise is in accord. *See supra* Section J. This immediate, concrete interest in health and life must, in any humane system of justice, outweigh a state’s abstract penological interest in continued imprisonment of human beings.

IV. IMMEDIATE RELEASE IS OF MEDICALLY VULNERABLE SUBCLASS MEMBERS IS THE ONLY EFFECTIVE REMEDY FOR PLAINTIFFS’ UNLAWFUL DETENTION, WHICH THE COURT HAS AMPLE AUTHORITY TO ORDER.

The Court has ample authority under 28 U.S.C. § 2241 and independently under Rule 65 to issue the release of detained persons—a remedy that has been ordered by numerous courts across the country in recent weeks. Habeas invests in federal courts broad, equitable authority to “dispose of the matter as law and justice require,” 28 U.S.C. § 2243, as the “very nature of the writ demands that it be administered with the initiative and flexibility.” *Harris v. Nelson*, 394 U.S. 286, 292 (1969).

While it is clear in this Circuit that habeas authorizes challenges to the fact or duration of detention, there is more ambiguity about whether habeas – authorizes challenges to conditions of

confinement.⁶⁴ See *Poree v. Collins*, 866 F.3d 235, 244 (5th Cir. 2017) (observing that “the Supreme Court has not foreclosed” habeas challenges for conditions claims and “declin[ing] to address whether habeas is available only for fact or duration claims.”). In any event, this habeas petition does not challenge conditions of confinement in the way this purported distinction imagines. By this motion, Medically Vulnerable Subclass members are not seeking judicial intervention in order to alleviate harsh conditions; it is precisely because there is no judicial possibility of remediating their unconstitutional confinement that they are challenging the very *fact* of their confinement. *Vazquez-Berrera*, 2020 WL 1904497, at *4 (“The mere fact that Plaintiffs’ constitutional challenge requires discussion of conditions in immigration detention does not necessarily bar such a challenge in a habeas petition.”); see also *Dada v. Witte*, No. 1:20-CV-00458, ECF No. 17 at 9 (W.D. La. Apr. 30, 2020) (Report and Recommendation) (explaining that “the remedy for conditions claims is generally corrective. The remedy for fact claims, however, generally terminates the detention altogether, or alters it such that a new form of custody or control is imposed” and recommending release of 13 petitioners under § 2241) *adopted, id.*, Dkt 24.

As such, they seek “relief from unlawful imprisonment or custody.” *Pierre v. United States*, 525 F.2d 933, 935-36 (5th Cir. 1976); see also *Poree*, 866 F.3d at 244 (petition seeking transfer to facility with less restrictive conditions “properly sounds in habeas.”). See also *Malam*, 2020 WL 1672662, at *3 (“where a petitioner claims no set of conditions would be sufficient to protect her constitutional rights, her claim should be construed as challenging the fact, not conditions, of her confinement and is therefore cognizable in habeas.”). Habeas confers “broad discretion in conditioning a judgment granting habeas relief . . . ‘as law and justice require’ ”.

⁶⁴ Plaintiffs do seek, under Section 1983, an injunction mandating changes to conditions in the facility. For Medically Vulnerable Subclass members, however, because those conditions will not abate the acute risk they face, release pursuant to habeas is proper.

Hilton v. Braunskill, 481 U.S. 770, 775 (1987) (quoting 28 U.S.C § 2243). That authority includes an order of release, *Boumediene v. Bush*, 553 U.S. 723, 779 (2008), so as “to insure that miscarriages of justice . . . are surfaced and corrected.” *Harris v. Nelson*, 395 U.S. 286, 291 (1969).

Separately, under Rule 65, Section 1983 and a court’s inherent equitable authority to remedy unconstitutional government conduct, courts may issue “orders placing limits on a prison’s population.” *Brown v. Plata*, 563 U.S. 493, 511 (2011); *see also Duran v. Elrod*, 713 F.2d 292, 297- 98 (7th Cir. 1983), *cert. denied*, 465 U.S. 1108 (1984) (affirming order releasing low-bond individuals in pretrial detention as necessary to reach a population cap); *Mobile Cty. Jail Inmates v. Purvis*, 581 F. Supp. 222, 224-26 (S.D. Ala. 1984) (exercising remedial powers to order a prison’s population reduced to alleviate unconstitutional conditions.)

V. THE COURT SHOULD NOT REQUIRE PLAINTIFFS TO PROVIDE SECURITY PRIOR TO ISSUING A TEMPORARY RESTRAINING ORDER.

Courts have discretion to waive the Rule 65(c) requirement that the movant for a temporary restraining order provide security. “The Fifth Circuit has acknowledged that the amount of the security is within the discretion of the district court, who can elect to impose no security at all.” *New Orleans Home for Incurables Inc. v. Greenstein*, 911 F. Supp 386, 412-13 (E.D. LA 2012) *citing City of Atlanta v. Metropolitan Atlanta Rapid Transit Authority*, 636 F.2d 1084, 1094 (5th Cir. Unit B Feb. 13, 1981). District courts in this circuit routinely exercise this discretion to require no security in cases brought by indigent or incarcerated people. *See, e.g., Schultz v. Alabama*, 330 F. Supp. 3d 1344, 1376 (N.D. Ala. 2018) (county prisoners); *Campos v. I.N.S.*, 70 F. Supp. 2d 1296, 1310 (S.D. Fla. 1998) (indigent immigrants). This Court should do the same here.

CONCLUSION

For these reasons, Plaintiffs ask this Court to issue a temporary restraining order and

ordering the release of Medically Vulnerable Subclass members.

Respectfully submitted, this 27th day of May, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2020 at approximately at 11:00 a.m. (EST) a copy of the foregoing was sent to all parties via electronic mail upon the following:

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EXHIBIT 1

DECLARATION OF CEDRIC J. FRANKLIN

I, Cedric J. Franklin, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. My name is Cedric Franklin. I am 47 years old and of sound mind.
2. Before I was arrested, I lived with my wife and daughter in Baton Rouge. My wife has a cyst on her brain that has required several surgeries, and she is permanently disabled. I also have a 31-year-old son and a step-daughter. I am the proud grandfather to three grandchildren, who are 13, 12, and 8 years old. I worked as a Kitchen Supervisor at The Chimes Restaurant and as the leader of a youth football organization (ages 5-13), where I also served as a coach. My wife tells me that several of the other coaches have reached out to her to check on me and tell her that I am greatly missed. I also served my community as an usher and in the parking lot ministry at my church. My pastor, assistant pastor, employer, coworkers, and state representatives appeared on my behalf in my criminal court case.
3. I am currently detained in the East Baton Rouge Parish Prison in East Baton Rouge, Louisiana. I have been in the Sheriff's custody since January 6, 2020. I pled no contest to misdemeanor charges for possession of marijuana, possession of schedule one drugs, and sexual battery on January 6, 2020 and accepted a two-year sentence, in large part because the prosecution agreed to give me time before my plea to get my affairs and my wife's care in order. I have to serve one year of my sentence in a correctional facility at the East Baton Rouge Parish Prison. I self-reported to the jail, where I am serving my DOC sentence locally, on the same day. I am set to be released on January 2, 2021, so I have a little over seven months left on my sentence. My wife told me that she has attempted to contact the Judge on my case to see if I could be released early, but she has not received a response from them.
4. I have been diagnosed with Type 2 Diabetes, high blood pressure, and blood clots in my legs. I also have chronic pain in my back from surgery for spinal stenosis a couple years ago. My wife has been contacting the Medical Director's and Warden's offices regularly about my health conditions and has an email from them stating that they are aware of my conditions.
5. In the East Baton Rouge Parish Prison, I was first confined on the Q5-6 housing lines from January through March 28, 2020. Q5-6 is a large line where over 100 men sleep in bunkbeds in the same room. On March 28th, I was written up for a disciplinary violation for tobacco being at the foot of my bed. I didn't know there was tobacco at the foot of my bed, and I don't know where it came from. Regardless, the guards moved me to M1, a solitary confinement line, for my disciplinary punishment. I stayed on M1 from March 28th to March 30th.
6. I was supposed to go back to the Q5-6 lines after my disciplinary segregation, but the coronavirus had gotten into the jail by then, and I learned that Q5-6 had been quarantined. The whole jail was quarantined and all movement outside of the housing

lines had stopped as of March 28th. Everything came to the lines, and detainees couldn't leave for meals or pill call. The Warden also changed our sleeping arrangements so men were sleeping head to toe with the other guys around them, but they didn't move people out of the big dorm rooms.

7. I was sent to central booking instead of going back to Q5-6, and I stayed there for about three days, until Wednesday, April 1. Central booking is where detainees come into the jail from the community. It was nasty in central booking. The jail very seldom mops the cells or cleans. When they did clean, the guards had the trustees in blue do the cleaning. I never saw them clean the individual cells while I was there. They just kept putting people in the cells.
8. There are two big cells in central booking that hold 50-60 people each, one for detainees going to the district court and the other for detainees going to the city court. There are also about 7 smaller cells that hold about 5-6 people each. None of the cells have any mattresses or bedding. Everyone has to sleep on the wooden benches or the concrete floor. We didn't get any mats or blankets. The cells have walls on the sides, but they have bars on the front. I could reach from my cell into the cell next to me, and we could pass things between cells that way too. Each cell has a telephone in it.
9. Once the jail staff at central booking learned that Q5-6 had been quarantined and I had been on Q5-6 before, they put me in one of the smaller cells alone. But they didn't test me for coronavirus or take my temperature. I felt exposed because I could have caught coronavirus from any of the staff in central booking or any of the detainees coming into central booking. Even though I had my own cell, I was breathing the same air as everyone in central booking.
10. I could see the jail staff doing intakes from my cell in central booking. When people entered the jail, they were fingerprinted, dressed out in a jail uniform, and put in a cell. They did not get any medical evaluations at that time. The medical staff conducted an evaluation later. But they did not take anyone's temperatures or test anyone for coronavirus while I was in central booking. It seemed like they didn't know what to do, like nobody in the facility knew what to do.
11. I got worse medical care after the coronavirus hit the jail, which started when I was in in central booking and continued through my time on B3, when my wife had to call the Warden and the head medical person to get me care in solitary confinement. Before coronavirus, I would get my insulin medications before each meal, and I would also get a diabetic snack at night. But after the coronavirus got to the jail, I wouldn't get my insulin medications until hours after my meals, most of time as many as four or five hours later. Nurses didn't do pill call in central booking. Instead, I had to tell the nurse what medications I was on, and the nurses might check—or not—if that was right and might bring me my medications a couple hours later. It seemed like the nurses were constantly busy, like they had so much to do and had nothing in order.
12. My insulin levels have gotten really high because of this poor medical care, and I still can't get them to go down almost two months later. There is no dietician at the jail, so

we have to eat whatever they issue us—a lot of starch and sugars—if we don't have money to buy other food from the commissary.

13. The nurses in central booking heard that I might have the coronavirus because I had been on Q5-6, and they treated me different from the other people in central booking. They didn't want to come near me or bring me the medications or other things I needed. They barely communicated with me and usually stayed about 30 feet away from me. But they never checked my temperature or tested me for the coronavirus, even with their fears.
14. The guards also treated everyone in central booking like they had coronavirus and avoided contact with the detainees. But the guards are the ones who were leaving every day to go home and come back into the facility. We should have been afraid of them.
15. The guards had hand sanitizer, but the detainees only had soap. Jail staff just stressed that we should wash our hands for 20 seconds with soap and water and throw away our paper towels after we dried our hands. I had originally learned this as a dorm rep on Q5-6, and the guards expected me to teach everyone else on my line. The guards didn't tell the other detainees themselves.
16. From central booking, I was moved with several other people to J1, where we were quarantined for about 15 or 16 days. J1 has a row of cells on a long hallway. There is a tv and two phones on the hallway too. We didn't have a day room or tables, so we had to sit on the floor when we watched tv. There was also a shower at the end of the hallway. We shared the shower, phones, and tv.
17. Guards put two of us in each of the cells. The cells had walls on three sides and bars on the front of them. Each cell had two beds, a sink, and a toilet. The toilet didn't have a lid—none of the toilets in the jail have lids on them. Just like in central booking, we could reach through the bars and pass things to each other in our cells.
18. We were able to go in and out of our cells when we wanted to during the day, but we were locked in the cells after about 10:30 pm or 1:30 am, depending on the night, until shift change around 4:30 the next morning when the guards would open the cells again.
19. The nurses started taking our temperatures for the first time on J1, toward the beginning of my time on that line. But they didn't test anyone for coronavirus. I didn't see the nurses testing anyone until I was tested and put on B3 myself. That's the first time I saw anyone being tested, in central booking, J1, or F3. The nurses on J1 didn't say or do much if anyone had a high temperature, either. They just gave the person Tylenol and water.
20. The guards brought us cleaning supplies about once a day on J1. We usually got a mop and bucket with bleach or some other chemical in it, depending on which guards were working. I don't know what the chemical was. They didn't bring us much—only just enough to clean the area. The detainees were responsible for cleaning. If we didn't try to clean our own cells, they didn't get cleaned. The guards didn't care if J1 was clean or not.
21. Around April 15 or 16, I was moved to the F3 housing line, along with about 14 or 15

men on J1 with me. F3 didn't have people on it before us, and the jail opened it to hold people who were coming out of J1. The line holds about 24 people in one room with bunk beds.

