

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

COLUMBO GALINDO, <i>et al.</i> ,	)	
individually and on behalf of all others	)	
similarly situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 20-cv-2137
	)	
ROB JEFFREYS, in his official	)	
capacity as the Director of the Illinois	)	
Department of Corrections,	)	
	)	
Defendant.	)	

PLAINTIFFS' SECOND MOTION FOR A PRELIMINARY INJUNCTION

Plaintiffs Columbo Galindo, Andra Sampson, John Margarella, Jonathan Sparks, Kenneth Green, Fredrick Chamblis, Corey Crowe, Dana Monson, David Easton, Joshua Atkins, Kenneth Schroeder, Wade Council, Christopher Shelton, Mark Faller, Paul D. Hubbard and Joshua Huddleston, individually and on behalf of all others similarly situated, respectfully request that this Honorable Court enter a preliminary injunction granting the following relief:

- An immediate order prohibiting enforcement of 730 ILCS 5/3-3-7(a)(7.6) (hereinafter the "One-Per-Address Statute") as to the named Plaintiffs so they can be released from prison to the host sites described below; and
- A preliminary injunction prohibiting the IDOC from enforcing the One-Per-Address Statute against individuals who have completed their court-ordered sentences of incarceration and remain in prison due to an inability to identify a host site that satisfies the One-Per-Address Statute.

INTRODUCTION

The named Plaintiffs and the members of the class they seek to represent have all completed their court-ordered terms of incarceration and are entitled to release on Mandatory Supervised Release (“MSR”). They remain in prison because they have been unable to secure an approved “host site” at which to live while on MSR.

In *Murphy v. Raoul*, 380 F. Supp. 3d 731, 738 (N.D. Ill. 2019), this Court has already concluded that it violates the Equal Protection Clause and the Eighth Amendment to subject individuals to indefinite incarceration solely because they cannot meet the host site requirement, holding as follows:

At the very heart of the liberty secured by the separation of powers is freedom from indefinite imprisonment by executive decree. The Attorney General and Director’s current application of the host site requirement results in the continued deprivation of the plaintiffs’ fundamental rights and therefore contravenes the Eighth and Fourteenth Amendments to the Constitution of the United States.

That decision was entered more than a year ago on March 31, 2019. As of April 29, 2020, 317 members of the *Murphy* class remain imprisoned in violation of their constitutional rights. Presently, the world is in the grip of an unprecedented public health emergency that poses a particular danger to incarcerated individuals. There have been diagnosed cases of COVID-19 in 15 IDOC facilities.¹ Now, not only are the members of the *Murphy* class being detained in prison in violation of their constitutional rights; but every day that class members remain incarcerated poses a grave risk to their health and safety.

¹ “COVID-19 Response,” *Illinois Dept. of Corrections*, <https://www2.illinois.gov/idoc/facilities/Pages/Covid19Response.aspx> (last visited April 27, 2020)

Each of the named Plaintiffs has identified a safe place to live outside of prison that satisfies almost all of the statutory requirements restricting where he is permitted to live while on MSR.

- Plaintiffs Galindo, Sampson and Margarella seek release to the vacant rooms in the four properties IDOC leases from NewDay Apartments for the purpose of providing transitional housing to *Murphy* class members;
- Plaintiffs Green, Chamblis, Crowe, Monson, Easton, Atkins, Schroeder, Council, Shelton, Faller, and Hubbard seek release to Wayside Cross Ministries, a Bible-based transitional housing program in Aurora, Illinois;
- Plaintiff Kenneth Sparks seeks release to his mother's home in Chappell, Nebraska, to live with his mom and uncle; and
- Plaintiff Joshua Huddleston seeks release to InTown Suites, an extended-stay motel in Villa Park, Illinois.

IDOC is currently unable to release Plaintiffs to these host sites because a section of the Illinois Uniform Code of Corrections prohibits individuals on MSR for sex offenses from living “at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense.” 730 ILCS 5/3-3-7(a)(7.6) (hereinafter the “One-Per-Address Statute” or “the Statute”).

Plaintiffs now ask this Court to enjoin enforcement of the One-Per-Address Statute because, for the reasons set forth below, its application to the named Plaintiffs and others similarly situated violates the Equal Protection Clause and the Eighth Amendment.

FACTUAL BACKGROUND

I. All of the Named Plaintiffs Could Be Released to Approved Host Sites But for the One-Per-Address Statute

A. NewDay Apartments Has Four Valid Host Sites Available for *Murphy* Class Members and Seeks to Provide More Housing to Registrants

NewDay Apartments, located in Lake County, Illinois, specializes in providing compliant housing to registrants. NewDay has partnered with the IDOC to provide housing to individuals with sex offense convictions being released from prison onto MSR. Ex. 1, Declaration of Bob McKelvey, at ¶2. NewDay currently owns seven properties which are more than 500 feet away from any schools, playgrounds and/or daycares. *Id.* at ¶2. It leases four of these properties directly to the IDOC for the purpose of housing *Murphy* class members who cannot otherwise secure housing. *Id.* at ¶3.

There are currently four parolees living in the four properties IDOC leases from NewDay. *Id.* at ¶4. These units have the capacity to house four additional residents in separate bedrooms that are currently empty. *Id.* at ¶5. But under the One-Per-Address Statute, NewDay is prohibited from having more than one registrant-parolee per property. *Id.* As a result, four bedrooms currently sit vacant in the properties IDOC is leasing from NewDay. IDOC could release four additional *Murphy* class members to NewDay right now at no additional cost to the state for housing them.

In addition to the four units NewDay currently leases to IDOC, NewDay seeks to greatly expand the housing it offers to registrant-parolees over the next several

years. *Id.* at ¶6. NewDay’s goal is to double the number of units it makes available to registrants each year for at least the next three years. *Id.* The founder and manager of NewDay Apartments, Bob McKelvey, states that “[p]ermitting multiple registrant-parolees at the same address would easily double the number of available units compared to the current one-per-address rule, and would make the housing we provide more affordable for our registrant tenants.” *Id.* at ¶¶6, 7. But for the One-Per-Address Statute, NewDay would be willing to lease to parolees the apartments it currently makes available only to individuals who are off parole. For example, Alvin Goldberg, a member of the *Murphy* class is on the waiting list to rent a unit from NewDay, subject to Alvin’s being able to obtain “a court order allowing NewDay to house Alvin with other registrants who live in other units at the same address.” Ex. 10, Declaration of Stephen N. Goldberg.

Plaintiff Columbo Galindo is a prisoner at Taylorville Correctional Center. In 2008, he was convicted of criminal sexual assault and sentenced to five years in IDOC plus three-years-to-life MSR. Ex. 2, Galindo IDOC Inmate Status. According to IDOC records provided to Plaintiffs, Galindo completed his prison term on March 11, 2011, and has been entitled to release from prison on MSR since that date, but remains imprisoned because he has been unable to secure compliant housing. Because of his inability to find housing, Galindo has spent more than nine years of “dead time” in prison. On information and belief, Plaintiff Galindo is next in line for

placement at NewDay Apartments because he has done the most “dead time” of any member of the *Murphy* class who remains in prison.²

On January 23, 2020, Galindo met with a representative of Field Services at Taylorville.³ Galindo was told that he is approved for release to NewDay Apartments and will be released when one of the units at NewDay becomes available. He was not given any definitive timeline of when a unit would be available for him. He remains imprisoned indefinitely until a unit at NewDay becomes available.