22. F3 is gross. There are rats bigger than possums or cats on the line, and we have to hide our food from commissary on the sides of our beds where the rats can't get it. If we leave our food in the lockers, which don't lock, the rats will get into it. The catwalk on the line looks like people have spit on it for 25 or 30 years, and the jail has done nothing to clean it. The guards don't clean it. They don't clean anything. They used to have the trustees clean, but they don't do that anymore. F3—like the rest of the jail—is in turmoil and needs to be shut down and at least cleaned very thoroughly. It's very run down.
23. There is a day room on the line, and the men on the line share the four benches in the day room to watch tv and eat. We also share four showers and four toilets. Two of the showers and two of the toilets don't work.
24. Around April 20th, guards selected me to help clean the A4, B2, and C01 lines. I don't know why they picked me, and they didn't tell me why. I think it might be because they regularly see me cleaning and being a leader in the dorm. The guards also didn't tell me why we were cleaning. I later learned that the prison had recently reopened those lines—which were previously condemned—to house guys who tested positive for the coronavirus. I also learned that the jail had sent the men who had been on those lines to Angola that same day after they tested positive for the coronavirus. The jail wanted us to clean the lines so they could put more people on them. Guards gave me a mask, gloves, and a bodysuit for the cleaning.
25. As far as I know, the jail is holding coronavirus patients on lines A1, A2, A3, A4, B1, B2, B3, and B4. I'm not sure about the C lines because they don't let people back there and no one knows who is back there except the guards who work on those lines. A stretcher couldn't get back to those lines if someone there needed one.
26. Two days after cleaning the A4, B2, and C01 lines, I felt like I was coming down with a cold. I tried to stay on top of it by visiting medical to get Tylenol and a cold pack, which is what they were giving us at the time. They just gave me Tylenol, Mucinex, Vitamin C tablets, and water for the next few pill calls. I didn't get any other medications or medical care for my cold.
27. I usually talk to my wife on the phone until the guards shut the phones off, but that night I felt tired and unwell, so I took my medicine and rested instead of calling my wife. My wife later told me she was worried, because I'm not someone to let people know I'm not feeling well. If I say that something's hurting me, it's because I can't take it anymore and it done got unbearable.
28. I felt worse the next day, around April 24th. I developed a fever—that I had for three days—as well as body aches and chest pains. I was weak, and my body ached so bad that I couldn't get out of bed. I wasn't able to get up early and help clean the F3 dorm like I usually do. I lost my sense of taste and smell, and I didn't want to eat.

29. The guards sent medical staff in to do a temperature check. My temperature was 101 degrees Fahrenheit, and the nurse told me to pack my things to go to B3 lockdown. One of the other men helped me pack my things because I was too weak, and the guards took me to B3. The same guy who helped me pack my stuff called my wife to tell her that I was being moved and that it was probably coronavirus-related.
30. Before they put me on B3, a nurse tested me for coronavirus. I was told by the medical staff that I would have to stay on the B3 line for at least two weeks, until I tested negative two times in a row. Now they're telling us we can catch the coronavirus twice too.
31. I was very scared to be moved to B3 because I'm at high risk for the coronavirus and I was going to be surrounded by all the people back there who were sick. There were about 10-12 people on B3 while I was there. Most of them were already there when I was moved back to the line.
32. I shared my cell on B3 with another person who had already tested positive for coronavirus. He was a diabetic as well. The cell was not very big—about 8 feet x 10 feet—so we couldn't be six feet apart in the cell.
33. The line was filled with a bunch of other guys who had also tested positive for coronavirus. The jail was doing things backwards. If I didn't have coronavirus when I was put on a line and in a cell with people who did, what are my chances of not getting the virus? I felt like the jail was jeopardizing people who hadn't tested positive yet.
34. We were locked in our cells for most of the day, and there was nothing to do in our cells.
35. We were allowed out of our cells once or twice a day, depending on the guards on duty, for about 45 minutes to an hour. The guards treated us like we were on lockdown, like we were in solitary confinement. But we were just there to be quarantined, not to be punished. We didn't have a tv in our day room, which I don't understand because we were not on disciplinary segregation. But I felt like we were being punished.
36. I used the time out of my cell to call my family, but there was not much else I could do. If my family was at work and couldn't talk, I didn't have anyone to talk to, and it felt like a waste of hall time.
37. The B3 line was nasty, even after we cleaned it. I am a clean person, and I had to live with big rats running around everywhere.
38. I tried to ask other people on the line for tissues when I coughed up phlegm. Other people on the line just spit up into the hallway, and the guards just left it like that.
39. Some of the guards gave us bleach or another chemical in a mop bucket to clean the line, but others didn't. It depended on the shift. I don't know what the other chemical was. The guy in my cell and I got a spray bottle with a small amount of chemicals from the guards. We used that to clean our cells, the phone, the toilet, and anything else we touched outside of our cells. I tried to make the chemicals we got last a full week, but they were very limited. I cleaned my cell every day that I could. I don't know if anyone

else on the line had a spray bottle or chemicals.

40. My wife called the medical department of the jail on Friday, April 24 and got my test results—I was positive for coronavirus. I didn't get any paperwork on this from the jail until Monday, April 27.
41. My wife called the medical department and the warden constantly to get me medical care on B3. They only respond when a family member calls like that.
42. Nurses came on the line for pill call two times a day, but that's the only time we saw them. Some nurses did temperature checks during pill call, some didn't, depending on nurse. Some nurses did care and might come back to check our temperatures, give us water, or give us more medicine. But this was very seldom, maybe once or twice a week for one extra visit a day, depending on the shifts.
43. They're really not doing this "isolation" thing well. They aren't social distancing us at all, and they're mixing people who haven't been confirmed to have coronavirus with those who have tested positive.
44. I took two more coronavirus tests around April 7th and 8th. Both tests came back negative, and I was moved back to the F3 line around April 9, 2020. I have been on F3 since then.
45. I feel like the people in high places in the jail don't care about us. They haven't been here in a long time, and there's a lot of things they would have to do to get this place into better condition. It's crazy how things are in here, especially right now.
46. If I was released into the community, I would quarantine at my home in Baton Rouge, where my wife and step-daughter have been isolating for weeks. We have an additional bedroom where I could quarantine away from my family members if I needed to. I would be able to stay away from people who were sick and buy myself alcohol-based cleaning supplies. I would also have access to clean water, healthy food, and medical care of my choice if I needed it. After my quarantine, I would be able to resume work at The Chimes Restaurant—they have told me that they are holding my position and that I always have a job with them.

This declaration was orally sworn to by Cedric J. Franklin on May 26, 2020 because the East Baton Rouge Parish Prison is currently not permitting documents to be exchanged for signature.

Under penalty of perjury, I declare that I have read the foregoing in its entirety to Cedric J. Franklin on May 26, 2020.

By: 
Miriam Nemeth
Date: May 26, 2020

EXHIBIT 2

DECLARATION OF WILLIE SHEPHERD

I, Willie Shepherd, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. My name is Willie Shepherd. I am 38 years old and of sound mind.
2. I am currently detained pretrial in the East Baton Rouge Parish Prison in East Baton Rouge, Louisiana. I have been confined in the jail since February 27, 2020.
3. Before I was arrested, I was living in Minnesota and had a job doing security at the Black Bear Casino in Cloquet, Minnesota. I was in Louisiana for a week and a half visiting some friends and my two children, who are seven and 19. I got arrested about a week after my vacation started.
4. I have high blood pressure, and I've had a bleeding ulcer since 2012.
5. I am currently confined on the Q3 line. There are about 45 people on the Q3 line right now; the line can hold as many as 80 people. Q3 is an open dorm-style room where all the beds are in the same room. The beds are no more than about three feet apart. We can touch the next bed from our bed.
6. The day room on the line is about 30 yards by 25 yards. There are eight benches that seat four people each and five tables that seat four people each. The benches, chairs, and tables are bolted to the ground, so we can't move them away from other people in the room. We can't socially distance on the line, especially if you're sitting in the day room.
7. Around April 12, 2020, I filled out a sick call to medical because I had a headache and body aches. I never had a temperature. The nurses tested me on April 14th. They left me on the line for two hours before the guards moved me to the B3 line, which is a solitary confinement line. They moved me before I got my test results. Five days later, I got my results—I tested positive for coronavirus.
8. I was put in a cell on B3 with three other people, one of whom tested negative for coronavirus. The cells were about 10'x 6' and had two sets of bunk beds in them. There were bars on the front of the cells and thin metal walls between the cells. Our bunk beds were bolted to the walls, and if someone sat down on their bunk in the cell next to you, it would move your bed too. We could reach through the bars on the front of our cells into the next cells. We were so close that we could pass things to each other through the bars on the front of our cells if we wanted to. Sometimes, we got a newspaper—when the shift felt like bringing it—and some guys would pass that around through the bars.
9. We didn't get any real medical care on B3. Medical staff came back twice a day for pill call, when they would give us our prescription medications. I got medications for my high blood pressure at pill call. But all they gave us for coronavirus was Tylenol. After about a week and a half on B3, the nurses also began giving us vitamins. That was all we got, and the nurses didn't give us any other medical care during pill call. We didn't even get Gatorade, and we barely got any water. I don't know why they moved us if they weren't going to do anything for us but give us Tylenol and vitamins.

10. If we needed medical care and someone was out of their cell, that person could beat on the door to get the deputy's attention. If the deputy came back to the line—they only came back about half the time because they didn't want to be around us—they would be the ones to call the nurse. First, a Lieutenant would come back before the medical staff to see if it was a real problem. Then they would call medical staff to come back. A few people couldn't breathe back there, and I was worried about what would happen to them if they needed medical care.
11. One day on the line, I was throwing up blood from the four extra strength Tylenol and vitamins the nurses gave us during pill call, which didn't sit well with the bad food they served us on the line. It took five hours to get the nurse back there. She wanted to see the blood, but I threw up in the toilet and had flushed it. She told me that next time I throw up, I needed to throw up in something to show her. I didn't have anything to throw up in except a piece of paper. I would have had to throw up on the floor. The nurse didn't give me any medical treatment that day, and she didn't come back to check on me later either.
12. The guards didn't let us leave the line once we got there. I missed two court dates while I was on lockdown, on April 24th and May 4th. My court dates weren't cancelled, and my public defender told me the guards were supposed to bring me to court. But they didn't. If they had, I would have been home by now. I would have pled guilty on April 24th and gotten credit for time served on May 4th. I've heard that other people are missing court dates because of the lockdown too.
13. The guards even brought our food onto the line for us. The food was always cold when it got to us. The guards weren't wearing gloves when they served us food, and sometimes they weren't wearing masks either.
14. The guards didn't come back to the line regularly to give us water, and we got no water at night. The water in the sinks in our cells was really hot, and if it sat for a little while, brown stuff came out of the faucet. But sometimes we had to drink it anyways.
15. We were locked in our cells all day and let out of our cells by the guards for about one hour a day, once a day. They didn't even let us out twice a day. When I was out of my cell, I took a shower and used the phone.
16. One shift of guards would clean the phone between letting men out on the line, but the other shift didn't. Each shift worked about three to four days a week. I always put a sock on the phone to use it, and I still do that.
17. The shower on B3 was ice cold. I couldn't take a shower in it, and I had to use the sink to shower the whole time I was back there. The guards didn't clean the showers. The guys on the line sometimes did. They would ask the guards for bleach. Sometimes the guards would bring it and sometimes they wouldn't. A lot of times, the guards didn't want to come back there and deal with us.
18. We just got regular old soap to clean ourselves, not antibacterial soap. We got a 14 gram bar of soap from the prison every week or week and a half, if that. The bars were about as long as my thumb and the width was about the size of four nickels.

19. We didn't get masks or gloves on B3. The guards gave us bandanas two weeks after I got onto B3. I had my first bandana for a little over a week. When they eventually changed it out, they gave us a new one. The next week, they just washed the bandanas and gave us an old bandana back. I would have preferred to keep the new bandana and wash it myself.
20. I was on lockdown in B3 for about three weeks before the guards moved me back to Q3-4 on May 5, 2020. The guards told me I tested negative for coronavirus on Thursday, April 30th, but I never saw any paperwork about this. I did get paperwork for my positive test result. The guards didn't move me off B3 until Monday, May 4th.
21. Q3 is in quarantine, according to guards. We're not allowed to move around the facility, and we can't go outside.
22. The guards come on the line just during count, and on some shifts they might also walk the line once at night. They also feed us on the line. They wear gloves and masks when they hand out our food, but most don't wear masks or gloves for count. I see the guards wear the same masks and gloves they use to feed us all over the line, on the catwalk, and on other lines. I've never seen them change their masks or gloves.
23. They don't give us any masks. We each get one bandana. Once a week, the guards come to get our bandanas and give us a washed one. But I keep mine—I don't trust that they've washed it, and I don't want someone else's bandana.
24. The nurses aren't taking our temperatures anymore. They stopped taking everyone's temperatures around May 8th. The nurses don't come on the line outside of pill call, which happens twice a day. Even then, they usually only stand in the doorway to the tier, and we have to line up in front of them in the day room to get our medications.
25. Some of the men on the line are sick. I don't know what they have, but it's likely coronavirus. They have body aches, coughs and no sense of smell or taste. A lot of them don't want to go on lockdown, so they don't tell the medical staff they're sick and just try to fight it themselves. Some of us who were on lockdown can still get Tylenol and vitamins at pill call, but the other guys who haven't gone to lockdown don't even get this. The nurses aren't treating anyone else with symptoms and don't ask anyone if they have symptoms during pill call.
26. I try to clean the space around my bed every morning and at night, but I can only use the broom and mop that the guards bring on the line. That's all we have. The evening mop water usually has bleach or other chemicals in it.
27. Everyone on the line shares the showers. We have five showers and five toilets. There is mold in the showers. The guards don't clean the showers. The detainees try to clean them every night, if they can.
28. The phone isn't cleaned before I use it, and I have to put a sock on it before I call anyone.
29. When I am released back to the community, I plan to go back to Minnesota or somewhere else where there's snow, like Wisconsin, Syracuse, or Montana, after my

criminal case is resolved. I want to find a wife and settle down. In the community, I will be able to stay away from people who are sick and buy myself alcohol-based cleaning supplies. I will also have access to clean water, healthy food, and medical care of my choice if I need it.

This declaration was orally sworn to by Willie Shepherd on May 22, 2020 because the East Baton Rouge Parish Prison is currently not permitting documents to be exchanged for signature.

Under penalty of perjury, I declare that I have read the foregoing in its entirety to Willie Shepherd on May 22, 2020.

By: 
Miriam Nemeth
Date: May 22, 2020

EXHIBIT 3

DECLARATION OF CHRISTOPHER LEE ROGERS

I, Christopher Lee Rogers, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. My name is Christopher Lee Rogers. I am 29 years old and of sound mind.
2. I'm currently detained in the East Baton Rouge Parish Prison in East Baton Rouge, Louisiana. I've been in the Sheriff's custody since December 24, 2017. I was sent to Riverbend Detention Center in northern Louisiana for some of that time because the East Baton Rouge Parish Prison was overfull. I've been back in the jail since August 8, 2018. I have a probation hold, so I haven't been able to bond out.
3. Before I was arrested, I was the breadwinner for my family and helped to support my mother and younger sister, who are disabled, and my younger brother. I did carpentry work and landscaping for PCR Properties. When I'm released, I will go back to work for them.
4. Before I was arrested, I went to The Healing Place Church every Sunday. I helped my grandmother and some other old widows by mowing their grass and changing the brakes and oil on their cars when they needed it. I have no children myself, but I helped out with my nieces and nephew sometimes. I spent time with them and took them to the park. I would like to have kids some day and hope to find someone to settle down with when I'm released.
5. I lived with my mother and siblings but, when I am released, I plan to quarantine with friends until my test results come back negative to protect my family members. Then I would move home and help my family out. I know they really need me.
6. I have never been tested for diabetes, but I am concerned that I might have it. Every member of my family has diabetes, and I have some of the symptoms. I have to go to the restroom a lot, and I have dry mouth. The jail won't test me for diabetes.
7. Before April 20, 2020, I was confined on the F5 line.
8. For a few days before April 20th, I reported to a nurse that I wasn't feeling well. When I told them I had symptoms, they said they'd come back later and that no one had the virus on my side of the prison. They just assumed nothing was wrong and left me on the line for several days with symptoms—a really bad headache and body aches. I had to write a medical request to get my temperature checked.
9. A nurse finally checked my temperature on April 20th. It was 102.5 degrees Fahrenheit. I was tested for coronavirus and found out on April 24th that I was positive. I believe a deputy brought the virus onto my line, since they are the only ones coming on and off the line.
10. Guards came back later that night and moved me off the line to lockdown in B3. They told me I would be back there for 14 days to get well and then would need to have two

negative test results before I could be moved back to F5. But I stayed longer than 14 days. I was on the line from April 20, 2020 to May 8, 2020.

11. The F5 line was quarantined when I was pulled off, and the men who were still on the line got masks—flimsy surgical masks like nurses wear on TV.
12. They gave me a bandana to cover my face when they moved me. I never got a mask or gloves. The prison says they won't pass out gloves because they're contraband.
13. B3 is in part of the old building in the prison that was closed before the coronavirus hit because it was filled with mold and rats.
14. I was never allowed to leave the B3 line. I couldn't go outside, get any rec time, or get my own food. We had no way to talk to anyone else in the prison, except for the other guys on B3. We were basically just left back there.
15. There are some windows on B3, but we could barely see out of them. They are on a catwalk outside of our cells. We didn't get to see much of the outside world on B3.
16. There are six cells on B3, and there were at least two people in each cell, sometimes three. My cell had two people in it, including me. I think there were at least 12–16 people on B3 at all times when I was back there.
17. The cells had bars on the front and a gate that locked. The other three walls were thin iron. Some of the walls had holes in them so you could see into the next cell. I could reach through the bars on my cell into the cell next to mine. The men on the line passed stuff this way throughout the day, like toilet paper, writing utensils, pictures, etc. We could pass things all the way down the line of cells. Because the prison didn't give us enough supplies, we had to ask each other for hygiene supplies and toilet paper when we were running low. It would have to pass through so many hands to get to you—it's a shame that this happened with the virus, but it did.
18. It was always really hot on the line. I would start sweating just standing and talking on the phone. There was air conditioning in two of the cells, but the other cells and the day room didn't get any air. It was very stuffy in the daytime.
19. We were locked in our cells pretty much all day. Guards unlocked our cells and let each person out for about one or two hours a day. Some guards didn't come around again after everyone had their turn out of their cell, and it could be hard to get their attention if we needed anything.
20. The only time we could use the phone or take a shower was when we were out of our cells. I also did some calisthenics then because my cell was too small to do them any other time.
21. At the end of the hall, there was a day room with a shower, toilet, sink, and three phones. The day room didn't have a TV, even though we were supposed to have one since we weren't on disciplinary segregation.

22. The floors on the line were really filthy. A few days after I got to B3, a guard came onto the line and sprayed the floor with chemicals in a big bottle. This is the only time I saw them clean the floors. I asked the man with the bottle to spray down the things in my cell, like the toilet and sink, but he only sprayed the floor on the line and nothing in my cell. I asked him to spray down the things we touch, like door handles, but he refused. I didn't see anyone clean the door handles while I was on B3.
23. After about a week or so on the line, I became like a hall man, and the guards let me out more often than the other guys so I could clean the line. I was always trying to keep the line clean, so the guards just made that my duty. The guards didn't do any cleaning on the line, except for the one time I saw a guard spray chemicals on the floor. When I was a hall man, the guards usually opened my cell three or four times a day, for about two to three hours total each day. I would pick up the trays after chow and clean up the area, in addition to making my calls and doing my exercises.
24. As part of my cleaning duties, I could ask the deputy for chemicals to clean the floor and the shower. They usually gave me a mop and a bucket with some chemicals. The chemicals were usually some purple sanitizing stuff, but I don't know what it was called. They also let me borrow latex gloves for cleaning, but I had to give the gloves back to the deputy right after because they're contraband.
25. But the deputies wouldn't give us cleaning supplies to clean our cells. When I asked the deputies for bleach or other chemicals to clean my area, they either said no or they said they would bring me some, but then they made excuses for why they couldn't. I had to file a grievance to get cleaning supplies, and they brought me bleach once after my grievance, around my second week on the line.
26. When I saw they wouldn't give us chemicals for our cells, I took a cupful of the water from the bucket I used on the floors to try to clean my cell and to keep the phone clean. Otherwise, I had to use soap and water to clean. I had to use a rag torn from an old towel to clean my space and the phone, but I could only get that washed with my laundry once a week.
27. I showered every day to keep the germs down. I shared the shower with all the men on the line, but we couldn't clean the shower in between people using it. The shower was filthy and only had cold water. The mat on the floor had mold on it, there were lumps of soap on the floor, and the shower itself was rusted. I did my best to clean it when I was the hall man, using the mop and bucket with that purple substance. But when someone showered, the water poured out onto the floor and leaked down the whole line.
28. I got one state-issued regular bar of soap and one state-issued roll of toilet paper while I was on B3. The jail didn't bring these supplies back weekly, like they were supposed to. I tried to order commissary to replenish my hygiene and food supplies. I was able to get one order from commissary on B3 during my first week there, but then they stopped bringing it. I made another commissary order on April 27th and the money was taken out of my account, but I never received my items. On B3, guards would bring our commissary items, because the people who usually worked the commissary wouldn't

come back there because of the risk. I asked the deputy about my missing commissary. He told me commissary was a privilege and didn't explain why I wasn't getting the items I paid for. I put in another order on April 28th and the money was removed from my account, but I didn't get my items again. We never got our commissary orders. I regularly worried about the older men on B3 who had high blood pressure and diabetes and who needed to buy better food from the commissary.

29. My family put money in my commissary account so I could buy personal hygiene supplies and food to keep myself safe, but I wasn't able to use that money on lockdown.
30. There were men on B3 with me who didn't have money to buy supplies from commissary. At first, I sometimes shared my state-issued supplies with them if they needed it.
31. But after I learned that we couldn't get any more commissary, I had to preserve the supplies I had.
32. Because we couldn't get disinfecting cleaning supplies for our own use, I had to wear socks on my hands and put a sock over the phone to call my family. I didn't touch anything outside of my cell without socks on my hands. If I had some chemicals in my cup, I would wipe down the phone with my rag every morning and whenever I was let out of my cell. I never saw the guards clean the phone.
33. Without the TV, there was no way for us to get information about the coronavirus except from our families on the phone. The guards didn't give us any information about the coronavirus, how to protect ourselves, or what was going on in the world.
34. I was bored most of the time. I read my Bible and worked out to ease my mind, and I showered and talked on the phone to my grandmother, mother, siblings, and friends when I was out of my cell. There was nothing else to do. Around May 7th, the guards let some of the men out of their cells at the same time, and they played cards. I didn't play cards because I didn't want to catch coronavirus from the other men.
35. Guards bring our food to us on B3 and we have to eat in our cells. Although most of the guards wear gloves and masks when they hand out our food, some don't. The guards wear the same gloves the whole time they're serving everyone, and I've never seen them change their gloves. The masks are those harder bubble-shaped masks. Many of them also wear body suits.
36. The guys on B3 weren't given masks. We got only cloth bandanas. I had to wash my bandana in my sink with soap and water to keep it clean. I remember getting laundry on B3 only once, so I washed all my items myself for the most part.
37. Nurses came on the line twice a day most days for pill call, when they handed out prescribed medicines. Some days, the nurses didn't come on the line, so the deputies brought our medications even though the deputies weren't supposed to be handing out medicine.