Plaintiff Andra Sampson is a prisoner at Big Muddy River Correctional Center. In 2007, he was convicted of predatory criminal sexual assault and sentenced to six years in IDOC plus three-years-to-life MSR. Ex. 3, Sampson IDOC Inmate Status. According to IDOC records provided to Plaintiffs, Sampson completed his prison term on March 18, 2011, and has been entitled to release from prison on MSR since that date, but remains imprisoned because he has been unable to secure compliant housing. Because of his inability to find housing, Sampson has spent more than

² The First Amended Complaint and this motion for an injunction were drafted based on information given to Plaintiffs by the IDOC which indicated that Plaintiffs Columbo Galindo and Andra Sampson were the next in line for placement at NewDay. After Plaintiffs filed their First Amended Complaint on April 29, 2020, IDOC gave Plaintiffs a revised database of *Murphy* class members that contains information different from the previous database Plaintiffs have been working from for the past several months. In particular, additional class members (at least one of whom has been detained for more than nine years beyond his release date) were added to the database, and many class members' out dates (*e.g.*, when their original sentences ended) were changed because of errors in the IDOC's recordkeeping. Based on this revised database, IDOC now contends that other individuals have done more dead time than Galindo and will be prioritized for release before him.

³ Field Services is the IDOC unit charged with responsibility for investigation and approval of host sites.

nine years of “dead time” in prison. On information and belief, Sampson is second in line (behind Galindo) for placement at NewDay Apartments because he has done the second most “dead time” among *Murphy* class members who remain in prison.

In April 2020, Sampson met with Connie Halliday, a counselor in the Field Services office at Big Muddy River Correctional Center. Ms. Halliday informed Sampson that he is approved for placement at NewDay Apartments and will be released when one of the units at NewDay becomes available. He was not given any definitive timeline of when a unit would be available for him, but Ms. Halliday expressed hope that he would be released “soon.” He remains imprisoned indefinitely until a unit at NewDay becomes available.

Plaintiff John Margarella is a prisoner at Dixon Correctional Center. In 2012, he was convicted of possession of child pornography and sentenced to three years in IDOC plus three-years-to-life MSR. With “good time” credits, he completed his prison term on December 30, 2013, and has been entitled to release from prison on MSR since that date, but remains imprisoned because he has been unable to secure compliant housing. Ex. 4, Declaration of Rosemary Margarella, at ¶2. Because of his inability to find housing, Margarella has spent more than six years of “dead time” in prison. *Id.*

Every member of Margarella’s family who is able has offered to have him come live with them, but IDOC has rejected all proposed host sites because of their proximity to schools or playgrounds, or because of the presence of children at the

host site. *Id.* at ¶3. Margarella's family cannot afford to pay for separate housing for him. *Id.* at ¶4.

Margarella is at high risk for suffering serious health complications if he contracts COVID-19. *Id.* at ¶5. Margarella is 57 years old and has suffered two heart attacks while imprisoned at Dixon Correctional Center beyond his out date. *Id.* While he was being treated for one of the heart attacks, he received medication that caused internal hemorrhaging resulting in a blood transfusion. *Id.*

There is no logical reason why Galindo, Sampson and Margarella remain in prison in violation of their constitutional rights while IDOC has vacant bedrooms in housing it currently leases from NewDay apartments. If the One-Per-Address Statute were lifted, these individuals could be immediately released to housing that the IDOC has already deemed to be suitable. In addition, lifting the One-Per-Address Statute would empower NewDay to offer significantly more housing to other *Murphy* class members who need host sites.

B. Wayside Cross Ministries Seeks to Provide Host Sites to at Least 10 *Murphy* Class Members

Wayside Cross Ministries is a Bible-based mission that has operated in Aurora, Illinois, for more than 90 years. Ex. 5, Declaration of Jonathan Beall, at ¶1. The Master's Touch Ministry at Wayside Cross is a Bible-based, residential life-transformation program for troubled men. *Id.* at ¶2. The program offers room and board at no cost, and empowers its participants to change their lives through prayer, Bible study, daily church services, mentoring with local clergy and business leaders, and work rehabilitation programs. *Id.* It takes a minimum of seven months

for a resident to complete the Master's Touch Ministry program. The goal of the program is to give the men the tools they need to secure employment and housing and to live healthy, law abiding lives through their faith in God. *Id.* at ¶4.

Wayside Cross currently has several openings in the Master's Touch Ministry and is willing to accept members of the *Murphy* class at no cost to the IDOC or to the program participants. *Id.* at ¶5.⁴ The participants in the Masters Touch Ministry all reside together in a dormitory setting at Wayside Cross, located at 215 E. New York Street in Aurora. *Id.* at ¶10.

Plaintiffs Kenneth Green, Fredrick Chamblis, Corey Crowe, Dana Monson, David Easton, Joshua Atkins, Kenneth Schroeder, Wade Council, Christopher Shelton and Mark Faller are all members of the *Murphy* class who have completed their sentences of incarceration and are entitled to release from IDOC on MSR, but remain imprisoned because they do not have resources to secure compliant housing. Plaintiffs Green, Chamblis, Crowe, Monson, Easton, Atkins, Schroeder, Council, Shelton and Faller all would like to participate in the Master's Touch Ministry at Wayside Cross. *Id.* at ¶11.

Staff at Wayside Cross have conducted phone interviews with these ten Plaintiffs and determined that each meets the criteria for admission to the Master's

⁴ Because of its proximity to what the City of Aurora deems to be a playground, Wayside Cross cannot accept into its program individuals who are classified as "child sex offenders," but it can accept individuals whose offenses involved an adult victim. *Id.* at ¶9. Undersigned counsel has confirmed with Aurora Corporation Counsel Rick Veenstra that Aurora police are willing to register parolees at Wayside Cross provided they are not classified as "child sex offenders." None of the ten Plaintiffs seeking placement at Wayside Cross is classified as a "child sex offender."

Touch Ministry. *Id.* at ¶9. Wayside Cross is prepared to accept these individuals immediately, provided they test negative for COVID-19 and the information they provided in their intake screening was true and complete. *Id.* at ¶12.

In connection with these phone interviews, Jon Beall, the program director of the Master's Touch Ministry, along with members of his staff spoke to Field Services officials from the IDOC facilities at which these Plaintiffs are imprisoned. *Id.* at ¶13. The Field Services officials stated that the Plaintiffs will not be approved for release to Wayside Cross in the absence of a "court order" allowing them to reside there. *Id.*

The sole reason IDOC has not allowed individuals on MSR for sex offenses against adult victims to serve their MSR time at Wayside Cross Ministries is the One-Per-Address Statute.

C. *Murphy* Class Member Jonathan Sparks Should Be Released to His Mother's House

Plaintiff Jonathan Sparks is a member of the *Murphy* class. He is currently a prisoner at Big Muddy River Correctional Center. Ex. 6, Declaration of Sparks at ¶1.⁵ In 2010, Sparks was convicted of criminal sexual assault and sentenced to four years in IDOC plus three-years-to-life MSR. *Id.* He completed his prison term on July 29, 2013, and has been entitled to release from prison on MSR since that date, but remains imprisoned because he has been unable to secure housing. *Id.* at ¶2.

⁵ Mr. Sparks submitted a signed declaration in connection with Plaintiffs' motion for summary judgment in *Murphy* in February 2018. Mr. Sparks' situation has not changed since that time, and the same declaration is submitted here.

Because of his inability to find housing, Sparks has spent nearly seven years of “dead time” in prison. *Id.*

All of Sparks’ family is out of state. *Id.* at ¶5. Sparks seeks to live with his mother who resides in Chappell, Nebraska, while on MSR. *Id.* Sparks’ mother is willing and able to house and support Sparks if he is released to her home. Sparks sought approval for interstate transfer to Nebraska to reside with his mother. *Id.* IDOC rejected the placement solely because Sparks’ mother lives with her brother (Mr. Sparks’ uncle) who was convicted of a sex offense in the 1990s. *Id.*

The One-Per-Address Statute is the sole reason Mr. Sparks has not been approved to reside with his mother and uncle.