38. I didn't get any actual medical care for coronavirus. The nurses gave me sinus pills and Tylenol for three days and they told me to drink water—that's it.
39. I asked guards for request forms to get more medicine. But the guards always had an excuse for why they couldn't give me the forms—like they needed to make copies of the forms or other people on the line were worse off than I was. I asked for the forms when they stopped giving me any medicine after the first three days.
40. The nurses wouldn't give me medical care for my other medical needs. I was shot in the hamstring before, and my hamstring was numb while I had coronavirus. I wrote the medical unit about this, but they never responded to my request. I asked the nurses about it when they were on the line, but they said they couldn't help with those types of matters now. I felt like I couldn't get the medical care I needed and that we were being left back there to see if we would die.
41. My cell in B3 had a sink with a water faucet, but the temperature was so hot that I couldn't drink the water. Deputies brought a cooler of water onto the line two or three times a day, sometimes less. We would get about a 16-ounce cup of water from each cooler. We didn't get any other water during the day. I asked the deputy for extra toilet paper one time because I was running low, and the deputy brought me brown paper napkins. I couldn't use those because they would stop up my toilet. I didn't want to ask the other men on B3 for personal items—I didn't want to risk getting the coronavirus again by touching the same things they touched.
42. It was really stressful to be on the B3 line because we were bored, isolated, we didn't know what was going on, and there were older people back there in way worse condition. One man was really sick. We would bring him water when we could, but it was depressing and stressful to watch him struggle. I have been diagnosed with depression and anxiety, and being on B3 was making me more depressed and stressed. Even after I thought I'd beat coronavirus, I was stuck back there with sick people, and I was constantly afraid I'd get sick again.
43. I asked to speak with the Captain and the Warden about how the jail was treating us on B3, but the deputy in charge told me that the Captain and Warden wouldn't come back to B3 to talk to me. Deputies also told me that the Sergeant who responds to grievances wouldn't come back to B3 to respond to any grievances I filed. I was not told about the grievance process at the East Baton Rouge Parish Prison when I was booked in or any time after that.
44. When I filed a grievance about our inability to get chemicals to clean our cells and the common areas in B3, Deputy Gafari, the deputy involved in the grievance, came back to my cell on B3 and asked me aggressively why I was writing him up. He got in my face and shoved me into the wall. I told him things would get serious if he shoved me again, and he walked away. I never received any other responses to my grievances. This was a couple days before I was taken out of lockdown.
45. On Friday, May 8th, I was moved back to the F5 line, which is in a different part of the

same old building that B3 is in. F5 is hot and dirty. The tables have particles of food on them, and I have to sit on newspaper because it's so dirty on the line. I try not to touch anything with my hands. There are a lot of rats on the line. I have to sleep with my commissary items in my bed so the rats don't eat them. We can't see out of the windows because there's so much dirt.

46. The line holds 24 men, but it isn't completely full because some of the guys are still in lockdown. I'm one of the oldest guys on the line right now.
47. F5 has two sections separated by a set of bars. On one side of the bars is a day room, and on the other side are all the beds. The day room is about 40 feet by 40 feet and has four benches that hold eight people each, if guys sit close together and do not try to do social distancing. There are no other tables or places for people to sit in the day room. We can't socially distance in the day room.
48. During shift change at 4:30 am and 4:30 pm, guards make everyone stand in the day room and respond to roll call, where they call our names one by one. We can't be six feet apart in the day room during shift change, and the guards want us to be close together by the door so we can hear them call us. Shift change and roll call usually takes a full hour.
49. There are 24 beds on the F5 line, and they're all really close together. All the beds are bunk beds, and they are welded together with a small iron bar in between them. We have to climb into our beds from the foot of the bed. I can touch the guy in the bed next to me.
50. Guards bring us our food on carts that they also use to collect trash. Most of the time, they wear masks and gloves, but sometimes they don't.
51. We don't get any masks or gloves, only bandanas. They passed out bandanas for everyone on the line on May 10th.
52. On May 11th, deputies moved a guy back to our line from B3 even though he still had coronavirus. They moved him back to B3 on the evening of May 12th, but the deputy told me they were going to put the F5 line on quarantine again because of the guy being back on the line.
53. Also on May 12th, Deputy Murphy passed out masks on the line. He gave masks to everyone but me. I asked him if I could have a mask because I had just come off lockdown and had tested positive for COVID-19 before, and the guys around me agreed that I needed a mask. The deputy said he had to ask, and he never brought me a mask.
54. If we ask for them, we can get chemicals from the guards more often than we did on B3, usually twice a day in the morning and at night. But I didn't get chemicals from the guards to clean my area when they moved me back to F5. I had to borrow some chemicals from another detainee to clean my space. I don't know how the detainee got the chemicals, but I know we're not allowed to keep any chemicals in our property. I've now become the hall man on F5 too.
55. The guards don't clean anything. I haven't seen them cleaning any high-touch areas like

the bars between the dayroom and the bedroom. I don't touch the bars because I know other guys put their hands on them.

56. I have seen another detainee cleaning the phones in the morning when they first get up, usually with a rag and chemicals. The guards don't clean them. I still have to put socks on my hands and on the phone when I need to call someone.
57. I have seen the guards spray the floor with a keg that has some chemicals—usually bleach—in it. But they won't actually clean, and they won't spray our areas with the chemicals so we can keep our spaces clean.
58. There are four showers on F5, but only two work. The showers are dirty, and there is mold on the floor mats in the bathroom. The showers are only cleaned once a day, not between every use. The detainees also do this cleaning with chemicals and rags. The prison gives us only hotel-sized bars of soap on F5, not the usual amount we need to clean ourselves every day.
59. When we get our state-issued supplies in the prison, the guards used to hand out razors for us to shave and collected them when we were done. But since I was moved to B3, I haven't seen the guards hand out any razors, even after I got back to F5. I haven't been able to shave or get my hair cut since before I was moved to B3, and I look like a werewolf.
60. The guards check our temperatures once a day in the mornings, while the nurses are handing out medications on pill call. I still have some coronavirus symptoms, like sinus issues and extra mucus, but the nurses stopped giving me any medication once I was taken off B3. I mentioned it to the nurses and have requested more Tylenol and Mucinex. I even filled out a medical request form on the evening of May 10th or the morning of May 11th. I asked a nurse for another medical request form on May 13th, but she didn't give me one and just kept walking. I also asked a deputy that day. He said he would bring me a form, but he never did. I never got these medications the whole time I had symptoms on F5.
61. I don't think the conditions are much better on F5 than they were on lockdown.
62. According to my public defender, when the courts reopen, I will be let out on time served. I've already served more time than my charges carry, but I'm stuck in the jail. I missed my court date on May 13th, when I was supposed to plead to time served, because the guards wouldn't bring me off my line due to the quarantine, even though I've already beaten the coronavirus.
63. If I was released into the community, I would be able to stay away from people who are sick and buy myself alcohol-based cleaning supplies. I would also have access to clean water, healthy food, and the medical care of my choice, if I need it.

This declaration was orally sworn to by Christopher Lee Rogers on May 21, 2020 because the East Baton Rouge Parish Prison is currently not permitting documents to be exchanged for signature.

Under penalty of perjury, I declare that I have read the foregoing in its entirety to Christopher Lee Rogers on May 21, 2020.

By: 
Miriam Nemeth
Date: May 21, 2020

EXHIBIT 4

DECLARATION OF FORREST HARDY

I, Forrest Hardy, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. My name is Forrest Hardy. I am 31 years old and of sound mind.
2. I am currently detained pretrial in the East Baton Rouge Parish Prison in East Baton Rouge, Louisiana. I have been confined in the jail since January 8, 2020.
3. Before I was arrested, I was living with my wife and my two-year-old son. I also have a three-year-old son. I had been working in plants doing maintenance and construction work, but I got laid off in October 2019. I was doing temp jobs to try to find work and support my family after my layoff. Right before I got arrested, I got a new job in the Shintec plant doing maintenance work. I was supposed to start the day I got arrested. I was active in my church and had my life pretty put together.
4. I am currently confined on the Q9-10 line. The line is very outdated. There is mold growing and rust everywhere on the line. The roof is leaking, and the vents have mold and rust on them. In the bathroom, there is mold on the floor and mold, scum, and rust in the showers. The drains in the bedroom, day room, and bathroom are clogged with waste water on my line and the other lines in the Q wing. They've been clogged as long as I've been on the line. One time, I saw a leech crawl out of the drain in the bathroom.
5. The line holds 120 people, and there's still about 80 or 90 people on the line right now. There's no way for us to social distance on the line because of how close our beds, toilets, and showers are, how many people are on the line, and the size of the day room.
6. All the bunk beds are together in an open dorm style room, and they're less than two feet apart. In the bathroom, the toilets are a hand's length away. If two guys are using the toilets next to each other, their legs could touch.
7. When we watch TV in the day room, we all sit by each other. There aren't enough seats in the day room to hold everyone on the line. There are six tables with four seats and eight benches that fit five people each. Other people sit on the floor. There is no social distancing in the day room.
8. Everyone on the line has to be in the day room for roll call and for shift change, and we can't socially distance during that time. We're all in a clump against the walls and in the middle of the room, not in a line. Roll call happens two times a day, sometimes three times, and it lasts at least 10 minutes. It's one of the few times the guards will come on the line. Shift change can last for an hour, and we're all in the day room that whole time.
9. There are six phones in the day room, but two of the phones are broken. There's always confusion and fights around the phones.
10. The jail didn't start doing temperature checks until several weeks after the pandemic started, around early April. Then it took them another about three weeks to hand out face

masks. Then they began giving out bandanas instead of masks. Around the middle of April, the jail stopped checking our temperatures.

11. My suspicion is that the jail is trying to keep things under wraps, and they're not trying to identify people with coronavirus. They aren't testing anyone anymore unless someone has symptoms, and they're usually waiting until the guy is really sick.
12. They're also not reporting what's actually going on. They're supposed to be testing everyone in the jail, but they never started that. They haven't reported their test results, saying that the virus is dying down. But if they're not checking, how can they tell who has the virus but doesn't have any symptoms? They're leaving us in a pocket of vulnerability.
13. On several occasions, the guards left people with temperatures over 102 degrees on the line for hours and only removed them after the shift change. Sometimes, those men stayed on the line for twelve hours. I don't know why the jail staff did that. I understood that detainees were supposed to be removed immediately if they had temperatures over 100 degrees.
14. Around mid-April, I cut my hand on a razor and asked the guards in the control room for a Band-Aid. They told me they didn't have a first aid kit in the control room, even though they're supposed to have one there. I never got a Band-Aid or antibiotic ointment. I asked nurses during pill call, but the medical cart often isn't stocked with what they're supposed to have, like Band-Aids, triple antibiotic ointment, and aspirin or ibuprofen.
15. Nothing is cleaned on the line, and no one here practices sanitary practices. The bars on the line are always gunked up with mold, juice, spit, and old food.
16. There are no cleaning supplies or disinfectants on the line. The jail doesn't allow us to have bleach or disinfectants. If we get any from the guards, it's very watered down. Usually, we just get a mop with water, but sometimes the water has some solution in it. I don't know what the solution is. We cut up old towels to make rags that we use to wipe down the tables in the day room, but they don't stay clean for long. We don't have any scrub pans, Brill-o pads, nothing like that in here.
17. The guards don't clean the phones or other high-touch areas, and we just have to use them as they are. We try to clean the phones ourselves by wiping them on our uniforms, but with so many touches, they're never really clean. We put a sock over the phone to try to protect ourselves.
18. The showers aren't cleaned properly at all either. They get sprayed with some kind of solution every two to three week. I don't know what the solution is, but it's not bleach. There's so much scum on the shower all the time, even after it's cleaned, that we can scrape it off with our fingernails. At least 80 people share the five working showers on the line, and they ejaculate, pee, and spit in the showers. There are bugs in the drains. The showers are nasty.

19. The jail won't give us antibacterial soap. We get one regular 3.5 ounce bar of deodorant soap and one roll of toilet paper from the state once a week on Wednesdays, but we have to buy antibacterial soap from the commissary. They gave us extra soap for one or two weeks, but they don't do that anymore.
20. We first got thin paper masks in mid-April, about five to six weeks after the coronavirus started. About two weeks later, the guards started giving us bandanas. They might wash our bandanas once a week, but they don't enforce people turning them in to wash them. I trade mine in every week.
21. We've been quarantined since at least the end of March. The guards wear gloves and masks when they bring our food in, but this defeats the purpose because they've already touched everything in their gloves. They touch the bars, the doors, they go in and out of the key, and they go on other lines in the same gloves. I can see through my window to the other side of the line, and I've never seen the guards change their gloves, even though they're supposed to every time they move. I know this from my work in plants, where we focused on safety and OSHA practices. Half the time, the guards don't have masks or gloves because they say it's not necessary anymore. But they're the ones coming and going to the outside world, and they have the biggest potential to infect us inside the jail.
22. The guards bring our food onto the line on the same carts they use to collect the trash. I've seen the guards put trash from the line onto the cart, and they do this with the same gloves and masks they use to feed us. Our food is usually cold, and we don't get any ice in our drinks.
23. The guards don't give us any information or updates about the coronavirus, and they didn't tell us about washing our hands. They're very secretive about what's happening in the prison. They passed out a piece of paper at some point about coronavirus and how to stay safe, but they never enacted anything. For example, they never gave us hand sanitizer, even though they have some in the key. I try to read the newspaper and watch the news every day to stay updated.
24. I filed grievances about the treatment in here, but they keep disappearing and I never get a response. We have to give our grievance forms to the guards to put in the grievance box, and we're supposed to get a response soon after that. I've never received a response to any of my grievances.
25. When I am released into the community, my wife and I are planning to relocate and get out of Louisiana. We're thinking about moving to Colorado. I previously did geophysical work there, and my wife and son like the snow. In our current house, I have a separate room where I can quarantine if I need to before we move. I will also be able to stay away from people who are sick and buy myself alcohol-based cleaning supplies. I can have access to clean water, healthy food, and medical care of my choice if I need it.

This declaration was orally sworn to by Forrest Hardy on May 21, 2020 because the East Baton Rouge Parish Prison is currently not permitting documents to be exchanged for signature.

Under penalty of perjury, I declare that I have read the foregoing in its entirety to Forrest Hardy on May 21, 2020.

By: 
Miriam Nemeth
Date: May 21, 2020

EXHIBIT 5

DECLARATION OF JERRY BRADLEY

I, Jerry Bradley, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. My name is Jerry Bradley. I am 39 years old and of sound mind.
2. I am currently detained in the East Baton Rouge Parish Prison in East Baton Rouge, Louisiana. I have been in jail for almost a year, since April 23, 2019. I pled guilty to time served on April 6, 2020 to get out of the jail before I was exposed to the coronavirus. But I'm still in the jail waiting for the DOC to calculate my good time so I can be released. I've been waiting for weeks for them to lift my hold.
3. Before I was arrested, I worked for Midas on College Avenue in Baton Rouge six days a week and lived with my fiancée and my two-year-old son. My boss at Midas told me he's holding my job for me for when I get free from jail.
4. Before April 13, 2020, I was confined on Q9-10. There were over 100 people on my line, which is an open-dorm-style area. We couldn't be six feet apart on the line. Our beds were probably about two feet apart, if that, and we all had to gather in the day room during shift change and roll call. The men on the line were anxious and scared of contracting coronavirus. The guards tried not to come onto our line often.
5. The nurses began taking everyone's temperatures daily around the beginning of April, and we were told that people with high temperatures would be sent to lockdown and would be tested for coronavirus. The nurses and guards wore masks and gloves while taking temperatures, but they did not wear other protective equipment and they move around the facility all day.
6. On April 13, 2020, Sheriff's deputies came to our line around noon and took everyone's temperatures. I had a slightly high temperature. I don't remember the specific number, but I remember it wasn't over 100 degrees. I didn't have body aches or any other symptoms.
7. That day, I was moved to lockdown on C01 because of my temperature. The nurses tested me and recommended that I be moved, and the guards actually moved me. I was moved with five other men from my line, some of whom had coronavirus symptoms like being unable to smell or taste. We were told we would be held in lockdown until our coronavirus test results came back. We were not given any other information.
8. On April 14th, I learned that my test results were positive, along with eight other men on C01. A nurse named Ms. Robertson told me I had to test negative twice before they could move me off the line.
9. C01 is a solitary confinement line in an old building in the jail that had been closed before the coronavirus pandemic. It is not clean, and there are a lot of spiders in the cells.
10. I believe that the men in the cells before us were sick, and I don't know if the cells were cleaned after those men were moved. The Sheriff's deputies told us they sprayed down

the mattresses in the cell, and they gave us one piece of paper towel to wipe down the mattresses.

11. The first night I was on C01, the deputies brought us only one cup of drinking water. After that night, some guards barely came back to the line at all, and we might have to go the whole shift without water. Other guards would come back more regularly. It all depended on the shift.
12. I did not get any cleaning supplies on C01, and I couldn't clean my area to keep myself safe from the virus. The only thing I could do was wash my space with soap and water and wipe it down with my towel.
13. I was given a few masks when I was transported to lockdown and after getting to lockdown. I believe I received about seven masks total since coming to lockdown. The masks are paper/fabric, like the ones in the hospital, and they aren't that sturdy. We can usually make them last a few days because we don't wear them when we're in our cells and we don't really go anywhere else except to use the phone and shower.
14. Everyone in lockdown has to share the same telephone. I saw the deputies clean the phone once in the first 24 hours I was in lockdown. After that, some guards would clean it before letting the next detainee out of his cell, but some didn't. Most days, they didn't spray the phone. When I need to use the phone, I put a sock over it to try to protect myself from catching the virus.
15. The nurses come back to our line twice a day for pill call. They might bring vitamins, Mucinex, or Tylenol for those of us with coronavirus. It depends on who's working—some do and some don't. We get vitamins twice a day. That's about it. They just put us back here, and they're not taking care of us.
16. The people in lockdown are scared of what will happen to them and how they will get the medical care they need if their test results come back positive. I try not to think about what will happen to me in here.
17. About a week after I got to C01, the guards moved me and everyone else on the line to A1. We've been over here for about four weeks, and I'm still on lockdown.
18. A1 is just like C01, except that there are eleven cells instead of nine. The cells on both lines are about six feet across and hold one person. They have bars on the front and walls on the other sides. Our cells are so close that we can pass things to each other through the bars. We could do that on C01 too.
19. We share the shower and phone on this line, too. Guards don't clean the line, the detainees do, and it depends on who they let out to clean. One guard usually has me do the cleaning. We get deodorant soap and toilet paper from the prison once a week. It's basically the same as being on C01.
20. If we need to get the guards' attention on A1 for any reason, we have to kick the walls to get the guards' attention. Sometimes, it takes them as much as 15 minutes to respond.

21. During the time that I've been back here, including around April 23th, the guards continue to bring more possibly sick people back. I was afraid that I would get sick again from these men.
22. On April 30th, I took another coronavirus test. I got a negative result on May 1st. But I needed two negative results in a row to get off the line. I took my second test on May 1st. On May 4th, my test results came back positive again. I took another test on May 13th and found out on May 19th that the result was positive again, so I'm still stuck back here.
23. I'm still waiting to be released from the jail. The DOC has had my papers for three to four days now, and they keep telling my family that they're going to come back and get me. But they haven't yet.
24. If I was released into the community, I would stay with my father in his house in Baton Rouge. I have a separate bedroom there where I could quarantine if I needed to. I would be able to stay away from people who were sick and buy myself alcohol-based cleaning supplies. I would also have access to clean water, healthy food, and medical care of my choice if I needed it.

This declaration was orally sworn to me by Jerry Bradley on May 19, 2020 because the East Baton Rouge Parish Prison is currently not permitting documents to be exchanged for signature.

Under penalty of perjury, I declare that I have read the foregoing in its entirety to Jerry Bradley on May 19, 2020.

By: 
Miriam Nemeth
Date: May 19, 2020

EXHIBIT 6

DECLARATION OF CEDRIC SPEARS

I, Cedric Spears, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. My name is Cedric Spears. I am 47 years old and of sound mind.
2. I'm currently detained pretrial in the East Baton Rouge Parish Prison in East Baton Rouge, Louisiana. I've been in the jail since January 5, 2020. I tried to bond out a few months ago, but I haven't been able to bond out since the pandemic hit. I had the money before the pandemic hit, but our finances are tighter now because of the pandemic and because my wife needed the money for surgery for gallstones. I was supposed to go to court on May 26th, but my public defender told me that my court date would be pushed back because of the coronavirus.
3. Before I was arrested, I lived with my wife in Baton Rouge. We had three children: my sons are seven and 24, and my daughter sadly died a couple years ago while I was previously incarcerated. My wife works at a hospital, and I helped around the house. My wife and I have been dealing with the loss of our daughter. My youngest son lives with my ex-wife, and I can't see him while I'm in jail because they won't let us have visitors. My oldest son was recently released from incarceration after the hold on him was listed. I was just getting my own business selling printed t-shirts off the ground when I was arrested. In my free time, I helped out my mom, who is 70 years old. She lives alone and can't move around like she used to. I would clean up and cook for her, bring her things to eat, mow her lawn, run errands for her, and wash her car. She had back surgery earlier this year, and I'd like to get home to help her more.
4. In the East Baton Rouge Parish Prison, I was first confined on the Q5-6 line from about January 8th to March 15th, then on Q9-10 from March 15th through early May, and most recently on Q11-12 since about May 4th or 5th. I also spent several days on the N line in January.
5. We are living in inhumane conditions in the jail. There are leaks in the ceilings, broken toilets, mold all over the place, rust, dust caked on the vents, and blood and other bodily fluids on the walls. We're constantly breathing in that mold, rust, and bacteria. The jail staff doesn't care about cleaning. They just bleach the floors but don't clean anything else, like the walls or the bars. Some of the lines have cockroaches, leeches, or gnats on them. There are windows on some of the lines, but we can't see out of all of them because they are fogged up and dirty. We can't see the outside world very much while we're on quarantine.
6. Q5-6 is where the kitchen workers live, and it's similar to a trustee line. I worked in the kitchen from mid-February to March 15th. I lost my job when I reported that the jail was trying to serve detainees spoiled food.
7. The kitchen is filthy. You can smell the spoiled food when you walk into the kitchen. There is also old food caked into the cracks in the serving line area, on the counter, and

on the walls. There are food particles everywhere. They don't sanitize anything properly, most of the dishes aren't cleaned properly, and they use the same broom for sweeping the floors and cleaning out the hot box where food is stored. The guards don't care about us and don't check behind the kitchen workers to make sure things are clean.

8. For a while, the jail was only allowing trustees to work in the kitchen, but around April 13th, they let the kitchen workers return to their jobs. The rest of the prison is still on quarantine.
9. I believe the coronavirus started on Q5-6. I was living on Q9-10 at the time, and an officer named Chris came onto my line with a mask on. We asked him why, and he said some guys on Q5-6 had tested positive for the coronavirus.
10. I was on Q9-10 for about six weeks. It was nasty and not clean over there. Two of the four urinals were broken, and one or two of the toilets were broken too. The guards had to spray bleach into the drain in the bathroom because leeches were coming out of it.
11. A lot of men were sick on Q9-10 while I was there. They had fevers, some were throwing up, some had diarrhea, some stayed in their beds all day, and some couldn't eat at all. One guy who came onto the line from work release couldn't taste or smell, and the jail staff took him out immediately. I never saw him again. He was one of the first ones they took out. The other sick guys on the line put in lots of sick calls to get their temperatures checked. The nurses took their temperatures and knew they had 104 and 106 degree Fahrenheit fevers and said they needed to go to lockdown, but the guards left the guys on the line for 10–12 hours before making them pack their stuff and move.
12. I started having trouble breathing after I got to the jail in January. I don't know if I'm getting sick or if it's just all the mold and bacteria I'm breathing in all the time while we're locked inside here. It feels like I have to fight to breathe in and my breath is really short. I put in a sick call for this around mid-April while I was on Q9-10, but the nurses never responded or gave me any medical care.
13. I asked the guards to move me back to Q5-6 because Q9-10 was so bad. But they moved me to Q11-12 instead. There were still 70 people in the Q9-10 dorms after the prison cut about 50 people loose by the time I left the line.
14. Even though the prison moved me to Q11-12 after the coronavirus pandemic started, they didn't test me for coronavirus before they put me on that line. I had also worked with the guys who tested positive on Q5-6, but the jail never tested me even though they knew we worked together.
15. Q11-12 is the Christian line. The jail keeps it cleaner than the other lines because they bring people from the community onto this line for tours and to show it off to visitors. The line has two big open dorm rooms that hold about 120 people total. Right now, there are about 60 men on the line total, and all the top bunks on Q11-12 are empty. The jail cut a lot of the nonviolent guys loose and stopped bringing new people on the line in late March or early April. I think the only new guys on the line since then have been the men returning from coronavirus lockdown at Angola or in the condemned parts of our jail.