D. Members of the *Murphy* Class Could Be Released to Single-Room Occupancies and Extended-Stay Motels

Plaintiff Joshua Huddleston is a member of the *Murphy* class. He is currently a prisoner at Robinson Correctional Center. Ex. 7, Huddleston IDOC Inmate Status. In 2013, Huddleston was convicted of predatory criminal sexual assault and sentenced to six years in IDOC plus three-years-to-life MSR. *Id.* He completed his prison term on January 22, 2019, and has been entitled to release from prison on MSR since that date, but remains imprisoned because he has been unable to secure housing. *Id.* Because of his inability to find housing, Huddleston has spent 15 months of “dead time” in prison. *Id.*

Huddleston does not have any family outside of prison who can offer him a place to stay or help him secure housing. Huddleston is retired from the U.S. military and has a savings account with sufficient funds to pay for his own housing for at least a

year. However, because he is imprisoned, he is not able to search for housing, sign a lease, or set up utilities. For an individual in Mr. Huddleston's position, an extended-stay motel or a single-room occupancy (SRO) building are the only viable options for securing housing at which to live while on MSR. This is so because IDOC requires functioning utilities at the host site prior to approving an individual for release, and an individual who doesn't have outside help can't set up a phone line and electric service while imprisoned. Ex. 8, Excerpt of Deposition of Deputy Chief Dixon, at 75.

Mr. Huddleston would like to parole to an extended-stay motel or an SRO. Such a host site would be ideal for him because such locations are furnished and have utilities included. Staying at such a location for a period of several months would enable Huddleston to start his MSR time, get back on his feet and locate suitable housing of his own.

InTown Suites, located at 350 East Roosevelt, Villa Park 60181, offers furnished rentals on a monthly basis. InTown is willing to rent to an individual on parole provided they have funds to pay for a month in advance and can show valid identification when they check in. On information and belief, InTown Suites complies with the restriction on living within 500 feet of schools, playgrounds and daycares. Ex. 9, Google Maps Aerial View of 350 E. Roosevelt and surrounding area.

As a matter of long-standing past practice, IDOC has not considered motels, SROs, or shelters to be approvable host sites for individuals who are required to register as sex offenders due to the One-Per-Address Statute. Ex. 8, Excerpt of

Deposition of Deputy Chief Dixon, at 172-73. It has been the IDOC's position that such a placement is not sufficiently stable because an individual could be forced to move if another registrant moves into the same building. *Id.* ("It's too transient of a situation. You can have another sex offender that moves or takes up shelter there, and then now ... our guy's in violation, and will have to be returned home.")

II. The *Murphy* Litigation

The plaintiffs in *Murphy* challenged the constitutionality of the "host site" requirement as it was being applied to individuals who have been sentenced to an indeterminate term of "three years to life" on MSR. Such individuals face the possibility of being imprisoned for life if they are unable to find and/or pay for housing that meets the requirements imposed by Illinois law and IDOC policy because their MSR time never begins to run until they are released from prison to an approved host site. *See* 730 ILCS 5/3-14-2.5(e).

The *Murphy* plaintiffs identified several layers of restrictions that limit where people sentenced to indeterminate MSR can live, which together make it impossible for the members of the class to find host sites. Among the restrictions are the following:

- Sections of the Illinois Criminal Code which make it a crime for any individual classified as a "child sex offender" to live within 500 feet of a school, playground, or daycare (720 ILCS 5/11-9.3 (b-5), (b-10));
- Sections of the Illinois Unified Code of Corrections which prohibit persons required to register as sex offenders from living "near" "parks, schools, day care centers, swimming pools, beaches, theaters, or any other places where minor children congregate without advance approval of an agent of the Department of Corrections" (730 ILCS 5/3-3-7(b-1)(12));

- The One-Per-Address Statute, which requires individuals on MSR for sex offenses to “refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender” unless residing at a “licensed transitional housing facility for sex offenders,” a facility “operated or licensed by the Department of Children and Family Services or by the Department of Human Services,” or a “licensed medical facility” (730 ILCS 5/3-3-7(a)(7.6));
- Housing restrictions imposed purely as a matter of IDOC policy, including prohibiting living in a host site where children visit or reside (including the parolee’s own children), where there are computers or Wi-Fi access, and/or where there is no land-line telephone;
- The unavailability of half-way houses, transitional housing, homeless shelters or other free or low-cost housing for indigent parolees; and
- The IDOC’s interpretation of the One-Per-Address Statute as prohibiting a sex offender parolee from living in a building adjacent to a building where another registrant lives and/or from living in the same trailer park as another registrant.

On April 5, 2018, *Murphy* was certified as a class action on behalf of “all individuals sentenced to serve three-years-to-life on MSR currently detained in the IDOC who have been approved for release on MSR by the PRB but have been denied release from IDOC custody because of their inability to obtain an approved host site.” *Murphy v. Raoul*, 16-cv-11471, ECF No. 63. The named Plaintiffs are all members of the *Murphy* class.

On March 31, 2019, this Court granted the *Murphy* plaintiffs’ motion for summary judgement on their claim that the State’s statutory and regulatory scheme violates the Equal Protection Clause and the Eighth Amendment. *Murphy v. Raoul*, 16-cv-11471, ECF No. 132; *Murphy v. Raoul*, 380 F. Supp. 3d 731 (N.D. Ill. 2019). The Court’s summary judgment decision did not single out a particular

Illinois law or IDOC policy that violated the constitution. Rather, the Court held that the State's "statutory and regulatory scheme" as a whole (*i.e.*, the overlapping restrictions imposed by Illinois law, the IDOC's interpretation of the law, and the IDOC's policies) violates the *Murphy* class's constitutional rights.

On January 15, 2020, the Court entered a permanent injunction requiring the IDOC to put forth a plan "setting forth the specific steps [the Defendants] will take to ensure that by no later than January 2, 2021, no member of the class will remain imprisoned due to an inability to comply with the host site requirement." *Murphy v. Raoul*, 16-cv-11471, ECF No. 156. The IDOC filed its compliance plan on February 27, 2020. 16-cv-11471, ECF No. 161. The permanent injunction also calls for the IDOC to provide the Court with periodic status reports concerning its implementation of the compliance plan and its progress towards meeting the January 2, 2021 compliance deadline. 16-cv-11471, ECF No. 156.

The IDOC's compliance plan includes several worthwhile proposals, including changes to IDOC interpretation of statutory restrictions (*e.g.*, not applying the One-Per-Address Statute to trailer parks and adjacent buildings); changes to restrictive IDOC policies (*e.g.*, allowing individuals to reside at addresses with Wi-Fi, relaxation of the land-line requirement); and contracting with private vendors to provide transitional housing. *Murphy v. Raoul*, 16-cv-11471, ECF No. 161. The plan also notes that "[t]here are many statutory provisions that impede the Department's ability to approve prospective host sites for sex offenders" states that the

Department and “hopes that some of the statutory impediments to identifying host sites can be reduced or eliminated through legislative change.” *Id.* at 3-4.

At the time of this filing, the *Murphy* class comprises 317 individuals who remain in prison beyond the completion of their court-ordered sentence of imprisonment, some for as long as nine years past their MSR date, due to an inability to meet the host site requirement.

III. The Challenged Statute

The One-Per-Address Statute is set forth in the Illinois Uniform Code of Corrections at 730 ILCS 5/3-3-7(a)(7.6). The sole mechanism through which the One-Per-Address Statute is enforced is through the IDOC’s approval or rejection of parolees’ proposed host sites. That is, it is not a criminal offense for an individual on MSR for a sex offense to live at the same address as another registrant, and local police departments and state attorneys play no role in enforcement of the statute.⁶

The One-Per-Address Statute went into effect on July 11, 2005. Prior to that date, individuals on MSR for sex offenses were permitted to live in the same residence as other registrants. On information and belief, the One-Per-Address Statute is a major cause, if not the single largest cause, of the continued imprisonment of members of the *Murphy* class. This is so because other statutes (*e.g.*, the 500-foot rules) already strictly circumscribe the areas where individuals convicted of sex offenses may live, and the One-Per-Address Statute makes it so

⁶ In contrast, the statutes prohibiting individuals classified as “child sex offenders” from living within 500 feet of schools, daycares and playgrounds (720 ILCS 5/11-9.3 (b-5) and (b-10)) are part of the criminal code. It is a Class 4 felony for a “child sex offender” to “knowingly” live at a prohibited location. 720 ILCS 5/11-9.3(f).

only one parolee can live at each compliant property, even if it is a large apartment complex with many units.

There is no reason to conclude that people who have been convicted of sex offenses' living near one another contributes to criminality. At least one analysis found that it has the opposite effect: it reduces the incidence of re-offense and improves supervision. A Minnesota Department of Corrections report concluded as follows:

This examination of level three re-offenders does not reveal a negative effect related to a level three offender living with another sex offender. In fact, supervision agents in both Hennepin and Ramsey County have noted benefits from having more than one level three offender living in one location. Closer supervision is possible because travel time between offenders is reduced. Also, level three offenders who live with other level three offenders experience more visits from a supervising agent because agents for both offenders visit the same property. Finally, offenders tend to inform on each other when supervision restrictions are violated or crimes are committed.⁷

There is no logical reason to believe that there is a compelling public safety need to prohibit people on MSR for sex offenses from living at the same address as one another. In the *Murphy* litigation, the IDOC did not come forth with any safety or rehabilitative justification for the One-Per-Address Statute. In acknowledgement of the restriction's excessiveness, IDOC has already reinterpreted the restriction so as not to apply to trailer parks or adjacent apartment buildings. *Murphy v. Raoul*, 16-cv-11471, ECF No. 161.

⁷ See "Level Three Sex Offender Residential Placement Issues," *Minnesota Department of Corrections* (available at: [https://mn.gov/doc/assets/Lvl%203%20SEX%20OFFENDERS%20report%202003%20\(revised%202-04\)_tcm1089-272828.pdf](https://mn.gov/doc/assets/Lvl%203%20SEX%20OFFENDERS%20report%202003%20(revised%202-04)_tcm1089-272828.pdf)) (last visited April 3, 2020)

IV. Health Risks of Detention in IDOC Amid the COVID-19 Pandemic

We are in the midst of a world-wide health crisis caused by the rapid spread of coronavirus and COVID-19. The number of known COVID-19 infections is rising at an alarming rate. As of April 27, 2020, there have been more than 3 million infections globally⁸; and Illinois alone has nearly 46,000 known cases.⁹ More than 210,000 people have died.¹⁰ The risks to the health of individuals detained in close proximity to one another in prisons—as well as the staff, attorneys, medical professionals, and clergy who visit and work in these prisons—cannot be overstated. COVID-19 is highly contagious between people who are in close contact with one another.¹¹ The virus is transmissible through coughing, sneezing, and contact with surfaces.¹² Experts advise that “talking” and “normal breathing” also likely transmit the disease.¹³ The CDC urges social distancing—*i.e.*, every person should remain at least six feet away from every other person—to avoid transmission of the

⁸ Johns Hopkins University, Coronavirus Resource Center, <https://coronavirus.jhu.edu/map.html> (last visited April 27, 2020).

⁹ Illinois Department of Public Health, Corona Virus Response, <https://www.dph.illinois.gov/covid19> (last visited April 27, 2020).

¹⁰ *See* note 8, *supra*.

¹¹ “How COVID-19 Spreads,” *Centers for Disease Control and Prevention* (available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>)

¹² *Id.*

¹³ “Experts tell White House coronavirus can spread through talking or even just breathing, *CNN*, April 2, 2020 (available at: <https://www.cnn.com/2020/04/02/health/aerosol-coronavirus-spread-white-house-letter/index.html>)

disease.¹⁴ Social distancing is of paramount importance because even entirely asymptomatic persons can be infected with COVID-19 and unknowingly transmit it to others.¹⁵ Proper sanitation measures, including frequent hand washing and frequent cleaning of surfaces with approved disinfectants, are also recommended.¹⁶ Governor Pritzker has issued a state-wide “stay at home” order to slow the disease’s spread.¹⁷

None of the recommended measures for mitigating the spread of COVID-19 are possible for persons confined in prisons and those who must interact with them. Such individuals live in close quarters to one another where proper social distancing cannot be maintained. Illinois officials have publicly acknowledged the severe risk COVID-19 poses to those detained in IDOC and the impossibility of proper mitigation measures in correctional facilities. At Governor Pritzker’s April 4, 2020, press briefing,¹⁸ Illinois Department of Public Health Director Dr. Ngozi Ezike stated as follows:

¹⁴ “Mitigation Strategies for Communities with Local COVID-19 Transmission,” *Centers for Disease Control and Prevention*, Mar. 12, 2020 (available at <https://www.cdc.gov/coronavirus/2019-ncov/downloads/community-mitigation-strategy.pdf>)

¹⁵ See note 11, *supra*.

¹⁶ “How to Protect Yourself,” *Centers for Disease Control and Prevention* (available at: <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html>)

¹⁷ “Governor Pritzker’s Executive Orders and Rules,” *Illinois Dept. of Public Health* <https://www.dph.illinois.gov/covid19/governor-pritzkers-executive-orders-and-rules>.

¹⁸ “Daily Corona Virus Press Briefings,” *Illinois Dept. of Public Health*, <http://www.dph.illinois.gov/topics-services/diseases-and-conditions/diseases-a-z-list/coronavirus/media-publications/daily-press-briefings>

We have seen clusters of cases in ... correctional centers.... I want to touch on the difficulty of preventing the virus from infiltrating these congregate settings and the challenges of stopping that spread. The natural movement of people needing to come in and out of those settings, even when they're decreased to the minimal amount, still ... increases the potential for rapid spread of the virus to people who live, eat and recreate all in the same space. Options for medical isolation of these COVID-19 patients are limited. ... Ideally, people who are positive should be isolated individually, and close contacts should be quarantined individually. However, that can't always be possible given the constraints of space.

At Stateville Correctional Center, 122 prisoners have been diagnosed with COVID-19. There are confirmed cases of COVID-19 in 15 IDOC facilities to date.¹⁹

ARGUMENT

I. Preliminary Injunction Standard

To be entitled to a preliminary injunction, a plaintiff must establish four elements: (1) some likelihood of success on the merits; (2) the lack of an adequate remedy at law; (3) a likelihood that they will suffer irreparable harm if the injunction is not granted; and (4) the balance of hardships tips in the moving party's favor. *Ty, Inc. v. Jones Group, Inc.*, 237 F.3d 891, 895 (7th Cir. 2001).

As shown below, Plaintiffs meet each element for establishing an entitlement to injunctive relief, and accordingly this Court should issue a preliminary injunction to halt enforcement of the One-Per-Address Statute.

¹⁹ "COVID-19 Response," *Illinois Dept. of Corrections*, <https://www2.illinois.gov/idoc/facilities/Pages/Covid19Response.aspx> (last visited April 29, 2020).

II. Plaintiffs Have a Likelihood of Success on their Claims that Continued Enforcement of the One-Per-Address Statute Violates the U.S. Constitution

There are two ways in which the continued enforcement of the One-Per-Address Statute violates the constitutional rights of the named Plaintiffs and others similarly situated. First, as this Court observed in its decision in *Murphy*, the continued imprisonment of individuals who do not have the money or outside support to comply with the host site requirement violates the Eighth Amendment and the Equal Protection Clause because it “discriminates against the plaintiffs because of their poverty.” *Murphy*, 380 F. Supp. 3d at 755. Second, the continued incarceration of the Plaintiffs unnecessarily exposes them to an unreasonable risk of exposure to COVID-19 in violation of their right to “reasonable safety” while incarcerated under the Eighth Amendment. Plaintiffs address each in turn below.