But there are still a lot of guys left here and a lot of people who previously tested positive for the coronavirus.

16. We still have to be very close together on Q11-12, and we can't socially distance. We sleep right on top of each other in bunk beds that are about 2.5 feet apart.
17. Although the day room is a nice size, about 50 feet by 25 feet, the guards make all the men on the line stay in the day room during morning and evening shift change and roll call. Together, shift change and roll call take 30 to 50 minutes, from 4:30am-5am or 5:30am and from 4:30pm to 5pm or 5:30pm. The guards want us close together and close to the door so we can hear them. Once they call our names, we can go back into the day room. The guards don't come on the line often, except for roll call, to feed us, and to check the lines or harass us.
18. We're locked on our lines all the time, and we're not allowed to move around the jail or go to chow. Instead, the guards feed us on the line. They bring our food onto the line with a cart that they also use to collect the trash from the line. We often eat in the day room, but there aren't enough seats in the day room for all 60 people in the dorms. There are about seven tables and four people can sit at each table. People are constantly touching the tables. Other people eat at their beds or on empty beds.
19. All the men on the line also share the bathroom, including the showers, sinks, and toilets, all of which are only about a foot apart each in the bathroom. All the metal parts of the bathroom are rusted, and there's mold in the bathroom. We try to clean the bathroom whenever the guards bring us cleaning supplies, but they only bring cleaning supplies two to three times a week. Even then, we don't always get bleach. Sometimes, we get some other clear chemical sanitizer. I don't know what it is. When the guards don't bring us chemicals, we do the best we can.
20. We don't get chemicals to clean the tables, other high-touch surfaces, the floor, or anywhere else line on a daily basis either. Sometimes the guards bring bleach, but they don't bring it every day. We get chemicals only about two to three times a week at the most, and we can't get them at other times during the day if we wanted them. They only bring us chemicals for them—because they need to be on the line around us. On other days, they just give us a mop and a broom.
21. We don't get chemicals to clean the phones between different people using them. If we want to use the phone after someone else uses it, we have to wash the phone with our soap and water and put a sock on it. The phones are turned on from 8am to 10pm, and there are always people on the phone.
22. The jail gives everyone two free 10-minute calls a week. But money is scarce in my family. My mother is on disability, and my wife just started working again after moving and her surgery, so money is tight and I can't talk to my family that much. I haven't seen my family since the coronavirus hit because the jail is closed to visitors, and I miss not being able to see or talk to them as much. I'm worried that my mom, who is 70 and has bad health issues, won't be living when I get home. I don't want to lose her while I'm

incarcerated like I lost my daughter, and this is very stressful to me.

23. We usually get enough soap, especially after the jail started testing for coronavirus and got positive test results. Before then, it wasn't consistent when we got soap. Now, we get soap twice a week, and it's usually a regular sized bar. For about a week in early April, the jail gave out only hotel-sized bars of soap. But none of the soap they give us is antibacterial.
24. The jail doesn't give us gloves. They gave us masks only one or two times. Then they started giving us bandanas to cover our faces instead. We got one or two new bandanas, then the guards began collecting our bandanas to wash them and give them back to us every few days. I don't give my bandana to the guards for washing. A friend of mine who worked in the laundry room told me that the jail just washes everything on speed wash without chemicals and that things aren't washed well.
25. We get one uniform in the jail, and it gets washed once a week. Since the pandemic hit, we've been able to get our laundry done twice a week, but it's also done on speed wash, and I don't trust that my uniform or sheets are clean when they come back from the laundry.
26. We don't get paper towels or hand sanitizer. If we want to wash our hands, we have to dry them on the uniforms we wear all the time or on our shower towel.
27. The jail doesn't check our temperatures or test us for coronavirus. They started taking our temperatures in late March or April, but they didn't start until about two or three weeks after they told the news they were checking temperatures. They only started checking temperatures after people made a bunch of sick calls. They checked our temperatures for about three weeks, but then they stopped doing it in late April. I last saw them testing someone about one week before they stopped checking temperatures, while I was still on Q9-10. I haven't see them test anyone or take anyone's temperature since I was on Q9-10, and they don't check on us regularly either. As a result, they don't know who is positive and who is not. But I still see a lot of people coughing on the line.
28. We used to walk to pill call before we were all locked on our lines. Now, the nurse comes to the dorm, and we all line up at the bars between the day room and the hallway to the rest of the jail. Pill call happens twice a day, usually between 7am and 8am and between 7pm and 10pm, depending on the nurse on shift. We speak to the nurse without masks on and reach through the bars—that everyone touches—to get our pills. We have to take our pills right there and can't wait until we wash our hands to take them. There's no way to socially distance during pill call.
29. The guards don't tell us anything about the coronavirus or how to take care of ourselves during the pandemic. We haven't seen the Warden since the beginning of the pandemic, and no ranking officer comes back to tell us anything. The guards mostly just try to get off the line quickly. They act like they're in danger being around us, but they're the ones who go into the community and get exposed to the virus. We might have had a sign up with information about coronavirus at one point, but I don't think I saw signs on each of

the lines I was on.

30. We try to get our information about the coronavirus when we watch the news—there are two 32-inch TVs in the day room. But on Q9-10, at least, the guards would shut off the TV when reports about the coronavirus came on the news. I remember this happening on each guard shift.
31. The jail recently diagnosed me with bipolar disorder, paranoid schizophrenia, and depression after examining me for no more than eight minutes. They are forcing me to take medications for these conditions. But I've never had mental health problems my entire life, and the social worker wouldn't give me any education about the medications. I don't want to take these medications without knowing about the side effects. But I can't talk to the social worker about my diagnosis or my medications because she won't come back on the line to talk to us. So I'm forced to take these medications that I don't want to take and probably don't need.
32. Being in the jail during the pandemic isn't helping my mental health conditions. I feel depressed because I can't go home, and I'm scared because I don't know what's happening. I feel like my life might be in danger if I get the coronavirus in here. I'm really stressed because no one is listening to me in here.
33. The jail doesn't tell us how to file grievances during intake, and we have to try to figure out the process on our own. We can't drop our grievance into the grievance box ourselves because the box is off the line and we're not allowed to leave the line while we're quarantined. Instead, we have to give our grievances to the guards when they collect the mail and depend on the guards to put our grievances in the box. But I'm never sure that my grievances make it into the box. I've seen guards lose grievances from another line on our line. I don't trust these people.
34. I've filed grievances before and never heard back about them from the jail, even though they're supposed to respond to me. For example, in mid-March of this year, I filed a grievance about the mold and dust in the jail, the fact that we can't socially distance, and that we have to take our pills through the bars without washing our hands. I never received a response to this grievance. I can't appeal my grievance without a written response from the jail.
35. On May 21st, the guards put another inmate named Byron Cassidy on the line with us. I saw him when I woke up on the 22nd for roll call. He was sick. Then I went back to sleep and woke up again when he was packing his things and the guards were moving him to lockdown. His stuff was in a bag in the hallway, and they took his mattress out there too. The guards didn't give us bleach to clean the bunkbeds he was on.
36. If I was released into the community, I would go home to my wife. We have a one-bedroom apartment in Baton Rouge, and I can quarantine in our bedroom or living room if I need to. I will also be able to stay away from people who are sick and buy myself alcohol-based cleaning supplies. I will have access to clean water, healthy food, and medical care of my choice if I need it.

This declaration was orally sworn to by Cedric Spears on May 22, 2020 because the East Baton Rouge Parish Prison is currently not permitting documents to be exchanged for signature.

Under penalty of perjury, I declare that I have read the foregoing in its entirety to Cedric Spears on May 22, 2020.

By: 
Miriam Nemeth
Date: May 22, 2020

EXHIBIT 7

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA**

PLAINTIFF NAME, PLAINTIFF NAME,
PLAINTIFF NAME, PLAINTIFF NAME,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

SHERIFF SID GAUTREAUX, in his official
capacity; CORRECTHEALTH; CITY-
PARISH of BATON ROUGE, LOUISIANA,

Defendants.

Case No.

DECLARATION OF DEMOND HARRIS

I, Demond Harris, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. My name is Demond Harris. I am 40 years old and of sound mind.
2. I am currently detained pretrial at the East Baton Rouge Parish Prison in East Baton Rouge, Louisiana. I have been in the jail since December 22, 2019. I am a minister to other men in the prison.
3. Before my arrest, I worked in maintenance at apartment buildings and hotels and had my own electrical business. I lived with my significant other and helped her raise her three sons, with whom I am close. I also helped to support my two youngest biological children, who live with their maternal grandmother after their mother died two years ago. I was involved in my church. I was also the primary support for my mother, because I am her only child still in Louisiana, and I helped her with tasks around her house. I know my mother is scared and upset about the coronavirus in the jail, and this hurts me a lot.
4. Before early April 2020, I was confined in Q11-12. The first detainee in the jail to test positive for coronavirus also lived in Q11-12 before he was removed by guards in late March. The man wasn't removed until he was so sick that he was falling down.
5. In early April 2020, around April 5th, I asked the nurse to check my temperature. I'd had a headache for two days because it was hot on the line and I think I overdid my workout. I didn't have any symptoms of the coronavirus.

6. They weren't taking everyone's temperatures at that time, but the nurse took my temperature during pill call. I first had a temperature of 101 degrees Fahrenheit, and the nurse told me I had to go to lockdown. I had heard about how bad the coronavirus lockdown was, and I told her I didn't want to go. She agreed to take my temperature again a half hour later. It was 98 degrees Fahrenheit the second time she checked, which was below the cutoff for coronavirus lockdown. But she told me I had to go on lockdown anyways. She assured me that there was nothing wrong with lockdown and that I would have a tv and be comfortable. That was a lie.
7. The nurse gave me aspirin for my headache, and I had to go straight to lockdown. They didn't even let me bring my property with me. They just told me to bring my mattress.
8. The guards moved me to C01, a solitary confinement line in the old building. The line had been closed down for 2-3 years and was condemned. But the jail just automatically opened it back up for coronavirus. There were rats and roaches on the line. Although I had running water in my cell, I was never sure that the water was safe to drink. But it's the only water I had, so I had no choice but to drink it if I needed water. I drank a lot of water to keep me healthy on the line. My sink and toilet also ran all the time on C01.
9. The cells on C01 were all in a line, separated by thin metal walls. I think the wall was only about 1/8 inch thick. I could reach into the cell next to mine. Guys passed food and other things up and down the line by reaching through the bars.
10. Other men were moved to lockdown with me. We were the first men on this line, so we brought out own mattresses with us. The men who came after us didn't bring their mattresses—the just used the mattresses that had been left behind by the previous guys. Nobody cleaned the mattresses or the cells when the first set of men were removed from the line.
11. We were locked in our cells for almost all of the day. The guards would let us out for about 15-30 minutes once a day, after about a week of being on the line. The first week I was on the line, they didn't let us out at all, and I couldn't get a shower or use the phone. Some of the guards who kept us locked in our cells like we were on disciplinary lockdown were Thorton, Murphy, and the guards who worked on their shifts.
12. I wasn't tested for coronavirus until I'd been on the line about eight days. It took 48 hours to get the results, and the jail staff didn't want to give me my results. They said something about HIPAA or privacy concerns, but that didn't make any sense because those were my own test results. Finally, Nurse Ricky told me that I tested negative.
13. The other men on C01 with me all tested positive, and they were taken to Angola.
14. For about five days, I was the only person in lockdown, and the guards rarely came back to my area. I was locked in my cell that whole time, and I couldn't use the shower or phone. All I had was my Bible. It was hard to keep track of the days on lockdown without a tv, radio, or newspaper. I was very lonely, and I got tired of killing spiders back there.