A. Continued Enforcement of the One-Per-Address Rule Violates the Eighth Amendment and Equal Protection Clause

As explained in §§I and II of the Factual Background above, all of the named Plaintiffs are entitled to release from prison onto MSR in the community. This Court has already found that it is a violation of the constitution to keep individuals who have completed their court-ordered terms of incarceration in prison simply because they cannot meet the “host site” requirement due to their “indigence and lack of support.” *Murphy v. Raoul*, 380 F. Supp. 3d 731, 738 (N.D. Ill. 2019).

In particular, this Court held that the continued imprisonment of the Plaintiffs constitutes cruel and unusual punishment under the Eighth Amendment and a violation of the Equal Protection Clause because it is solely “the consequence of [the

plaintiffs'] indigency, homelessness, and the attendant powerlessness to procure housing that will satisfy the IDOC." *Id.* at 756. The IDOC is under a permanent injunction which requires it to release the members of the *Murphy* class. *Murphy v. Raoul*, 16-cv-11471, ECF No. 156. Significantly, over the course of the *Murphy* litigation, which has been ongoing for four years and generated hundreds of pages of summary judgment briefing, the IDOC never put forth a public safety or rehabilitative justification for the One-Per-Address Statute.

On April 8, 2020, this Court granted an injunction prohibiting enforcement of the One-Per-Address Statute as to Marcus Barnes, another member of the *Murphy* class who had a suitable place to live but for the One-Per-Address rule. This Court wrote as follows:

Plaintiff has found a place to live that will be supportive of his transfer back into the community. ... Another sex offender resides in the building already and therefore Defendants will not permit him to reside there. Plaintiff is clearly suffering a constitutional harm each day he is detained past his release date (which is now nearly a year and a half) and that harm can only be remedied by release. In response to the question about what penological or rehabilitative support the Defendants have for the "One Person One Address" provision, Defendants were unable to give any. The public's interest in only hav[ing] one sex offender live at one residence is not supported by any testimony, expert opinion, or evidence. Therefore, the Court finds that the statute is unconstitutional as it applies to Plaintiff and Defendants are enjoined from prohibiting his release to the address presented by Plaintiff.

ECF No. 11.

The same result should occur here. Each of the Plaintiffs has a safe host site at which to live outside of prison. The host sites Plaintiffs wish to be released to will be supportive of their reintegration into the community and meet every requirement

imposed by Illinois law and IDOC policy, save the One-Per-Address Statute. In the absence of a legitimate justification for the prohibition on more than one parolee's living at a particular address, the continued application of the One-Per-Address Statute to Plaintiffs violates their constitutional rights for all of the reasons the Court recognized in *Murphy*.

B. Continued Imprisonment of Individuals Who Are Entitled to Release During the COVID-19 Pandemic Constitutes Deliberate Indifference

The Eighth Amendment mandates that persons confined in prisons must “be furnished with the basic human needs, one of which is ‘reasonable safety.’” *Helling v. McKinney*, 509 U.S. 25, 33-34 (1993) (citing *DeShaney v. Winnebago County Dept. of Soc. Serv.*, 489 U.S. 189, 200 (1989)). In *Helling*, the Supreme Court held that a prisoner stated an Eighth Amendment claim that he was exposed to unsafe levels of environmental tobacco smoke even though he personally experienced no adverse health effects because the health risk posed by involuntary exposure to second-hand smoke is “sufficiently imminent.” *Id.* at 509 U.S. at 35.

Courts have consistently interpreted *Helling* to authorize an Eighth Amendment cause of action when an inmate is exposed to a risk of contracting contagious diseases. *See Loftin v. Dalessandri*, 3 F. App'x 658, 662-63 (10th Cir. 2001) (inmate stated an Eighth Amendment violation where he alleged he was housed in a cell with two cellmates who had tuberculosis); *DeGidio v. Pung*, 920 F.2d 525, 533 (8th Cir. 1990) (failure by prison officials to prevent the unchecked spread of tuberculosis violated the Eighth Amendment). Indeed, in *Helling* itself, the Supreme Court approvingly cited *Gates v. Collier*, 501 F.2d 1291 (5th Cir. 1974), in

which the court held that inmates were entitled to relief under the Eighth Amendment when they proved threats to their personal safety from “the mingling of inmates with serious contagious diseases with other prison inmates.” *Helling*, 506 U.S. at 34.

The Seventh Circuit has similarly recognized that the Eighth Amendment protects prisoners from known exposure to serious diseases, holding that in such a circumstance, “[t]he prison must be allowed to choose between removing the prisoner from the unhealthy environment and protecting him from its consequences . . . provided, of course, that the protection is efficacious.” *Powers v. Snyder*, 484 F.3d 929, 931 (7th Cir. 2007); *see also McDonald v. Hardy*, 821 F.3d 882, 889 (7th Cir. 2016) (explaining that the Eighth Amendment does not excuse deliberate indifference simply because harms “have not yet reached the point of causing acute or life-threatening injuries”).

To succeed on an Eighth Amendment claim, a plaintiff must show that the defendant has acted with “deliberate indifference.” *Board v. Farnham*, 394 F.3d 469, 478 (7th Cir. 2005). That standard is met when the plaintiff establishes that he has been exposed to an “objectively serious” risk of harm and defendant acted with “conscious disregard of known or obvious dangers” to the plaintiff. *Id.* (citing *Farmer v. Brennan*, 511 U.S. 825, 837 (1994)). Both components of the deliberate indifference standard are met here.

First, imprisonment during the COVID-19 pandemic exposes plaintiffs and others similarly situated to a known and objectively serious risk of harm. As

outlined in §IV of the Factual Background above, imprisoned individuals are at a particularly high risk of contracting COVID-19. COVID-19 cases are skyrocketing in Illinois. At the time the initial complaint was filed in this case on April 5, 2020, Illinois had fewer than 9,000 cases. ECF No. 1 at ¶36. Three weeks later, Illinois has more than 48,000 confirmed cases.²⁰ Likewise, infections in IDOC facilities continue to rise. At the time the initial complaint was filed, 56 IDOC inmates had tested positive. ECF No. 1 at 46. Now, that number is 155.²¹ For an individual such as Plaintiff John Margarella, who has serious pre-existing health conditions, including two recent heart attacks, the risk of life threatening illness if exposed to COVID-19 is elevated. According to the Centers for Disease Control and Prevention, “[p]eople who have serious heart conditions” are “at high-risk for severe illness from COVID-19.”²²

Second, IDOC is acting in conscious disregard of these known dangers by keeping Plaintiffs in prison during the pandemic when they have safe places to go in the community. It cannot be disputed that the IDOC is aware of the grave risk that the coronavirus poses to imprisoned individuals. As explained in §IV of the Factual Background above, the top public health official of the State of Illinois has publicly acknowledged the risk that COVID-19 poses to prisoners and the

²⁰ See COVID-19 Homepage, Illinois Department of Public Health, <http://www.dph.illinois.gov/covid19>

²¹ <https://www2.illinois.gov/idoc/facilities/Pages/Covid19Response.aspx>

²² “People Who Are at Higher Risk for Severe Illness,” *Centers for Disease Control and Prevention*, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>

impossibility of proper mitigation measures in an institutional setting. Moreover, the IDOC knows that Plaintiffs are constitutionally entitled to be released. This Court's permanent injunction requires IDOC to release the members of the *Murphy* class. *Murphy v. Raoul*, 16-cv-11471, ECF No. 156. Under these circumstances, continued enforcement of the One-Per-Address Statute constitutes deliberate indifference to Plaintiff's right to "reasonable safety." Plaintiffs could be living in safe places outside of prison where they would be able to comply with the statewide Stay-at-Home order and observe other recommended disease mitigation measures. To expose Plaintiffs and others who have completed their sentences and have housing outside of prison to the unmitigated risk of contracting COVID-19 falls short of the Eighth Amendment's mandates.

III. Plaintiffs and Others Similarly Situated are Suffering and Will Continue to Suffer Irreparable Injury in the Absence of an Injunction

If an injunction is not granted, Plaintiffs and others similarly situated will suffer two forms of irreparable injury. One, they will continue to be imprisoned in violation of their constitutional right to be released from prison on MSR. And two, they will continue to be exposed to an unreasonable risk of being infected with COVID-19. Such harms unquestionably constitute irreparable injury. *Aguilar v. Gaston-Camara*, 861 F.3d 626, 631 (7th Cir. 2017) ("additional incarceration without penological justification" violates the Eighth Amendment); *Hampton v. Leibach*, 99 C 5473, 2001 U.S. Dist. LEXIS 20983, at *5-6 (N.D. Ill. Dec. 18, 2001) (a plaintiff "suffers irreparable harm each day that he is imprisoned in violation of the United States Constitution."); *Harris v. Board of Supervisors*, 366 F.3d 754, 766

(9th Cir. 2004) (accepting “pain,” “infection,” and “medical complications” as forms of irreparable harm warranting injunctive relief).

Moreover, it is well established that when a plaintiff establishes a likelihood of success on a claim that a government action violates his constitutional rights, he meets the element of showing irreparable harm. *Ezell v. City of Chi.*, 651 F.3d 684, 699 (7th Cir. 2011) (“When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.”) (*quoting* 11A Charles Alan Wright et al., Federal Practice & Procedure § 2948.1 (2d ed. 1995)); *Preston v. Thompson*, 589 F.2d 300, 303 n.3 (7th Cir. 1978) (“The existence of a continuing constitutional violation constitutes proof of an irreparable harm.”).

IV. The Balance of Harms and the Public Interest Favor Granting Relief

The public interest also favors the granting of the requested relief. First, there is no public safety justification for refusing to release Plaintiffs to NewDay Apartments or Wayside Cross Ministries. IDOC has leased the housing units at NewDay for the specific purpose of fostering transition back into the community for members of the *Murphy* class. NewDay Apartments considers its primary mission to be “to keep communities safe by housing registrants responsibly.” Ex. 1, Decl. of McKelvey at ¶7. To date, NewDay has a zero percent recidivism rate among its registrant tenants and notes that “it is our experience that housing registrants at the same address allows for more effective (and cost-effective) law enforcement oversight.” *Id.*

Similarly, Wayside Cross Ministries has nearly 100 years of experience helping individuals just like the Plaintiffs reintegrate into society through its highly structured faith-based programming. Kane County State's Attorney Joe McMahon has lauded Wayside's long track record of success with individuals who have been convicted of sex offenses, stating, "The work that they've done there at the Mission has been remarkable for decades."²³

Thus, Wayside Cross and NewDay Apartments are precisely the type of rehabilitative settings to which IDOC should be releasing *Murphy* class members. Moreover, both of these housing options are available at no additional cost to the State of Illinois, which is currently paying tens of thousands of dollars a year to keep the Plaintiffs in prison beyond their release dates.²⁴

Likewise, there is no public safety justification for refusing to allow members of the proposed class such as Mr. Sparks and Mr. Huddleston to parole to host sites that comply with every aspect of Illinois law except the One-Per-Address Statute. If an injunction is granted, Plaintiffs Huddleston and Sparks (and others similarly situated) will still be required to comply with restrictions on their living within 500 feet of schools, playgrounds and daycare centers, and they will still be subject to all

²³ See "Convicted Sex Offenders' Ministry Housing Too Close To Playground, City Says," *National Public Radio*, January 15, 2020; audio recording available at: <https://www.npr.org/2020/01/15/796021411/convicted-sex-offenders-ministry-housing-too-close-to-playground-city-says>

²⁴ See "IDOC Fiscal Year 2017 Annual Report" at 80 (In 2018, the average annual cost of keeping a person incarcerated in an IDOC facility was \$27,930) (available at <https://www2.illinois.gov/idoc/reportsandstatistics/Documents/FY18%20Annual%20Report%20FINAL.pdf>).

of the restrictions attendant to being on MSR, including GPS monitoring, curfews, mandatory sex offender therapy, and restrictions on unauthorized contact with minors.

During this pandemic, other public safety factors also strongly favor issuance of an injunction that will allow Plaintiffs and others to be released to safe host sites outside of prison. Other persons imprisoned in IDOC who cannot be released at present are endangered by overcrowding, which increases the risk of disease transmission; and the public at large is put at risk if medical resources are overwhelmed by the hospitalization of imprisoned people in downstate communities with few hospital beds.

Finally, the public has a strong interest in protecting constitutional rights that would be well served by granting injunctive relief here. *See ACLU v. Alvarez*, 679 F.3d 583, 589-90 (7th Cir. 2012) (“[T]he public interest is not harmed by preliminarily enjoining the enforcement of a statute that is probably unconstitutional.”)

CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request that this Honorable Court enter a preliminary injunction granting the following relief:

- An immediate order prohibiting enforcement of 730 ILCS 5/3-3-7(a)(7.6) (hereinafter the “One-Per-Address Statute”) as to the named Plaintiffs so they can be released from prison to the otherwise compliant host sites identified above; and
- A preliminary injunction prohibiting the IDOC from enforcing the One-Per-Address Statute against individuals who have completed their court-

ordered sentences of incarceration and remain in prison due to an inability to identify a host site that satisfies the One-Per-Address Rule.

Respectfully submitted,

/s/ Adele D. Nicholas
/s/ Mark G. Weinberg
Counsel for Plaintiff

Law Office of Adele D. Nicholas
5707 W. Goodman Street
Chicago, Illinois 60630
(847) 361-3869
adele@civilrightschicago.com

Law Office of Mark G. Weinberg
3612 N. Tripp Avenue
Chicago, Illinois 60641
(773) 283-3913
mweinberg@sbcglobal.net

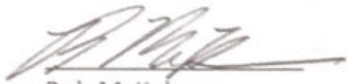
Declaration of Bob McKelvey

1. My name is Bob McKelvey. I am the founder and Manager of NewDay Apartments LLC.
2. NewDay Apartments has partnered with the Illinois Department of Corrections to provide housing to individuals with sex offense convictions being released from prison onto supervised release.
3. NewDay Apartments currently owns seven properties which are more than 500 feet away from any schools, playgrounds and/or daycare centers. NewDay Apartments currently leases four properties to the Illinois Department of Corrections. One property is reserved for a private-pay registrant. One unit currently houses a non-registrant but will be available to house registrants when the current tenant moves out. One property houses six registrants who are neither on parole nor probation.
4. There are currently four parolees living in the four properties IDOC leases from NewDay. Under current law, we are limited to housing four registrant-parolees in these units because we are permitted to have a maximum of one registrant-parolee per address.
5. Removing the one-per-address restriction would allow NewDay to quickly house and provide services for an additional four parolees in these units. That number would increase to seven once current, non-registrant tenants move out over time.
6. NewDay is expanding despite the current pandemic. We plan to double the number of registrant units available year-over-year for at least the next three years. The long term goal of NewDay is to become the #1 provider of safe, affordable registrant housing in the United States. Permitting multiple registrant-parolees at the same address would easily

double the number of available units compared to the current one-per-address rule, and would make the housing we provide more affordable for our registrant-tenants.