15. Around April 20th, the guards brought about seven new people into lockdown. Some of those people had fevers and other symptoms of the coronavirus, including being unable to smell or taste. They all came from the same line in another part of the jail. They all ultimately tested positive for the coronavirus.
16. The new people had masks, but I was not given a mask even though I was forced to live around them and share communal spaces like the shower and the phone with them.
17. I was upset that the jail was keeping me on a line with people who were positive for the coronavirus when I was negative, and I was scared that I would get the coronavirus from them. I didn't have any way to protect myself, and I was worried that I wouldn't get the medical care I needed if I was sick in lockdown. Why would the jail leave me back there with guys who tested positive and without any protection if I had tested negative?
18. I didn't leave my cell much, even to use the phone when I finally had access to it, because I didn't want to touch any of the surfaces or use any of the things that the sick people on the line used. But I did leave my cell to call my mother and my public defender about the fact that I tested negative for the coronavirus and was being housed with men who tested positive for the coronavirus. I asked them to call the Warden and try to get me moved back to Q11-12.
19. The Warden agreed to move me if I had a second negative test result. But when the nurse came back to test me, around April 24th, I ended up having a positive test result. It was still hard to get the jail staff to give me my test results. When I finally got the results, I was so upset and scared about being positive that I cried. My mother cried too. If the guards had just taken me out of there after my first negative test result, I might never have gotten coronavirus. The nurses told me that I needed to test negative twice after by my positive result before I could go back to Q11-12.
20. We got absolutely no medical care for coronavirus on lockdown. The nurses were so scared to go back to the lockdown lines that they would only come back to check our temperatures and then literally run out of there. They only checked our temperatures for the first 21 or so days that I was in lockdown. Then they stopped checking everyone's temperatures on the line. They mostly just gave us our pills and left. We first got Tylenol and Mucinex about 14 days after they brought me to lockdown, and we started getting Vitamin C pills after about 28 days in lockdown.
21. I never saw the head nurse or any other members of the prison's medical staff while I was on lockdown. I only saw the CNAs or the medical assistants, never anyone who could give out information about the virus or our test results.
22. The only jail staff who came to lockdown were the guards. They didn't have any information, and they didn't provide us with any updates.
23. The prison didn't give me any cleaning supplies or personal protective equipment to keep my space clean or protect myself from the spread of the coronavirus. My mother—a former nurse—put extra money in my commissary account to help me protect my health, but I couldn't get anything from the commissary on lockdown. I didn't have any hygiene

or cleaning supplies that could actually kill the virus, and I couldn't protect myself or clean my space. I didn't even have hot water in the shower or in the sink in my cell.

24. Because I didn't have my property, the only things I had were what the jail gave me: my state-issued roll of toilet paper, hotel-sized bar of soap, and a toothbrush I had to put on my fingertip to use. They brought these supplies every Wednesday.
25. In lockdown, I couldn't call my family members that often. I could call my mother and my significant other only at most once a day, when the deputies let me out of my cell.
26. When I wanted to use the phone, I had to wash it with the cold water from the sink in my cell, the soap the prison gave me, and some toilet paper. That's all I had to clean communal spaces and my cell with. I was scared to call people on the phone because the prison didn't sanitize the phone and everyone on the line shared it.
27. The guards didn't spray down the dorm or our cells. They wouldn't wipe down the phones. They did nothing.
28. After about 21 days on C01, around April 27th, the guards moved me and all the men on my line to A1, another condemned line in the old building. I spent the rest of my lockdown on A1. The cells in A1 were just like C01, except that the sink and toilet in my cell didn't run all the time (but other guys' toilets and sinks on A1 did). The water in A1 was bad. It had rust and particles in it, but I drank it because I had to. It often upset my stomach.
29. The way we were treated on A1 was exactly the same as I described above for C01. The only difference between the practices on the two lines is that we got bandanas for masks on A1, and the guards came by every 4-5 days to collect the bandanas for laundry.
30. I tried to file grievances while I was on C01 and A1, but we couldn't file grievances because we're not allowed to send mail out on lockdown. Grievances usually leave the line with the mail, but the guards weren't allowed to take mail or grievances from us and bring them to the mail room or the grievance box, to prevent spreading the virus. That's what the guards told me, anyways. They told me they couldn't put their hands on it.
31. In my last week on A1, I took two coronavirus tests and tested negative both times.
32. On Sunday, May 10, after about 35 days in lockdown, I was finally moved back to Q11-12. I definitely feel like they held me on lockdown too long.
33. I think the jail staff is trying to create an atmosphere of fear around lockdown so that guys won't report symptoms to avoid going to lockdown. Why else would they take all of our privileges away? They took away almost all of our privileges on lockdown, including commissary, access to hygiene products, mail, open access to phones, and tvs. If people on the line heard about that, they wouldn't want to tell the nurse they were sick and they would be scared to go to lockdown. So they kept their symptoms quiet, and the jail staff let the virus spread throughout the jail. I think this is how the jail has kept their positive-case count down.

34. When I got back to Q11-12, I was able to use my commissary funds to get deodorant, toothpaste, a haircut, and a shave. I felt like a human being again.
35. The guards are still moving people onto Q11-12 who are sick, instead of quarantining them away from general population. This just happened within the last week. The man was so sick he could barely walk, so finally jail staff had to move him to lockdown. He didn't want to go to lockdown because he'd heard how bad it was.
36. If I was released into the community, I would go back to my mother's house in Baton Rouge. I have my own room there where I could quarantine if I needed to. I would be able to stay away from people who were sick and buy myself alcohol-based cleaning supplies. I would also have access to clean water, healthy food, and medical care of my choice if I needed it.

This declaration was orally sworn to by Demond Harris on May 25, 2020 because the East Baton Rouge Parish Prison is currently not permitting documents to be exchanged for signature.

Under penalty of perjury, I declare that I have read the foregoing in its entirety to Demond Harris on May 25, 2020.

By: 
Miriam Nemeth
Date: May 25, 2020

EXHIBIT 8

DECLARATION OF JOSEPH WILLIAMS

I, Joseph Williams, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. My name is Joseph Williams. I am 21 years old and of sound mind.
2. I'm currently detained pretrial in the East Baton Rouge Parish Prison in East Baton Rouge, Louisiana. I've been in the jail since August 27, 2019. On April 27, 2020, four days before I was moved to solitary confinement for the coronavirus, the charges against me were dropped because of an illegal police officer search, but I'm still in the prison on lockdown and on a parole hold.
3. I was in the process of enrolling in school when I was arrested.
4. In the East Baton Rouge Parish Prison, I was confined on the F5 line before about April 24, 2020. F5 is a big open dorm with 24 people in it.
5. In late April, the nurses were checking everyone's temperatures on the line to check for coronavirus. Around April 24th, the nurses checked my temperature, and it was 99 degrees. I saw them write down 100 degrees, even though that wasn't right. I didn't feel sick, and I didn't have any symptoms of the coronavirus. I refused to be tested for coronavirus that day.
6. The guards came back about 20–30 minutes later and told me to pack up. They said I was going to "isolation," but they didn't tell me anything about what "isolation" was.
7. They moved me to the B3 line, which is a solitary confinement line in a part of the building that had been closed down for two or so years before the coronavirus. It was really dirty and dusty. We recently saw a rat on the line that was the size of an opossum. The line is also filled with different kinds of spiders.
8. B3 has six cells with four beds in each. For most of the time I was back here, there were two or three people in each cell. Some guys have been returning to their general population lines lately, but there's still at least one man in each cell. The jail is still bringing guys onto the line. They brought a new guy on the line around May 20th. I don't know what line he came from. He's been sleeping most of the days.
9. The cells on the line are not that far apart, only about a hand's width. The cells are separated by metal walls, but the front of each cell has bars. I can grab the bars on the cell next to me from inside my cell. Other guys on the line pass things between cells this way, but I don't do it because I don't want to get coronavirus from the other guys.
10. When I got on the line, the guard put me and my friend Trayvon Robinson in a cell with another guy who had been on B3 for a little while. Our cell has two sets of bunk beds, two lockers, and a toilet/sink combo. I'm not sure if the water in my sink is safe to drink. I don't drink it because it sometimes comes out salty or with a nasty taste. We can't stay six feet apart from the people in our cell because there's not that much space in the cell.

11. I brought my property with me from the line. I have to store it high up so the rats can't get into it. If I leave it in the locker in our cell, the rats can get in and get it.
12. The guy who was already in our cell when we arrived was coughing a lot. When I woke up the next morning, my body ached, my head hurt, and I couldn't eat. I gave my food trays away to the other guys and slept most of the days. This lasted for the first weekend I was on the line.
13. On or around Saturday, April 25th, the nurse tried to make me take a coronavirus test. I refused the test again because my temperature wasn't high enough, and she brought a sergeant on the line. I finally agreed to take the test when the Sergeant asked. The test came back positive on Monday, April 27th. This really devastated me, and I struggled to call my friends and family or do other things I usually did during the day. I felt dirty on the inside.
14. After several days on the line, the nurses finally gave my Tylenol for my symptoms around Monday, April 27th. But they didn't do anything else for me. All the nurses do is make sure you take your meds during pill call. After about a week on the line, they also started taking our temperatures regularly during pill call, but they didn't do this during my first week on the line.
15. The nurses waited about 14 days to test me again. I took my second test around May 8th, and I waited the weekend to find out my results. It was negative. They retested me again around Tuesday, May 12th, and my results were positive again. They didn't bring me my results in writing—they just told them to me orally about seven days later, only after I wrote a medical request to get the results. They woke me up at 1am to give me the results. I got tested again on May 22nd, and I haven't gotten my results yet. The nurses told me that I have to have two negative test results before I can go back to general population.
16. If we have any other medical issues, the nurses make us put in a sick call, and it takes a little while for a nurse to come see you. For example, around the end of April or the beginning of May, an older guy on the line had trouble breathing, and another guy had to beat on the door to the line to try to get him medical attention. He beat on the door for 15–20 minutes before the guards even acknowledged us. The guards finally came back to see what was wrong, and they told the older man that nothing was wrong with him. The other guy had to beat on the door again for about 15–20 minutes before the guards came back and only then called medical. I think the guards could hear us the whole time but didn't want to do any work. It took medical at least another five minutes to come back there. They took the man off the line, and he never came back.
17. Recently, I had chest and stomach pains and was throwing up a lot. I tried to get medical care by asking another guy to beat on the door. He beat on the door for 20–30 minutes, but no one responded. I had to call my aunt to get some help. She and several other members of my family called the medical office to try to get me some medical attention. Guards finally came on the line to check on me, and I told them to call medical. They kept asking me why, but one of the guards finally called medical. The nurse was mad at

me when she got to the line. She just checked my temperature and blood pressure, then gave me Tylenol and another pill for three days. I don't know what that pill was, and I didn't have a temperature. The nurse left immediately after.

18. We're locked in our cells all day. It feels like we're on lockdown, even though we haven't done anything wrong. We often need to knock on the door to the line to get the guards to let us out of our cells. Some guards let us out of our cells one at a time for one hour each day, but other guards—like Smith and a new guard—give us only 15 to 30 minutes out of our cells each day like we're on disciplinary segregation. Some days, the guards don't give us water, either.
19. The day room on the line has a shower, toilet, table, and three phones. It doesn't have a TV, even though we should have one because we're not on discipline. Sometimes, the guards will bring us the newspaper, and we have to share one copy of the paper among all the men on the line.
20. We don't get any cleaning products or chemicals to clean our cells. The guards bring chemicals every few days, but they don't let us use them on our cells. We can only use them to clean the hallways.
21. About once a week, we get some purple chemicals to clean the phones. I don't know what the chemicals are. Otherwise, we have to clean the phones with soap and water. When I want to use the phone, I put one of my socks on it to protect myself.
22. We mostly have to clean everything with soap and water, including door handles. We rarely get any chemicals for cleaning.
23. The guards don't clean the shower either. The shower has only cold water in it, and the prison hasn't fixed this yet. It's too cold to shower in, so I don't use it much. I usually just take a bath out of the sink in my cell. The shower also leaks all over the floor and runs down the hallway.
24. We're supposed to get soap every week from the prison, but I didn't get it during my first two or three weeks on B3. The guards passed out supplies on or around May 13th and May 20th, but that's the only time they've done that since I've been on B3. They're supposed to bring us soap, toilet paper, toothpaste, a toothbrush, and a razor every week, but they haven't brought everything every week while I've been on lockdown. Some weeks, we get soap and toilet paper, other weeks we get different supplies.
25. A bar of soap usually lasts me about four to five days in the jail. I tried to buy supplies from the commissary when the jail didn't bring us supplies, but I never got my order and they just put the money back on my books. My mother or my friends put money on my books so I can get hygiene supplies and extra food, but I can't get any of those things back here.
26. The guards often wear masks, gloves, and bodysuits on B3, but not always. They didn't always wear masks and gloves on F5, and I don't recall seeing them wear body suits very often on F5 either. Some shifts did more often than others, and some shifts didn't at all.