7. While our housing obviously helps registrants, NewDay's primary purpose is to keep communities safe by housing registrants responsibly. To-date, we have a 0% recidivism rate among our registrant tenants. It is our experience that housing registrants at the same address allows for more effective (and cost-effective) law enforcement oversight. It also allows registrants to police one another and share resources to better support themselves, which ultimately helps them focus on the future and reduce recidivism.

Pursuant to 28 U.S.C § 1746, I certify under penalty of perjury that the foregoing statements are true and correct to the best of my ability.



Bob McKelvey
Manager, NewDay Apartments LLC

April 23, 2020
Date

**ILLINOIS DEPARTMENT OF CORRECTIONS
INTERNET INMATE STATUS**

AS OF: Wednesday, April 29, 2020



M08407 - GALINDO, COLUMBO

Parent Institution: TAYLORVILLE CORRECTIONAL CENTER
Offender Status: IN CUSTODY
Location: TAYLORVILLE

Sex Offender Registry Required

PHYSICAL PROFILE

Date of Birth: 05/20/1979
Weight: 213 lbs.
Hair: Brown
Sex: Male
Height: 5 ft. 11 in.
Race: Hispanic
Eyes: Brown

MARKS, SCARS, & TATTOOS

TATTOO, LEG, LEFT - ALIEN, MARTIAN
TATTOO, ARM, LEFT UPPER - SKULL W/CROSSBONES
TATTOO, LEG, RIGHT - MAD HATTER W/PISTOL IN HAT

ADMISSION / RELEASE / DISCHARGE INFO

Admission Date: 04/23/2019
Projected Parole Date: 04/23/2021
Last Paroled Date: 04/23/2019
Projected Discharge Date: 3 YRS TO LIFE - TO BE DETERMINED

SENTENCING INFORMATION

MITTIMUS:	09CR0112901
CLASS:	1
COUNT:	1
OFFENSE:	CRIM SEX ASSAULT/CANT CONSENT
CUSTODY DATE:	12/11/2008
SENTENCE:	5 Years 0 Months 0 Days
COUNTY:	COOK
SENTENCE DISCHARGED?:	NO

The information made available on this database service is for the general public and law enforcement to promote the interest of public safety. The best effort has been made to ensure that information published is true and complete, however the information can quickly change. Accordingly, before making any assumption that said information is factual and complete, please send written correspondence to the Illinois

Department of Corrections- Public Information Office, 1301 Concordia Court, P.O. Box 19277, Springfield, IL 62794-9277. Please see the [Illinois Department of Corrections full disclaimer page](#) for important information.

[conduct another search](#)
[return to the IDOC homepage](#)

Illinois Department of Corrections
1301 Concordia Court, PO Box 19277
Springfield, Illinois, 62794-9277
217-558-2200 | 800-546-0844 TDD

ILLINOIS DEPARTMENT OF CORRECTIONS INTERNET INMATE STATUS

AS OF: Wednesday, April 29, 2020



R70879 - SAMPSON, ANDRA

Parent Institution: BIG MUDDY CORRECTIONAL CENTER
 Offender Status: IN CUSTODY
 Location: BIG MUDDY RIVER

Sex Offender Registry Required**PHYSICAL PROFILE**

Date of Birth: 11/16/1987
 Weight: 219 lbs.
 Hair: Black
 Sex: Male
 Height: 6 ft. 01 in.
 Race: Black
 Eyes: Brown

MARKS, SCARS, & TATTOOS

TATTOO, ARM, RIGHT UPPER - "VANESSA"
 TATTOO, FOREARM, LEFT - "YAZMINE"
 TATTOO, ARM, LEFT UPPER - CROSS
 TATTOO, FOREARM, RIGHT - "DRE" BIBLE VERSE

ADMISSION / RELEASE / DISCHARGE INFO

Admission Date: 08/24/2018
 Projected Parole Date: 08/24/2020
 Last Paroled Date: 08/24/2018
 Projected Discharge Date: 3 YRS TO LIFE - TO BE DETERMINED

SENTENCING INFORMATION

MITTIMUS:	07CR0462201
CLASS:	X
COUNT:	1
OFFENSE:	PREDATORY CRIMINAL SEXUAL ASLT
CUSTODY DATE:	01/10/2007
SENTENCE:	6 Years 0 Months 0 Days
COUNTY:	COOK
SENTENCE DISCHARGED?:	NO
MITTIMUS:	07CR0486801
CLASS:	4
COUNT:	1
OFFENSE:	POSS AMT CON SUB EXCEPT(A)/(D)

CUSTODY DATE:	01/10/2007
SENTENCE:	1 Years 0 Months 0 Days
COUNTY:	COOK
SENTENCE DISCHARGED?:	NO

The information made available on this database service is for the general public and law enforcement to promote the interest of public safety. The best effort has been made to ensure that information published is true and complete, however the information can quickly change. Accordingly, before making any assumption that said information is factual and complete, please send written correspondence to the Illinois Department of Corrections- Public Information Office, 1301 Concordia Court, P.O. Box 19277, Springfield, IL 62794-9277. Please see the [Illinois Department of Corrections full disclaimer page](#) for important information.

[conduct another search](#)
[return to the IDOC homepage](#)

Illinois Department of Corrections
1301 Concordia Court, PO Box 19277
Springfield, Illinois, 62794-9277
217-558-2200 | 800-546-0844 TDD

Declaration of Rosemary Margarella

1. My name is Rosemary Margarella (legally Frank J Margarella). I am the daughter of John Margarella, one of the plaintiffs who has been detained in the Illinois Department of Corrections beyond his release date because he can't secure approved housing.
2. My father was supposed to be released from prison in December 2013. He remains in prison at Dixon Correctional Center because we cannot find housing for him that the IDOC will approve. He has been in prison for more than six years beyond the time he was sentenced to serve.
3. We have asked IDOC to release my father to homes with every family member who has the ability to offer him a place to stay. All potential placements with members of our family have been rejected because we live too close to schools or playgrounds or have children residing with or frequenting the residences.
4. No one in our family has the money to buy or rent a separate place for my father.
5. My father is 57 and has had serious health issues while in the IDOC. I am very concerned for his wellbeing during the COVID-19 pandemic. He has suffered two heart attacks while imprisoned and has had stents inserted in his blood vessels. While undergoing treatment for one of the heart attacks, he received medication that caused internal hemorrhaging and almost died. He also has a degenerative spine disorder. I am concerned that my father is at very high risk if he is exposed to the corona virus in prison.
6. We have no hope of securing my father's release unless the IDOC gives him a place to stay in transitional housing or a halfway house.

Pursuant to 28 U.S.C § 1746, I certify under penalty of perjury that the foregoing statements are true and correct.

A handwritten signature in black ink, appearing to read "R. Margarella", is positioned above a horizontal line.

Rosemary Margarella

4/29/2020

Date

Declaration of Jonathan Beall

1. My name is Jonathan Beall. I am the program director of the Master's Touch Ministry, a division of Wayside Cross Ministries.
2. Wayside Cross Ministries is a Christ-centered Bible-based residential program that has operated in Aurora, Illinois, for more than 90 years.
3. The Master's Touch Ministry is a life-transformation program for men with various destructive behaviors not limited to drug and alcohol addiction. The program offers room and board at no cost, and empowers its participants to change their lives through the Gospel of Christ, prayer, Bible study, daily chapel services, mentoring with local church and business leaders, and work rehabilitation programs.
4. It takes a minimum of seven months for a resident to complete the Master's Touch Ministry program. The end goal of the program is to give the men the tools they need to live healthy, law abiding lives through trust in Jesus Christ for their faith and conduct.
5. Wayside Cross currently has openings in the Master's Touch Ministry and is willing to accept individuals who are on parole at no cost to the IDOC or to the program participants.
6. Acceptance into the program is at the sole discretion of the Director of Master's Touch.
7. Completion of the program hinges on successful random drug and alcohol tests, as well as adherence to all the rules of Master's Touch.
8. Any medication is not permitted which would result in a negative drug test.
9. Because of its proximity to McCarty Park, Wayside Cross cannot accept into its program individuals who are classified as "child sex offenders," but it can accept individuals

whose offenses involved an adult victim, subject to the successful registration with the Aurora Police Department.