27. The prison gave us bandanas to use as masks back in April when I was on F5. The guards try to swap them out every week, but I don't trust them to clean the bandana and the ones they're trying to hand out look used. A few days ago, guards brought us cloth masks that hook behind your ears, and they swapped those out today too.
28. I have asked the guards to bring me grievance forms, but they won't do it. I keep asking, and I got into it with a guard about the forms. He kept saying that he didn't have any and needed to make copies. I never got any copies from any of the guards I asked for grievance forms.
29. I'm really stressed on B3 because I should be home, but I'm stuck here on a parole hold and I'm locked in a cell around sick people without any way to watch TV or connect with the world outside when I want to.
30. If I was released into the community, I would stay with my mother. I have my own room in her house where I can quarantine if I need to. I will also be able to stay away from people who are sick and buy myself alcohol-based cleaning supplies. I will have access to clean water, healthy food, and medical care of my choice if I need it.

This declaration was orally sworn to by Joseph Williams on May 22, 2020 because the East Baton Rouge Parish Prison is currently not permitting documents to be exchanged for signature.

Under penalty of perjury, I declare that I have read the foregoing in its entirety to Joseph Williams on May 22, 2020.

By: 

Miriam Nemeth

Date: May 22, 2020

EXHIBIT 9

DECLARATION OF CLIFTON BELTON, Jr.

I, Clifton Belton, Jr., certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. My name is Clifton Belton, Jr. I am 60 years old and of sound mind.
2. I am currently detained pretrial in the East Baton Rouge Parish Prison in East Baton Rouge, Louisiana. I've been in the jail since December 9, 2018. I am charged with nonviolent felonies and do not have enough money to make my bond of \$15,000.
3. Because of my medical conditions—high blood pressure, diabetes, and congestive heart failure—I am currently held in the jail's infirmary. I've had part of my right foot amputated and am largely confined to a wheelchair due to that and fluid in my legs. I've had four open heart surgeries within the past year, the most recent of which was in January 2020, and I flatlined twice on April 15, 2019 due to the fluid around my heart. The people in this jail know about my underlying health issues yet exposed me to the coronavirus.
4. In my time in the infirmary, I have been housed in the same living area with patients who have tested positive for COVID-19 even though I had not been tested and had no symptoms. On April 30, 2020, I wrote to Judge Brian Jackson requesting help. I told Judge Jackson that my public defender has not been helpful, and I do not know where to turn. I told him that I was afraid that my arrest will turn into a death sentence.
5. As I feared, my exposure to COVID-19 at the jail resulted in my testing positive on May 5, 2020. My chest was very tight, breathing was very difficult, and I could not walk a few feet without having to stop and rest to catch my breath. The jail provided an asthma inhaler to me, and I've had one breathing treatment. I know the doctor prescribed two breathing treatments, but I only got one. On May 19, 2020, I was told that another test came back negative. Even though I am told I no longer have the virus, my breathing symptoms continue.
6. When I had COVID-19, I was housed in the infirmary in a room with five other people who had tested positive for the coronavirus. In a room next to us were people who had tested positive, but later tested negative. Once I tested negative, they put me in the room with the other people who tested negative.
7. It is crazy how they are doing this, but one of the guys who was in the negative test room with us has now re-tested positive. So now he is in the room with the other positive testing people. It seems like they keep recycling the sick people with the folks who do not have the virus and re-infecting people.
8. The infirmary is nasty. Gnats fly all over, water is pooled on the floor, and it is just dirty and unsanitary. There is no buzzer or call button to get staff in case of an emergency, and we have to bang on the glass of the window or door to get any help. We share everything—toilets, showers, and the air with the other rooms in the infirmary. We clean

the shared areas ourselves—the jail provides a bucket of water that the guard pours a little bleach in for us to mop the floors—and we are given small spray bottles with Fabuloso to clean the shared areas that we touch. Fabuloso is not a disinfectant and it does not even clean well—it is given to us to make things smell better and does not kill the coronavirus. There is no pressurized room to reduce the spread of the coronavirus. I have seen one person on a ventilator during my time in the jail.

9. The jail just recently started consistently providing masks to us. Since May 19, they have been exchanging them every day. Before that they gave us masks, but it was not daily and consistently like they are now.
10. In addition to the infirmary, I have been on the Q lines. Prior to my surgery, I was on Q11-12 and Q5-6. Both areas are dirty, with leaking plumbing, water on the floor, and unsanitary restrooms.
11. After my surgery, I was held in the infirmary with 6 or so other guys—it would fluctuate. When the coronavirus started spreading across the country and Louisiana, no one at the jail told us to social distance or practiced social distancing with us. Even after the news reported COVID-19 cases in Baton Rouge, nurses would call us to call twice a day for most guys and not socially distance or wear masks when they gave us our medicines.
12. Eventually the medical staff started wearing masks but did not provide them to detainees for weeks. Nothing else was done to stop the spread of the coronavirus. They didn't tell us to practice social distancing, wash our hands, provide us hand sanitizer, or sanitize the common areas like the restrooms and the phones. The jail made things worse by putting people that had the virus in the infirmary with the rest of us, and that is how I caught it.
13. Before I was arrested, I was living off of my disability checks. If I am released into the community, I would check into a rehabilitative care facility. I know one treated my sister, who had COVID-19 and recovered, and I would like to go there.

This declaration was orally sworn to by Clifton Belton, Jr. on May 25th, 2020 because the East Baton Rouge Parish Prison is currently not permitting documents to be exchanged for signature.

Under penalty of perjury, I declare that I have read the foregoing in its entirety to Clifton Belton, Jr. on May 25th, 2020.



By:
David Utter
Date: May 25th, 2020

EXHIBIT 10

DECLARATION OF DEVONTE STEWART

I, Devonte Stewart, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. My name is Devonte Stewart. I am 25 years old and of sound mind.
2. I am currently detained pretrial at the East Baton Rouge Parish Prison in East Baton Rouge, Louisiana. I have been in the jail since January 22, 2019. I'm stuck in the jail because I can't afford my \$24,000 bail. The judge never asked me how much bail I could afford.
3. Before I was arrested, I lived in Shreveport with my mother. I worked in Baton Rouge providing security at Mellow Mushroom and serving at LSU football games one to three days a week. When I worked in Baton Rouge, I would stay with some friends in town. I have one daughter who is less than a year old.
4. Before about April 27, 2020, I was confined on the Q7 line.
5. Around April 13, 2020, I began feeling sick. I had chills, I threw up, I couldn't eat for four days, and I had body aches and pain in my back. Even though they probably noticed my symptoms on their twice-daily pill call, the nurses didn't do anything to help me. About two weeks later, I was feeling better, but I still had wet and dry coughs.
6. I put in sick calls a couple days before April 27th to try to get some help from the medical staff for my lingering cough. The nurses tested me for coronavirus and told me I had to go to the coronavirus quarantine line.
7. About 30 minutes later, the guards moved me to solitary confinement on the B3 line, where other sick people were. They moved me before they even got my test results. The guards didn't tell me how long I would be back there. They just told me I needed to test negative twice before I could go back to Q7.
8. We're not allowed to leave B3 once we get on the line, at least until we test negative for coronavirus twice. I've missed three court dates while I've been in solitary confinement because the guards never came and got me for court.
9. I wasn't told my test results until I'd been on the line for around 10 days. I tested positive, according to the guard who told me my results. The nurses didn't tell me my results, and I never got any paperwork with my test results. I took a second test after I'd been on the line about 13 days. I tested positive, but I never got my paperwork for those results either. I haven't gotten to take any more tests since then.
10. I put in a medical form to get the paperwork with my coronavirus test results, but they won't give it to me. I don't know why they won't give me my own medical records.
11. I am confined in cell 6 on the B3 line and share the cell with one or two other people at any given time since I've been back here. Our cell is very small, with only about three or

four feet between the bunk beds against either wall. If we stand up in front of our beds, we are all standing face to face.

12. Every guy who has lived in my cell with me while I've been on this line has tested positive for coronavirus at some point while they're back here.
13. We're locked in our cells all day, and each person is let out of their cells one at a time during the day. Our cell gates lock while we're in them, so we can't get out unless the guards let us out. We can get water from the sinks in our cells, but the water isn't very clear and looks like salt water. I still drink it, though, because I don't want to get dehydrated on lockdown.
14. The cells on the line are close together. They're just separated by a thin metal wall that's about an inch thick. We can reach through the bars of our cell and into the bars of the cells next to us. We pass food, books, and papers this way.
15. We're allowed out of our cells for about 30 minutes most days. It's been getting worse while I've been on the line—lately, the guards only let us out for about 15 minutes a day. I don't get enough time while I'm out of my cell to call my family, and I can't call them whenever I want to, like I could on Q7.
16. The guards threaten to spray us with mace and beat on us if we try to get more hall time, or if we call them out. I know that Sergeant Braxfort beat up another guy in coronavirus lockdown on B1. The guards almost maced Cody Crump on my line on May 19th too.
17. The guards don't check on us that often. Some of the guards come every hour or two, but others—including Braxfort, Smith, and some of the new deputies—don't come back here for about five hours at a time.
18. We don't have a TV on the line. The prison took away a lot of our privileges back here even though we've done nothing wrong.
19. We also can't get commissary, which we need for hygiene supplies and snacks. I tried to order commissary the first week I got on B3, but they didn't bring me my order and just put the money back on my books. The guards won't tell us why we can't get commissary. I think it's because the people who work commissary are scared to come back here because we're high risk.
20. Our shower is so cold that we can't really use it. I've never seen anyone clean the shower.
21. We don't get many supplies to keep the line clean. The guards only bring us bleach about two times a week. The other days, the mop bucket has some purple chemicals in it. I don't know what the chemicals are. We don't get any gloves. We have to pick up the trash and try to keep clean with our bare hands and just wash our hands after. The guards spray the phone with disinfecting spray about two times a week, but that's it. When I need to use the phone, I have to put a t-shirt or a sock around it.

22. The other night, we saw a large rat jump out of the locker in cell 5, the cell next to me. The rat was bigger than my foot.
23. The nurses take our temperature twice a day on B3, in the morning and at 8pm. My temperature has never been over 100 degrees Fahrenheit.
24. We don't get any medical care for coronavirus on B3. The nurses just give us a vitamin C pill and water twice a day.
25. I have pain in my back, arm, and leg from past accidents. The nurses don't do anything about these issues except give me Tylenol. They give us Tylenol for everything. I asked them for extra medicine, and they said my injuries are not serious enough and they need paperwork to treat them.
26. If someone is having medical issues, we have to rack the bars, but the guards often don't hear us or don't come fast enough. I'm worried that someone could die back here before we could get any medical help on the line.
27. I tried to file grievances about the conditions on B3, but the guards wouldn't bring me any grievance forms. They told me they didn't have any.
28. It's really tough being in lockdown. I'm depressed, angry, and stressed back here. And I'm often very hungry, too.
29. If I was released into the community, I would stay with my mother in Shreveport. I have my own bedroom in her house where I can quarantine if I need to. I will also be able to stay away from people who are sick and buy myself alcohol-based cleaning supplies. I will have access to clean water, healthy food, and medical care of my choice if I need it.

This declaration was orally sworn to by Devonte Stewart on May 22, 2020 because the East Baton Rouge Parish Prison is currently not permitting documents to be exchanged for signature.

Under penalty of perjury, I declare that I have read the foregoing in its entirety to Devonte Stewart on May 22, 2020.

By:



Miriam Nemeth

Date: May 22, 2020