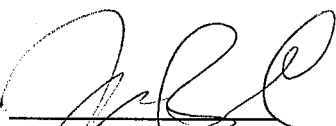
10. The participants in the Masters Touch Ministry all reside together in a dormitory setting at Wayside Cross, located at 215 E. New York Street in Aurora.

11. Kenneth Green, Fredrick Chamblis, Corey Crowe, Dana Monson, David Easton, Joshua Atkins, Kenneth Schroeder, Wade Council, Christopher Shelton and Mark Faller are individuals currently imprisoned in IDOC who have expressed interest in coming to Wayside Cross and participating in the Master's Touch Ministry.

12. Staff at Wayside Cross have conducted phone interviews with each of these men and made a preliminary determination that each meets the criteria for admission to the Master's Touch Ministry. We are prepared to accept these individuals, provided they test negative for COVID-19 a day before entry, and that the information provided in the prescreening interviews was complete and accurate and is confirmed in a formal in-person intake and application.

13. In connection with our phone interviews, I and members of my staff spoke to various officials from Field Services offices from the IDOC facilities at which these men are currently imprisoned. The Field Services officials have informed us that a court order will be necessary for these men to be approved to come to Wayside Cross.

Pursuant to 28 U.S.C § 1746, I certify under penalty of perjury that the foregoing statements are true and correct.


Jonathan Beall

4-30-20
Date

Declaration of Jonathan Eric Joseph Sparks

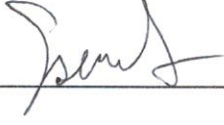
Pursuant to 28 U.S.C § 1746, I certify under penalty of perjury that the following statements are true and correct:

1. My name is Jonathan Eric Joseph Sparks. I am currently incarcerated at Big Muddy Correctional Center. I was convicted on July 12, 2010 on one count of Criminal Sexual Assault. I was sentenced to 4 years with a 3 years to life MSR term.
2. I have been eligible for release from prison on Mandatory Supervised Release since July 29, 2013. As of July 29, 2018, I will have been incarcerated 5 years past my original sentence. I have now spent more time incarcerated under my MSR sentence than for my original crime.
3. I am not married, and have no savings or significant assets.
4. I have \$100 in my account, and receive only \$10 per month in State Pay. My sister occasionally sends me money when she can, but it is never much.
5. I have no family or friends in Illinois who can help me find suitable housing. I have made several attempts to secure housing through the Interstate Compact Commission, but have been denied each time.
 - i. The first home I tried was my father's house in Colorado. This residence was rejected due to "unsafe living conditions," a determination that was never documented or explained to me in any detail.
 - ii. My mother's home in Chappel, NE was rejected because my uncle, a sex offender himself, resides there.
 - iii. My uncle's home in California was rejected as he lives within 400ft of a school.
 - iv. I have also contacted Peoria Rescue Missions, of Peoria, IL, who refused my request for assistance.
6. I have no other family members to turn to. I have exhausted all possible avenues for me in Illinois, and without a material change in my situation, I fear I will be trapped in prison forever.

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing answers are true and correct.


Jonathan Sparks


Date

2-21-18

**ILLINOIS DEPARTMENT OF CORRECTIONS
INTERNET INMATE STATUS**

AS OF: Tuesday, April 28, 2020



M44423 - HUDDLESTON, JOSHUA

Parent Institution: ROBINSON CORRECTIONAL CENTER
Offender Status: IN CUSTODY
Location: ROBINSON

Sex Offender Registry Required

PHYSICAL PROFILE

Date of Birth: 02/11/1979
Weight: 235 lbs.
Hair: Brown
Sex: Male
Height: 5 ft. 08 in.
Race: White
Eyes: Blue

MARKS, SCARS, & TATTOOS

TATTOO, LEG, LEFT - CALF AREA TRIBAL
SCAR, ANKLE, LEFT -
TATTOO, LEG, RIGHT - CALF AREA TRIBAL

ADMISSION / RELEASE / DISCHARGE INFO

Admission Date: 01/22/2019
Projected Parole Date: 03/05/2021
Last Paroled Date: 01/22/2019
Projected Discharge Date: 3 YRS TO LIFE - TO BE DETERMINED

SENTENCING INFORMATION

MITTIMUS:	13CF1993
CLASS:	X
COUNT:	1
OFFENSE:	PRED CRIM SEX ASLT/VICTIM <13
CUSTODY DATE:	12/16/2013
SENTENCE:	6 Years 0 Months 0 Days
COUNTY:	CHAMPAIGN
SENTENCE DISCHARGED?:	NO

The information made available on this database service is for the general public and law enforcement to promote the interest of public safety. The best effort has been made to ensure that information published is true and complete, however the information can quickly change. Accordingly, before making any assumption that said information is factual and complete, please send written correspondence to the Illinois

Department of Corrections- Public Information Office, 1301 Concordia Court, P.O. Box 19277, Springfield, IL 62794-9277. Please see the [Illinois Department of Corrections full disclaimer page](#) for important information.

[conduct another search](#)
[return to the IDOC homepage](#)

Illinois Department of Corrections
1301 Concordia Court, PO Box 19277
Springfield, Illinois, 62794-9277
217-558-2200 | 800-546-0844 TDD

DION DIXON, 12/12/2017

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

PAUL MURPHY, et al.,)
)
) Plaintiffs,)
)
) vs.) No. 16 C 11471
)
LISA MADIGAN, et al.,)
)
) Defendants.)

The video-recorded deposition of DION DIXON, taken pursuant to the Federal Rules of Civil Procedure, before Leanna Z. Michas, Certified Shorthand Reporter No. 084-004748, at 20 North Clark Street, Suite 1260, Chicago, Illinois, on Tuesday, December 12, 2017, commencing at 10:05 a.m., pursuant to notice.

APPEARANCES:

LAW OFFICE OF ADELE D. NICHOLAS, by
MS. ADELE D. NICHOLAS
(5707 West Goodman Street
Chicago, Illinois 60630
847.361.3869
adele@civilrightschicago.com)

-and-

MR. MARK G. WEINBERG
(3612 North Tripp Avenue
Chicago, Illinois 60641
773.283.3913
mweinberg@sbcglobal.net)
appeared on behalf of the plaintiffs;

1 And then will the agent actually
2 visit the host site itself?

3 A. Yes.

4 Q. What's the purpose of visiting the host
5 site itself?

6 A. Basically, to see if the host site
7 is -- is there, if there's an actual physical host
8 site, and then to look at the condition of it as
9 well. And also to, again, look and see what's
10 available, what's there in the host site, what's
11 not in the host site, and to, finally, make contact
12 with the host.

13 Q. You said they're going to inspect the
14 condition of the host site.

15 What do you mean by that?

16 A. The living condition. If there's no
17 running water, heat, or electricity, or all -- all
18 three, you know, big holes in the floor, or walls,
19 or whatever, it's basically uninhabitable or it's
20 in very poor condition, we're not going to place a
21 parolee in those sort of -- in that sort of
22 situation.

23 Q. What other conditions does the agent
24 have to verify at the host site before approving

1 electronically cannot just be allowed to roam
2 and -- and be homeless. They have to have -- they
3 have to have a stable host site.

4 Q. People who have been convicted of
5 offenses that are not categorized as sex offenses
6 are allowed to be homeless while on MSR, true?

7 A. Yes. But not hooked up to electronic
8 monitoring.

9 Q. Right. They're just homeless on MSR,
10 true?

11 A. Not true. No. No. They -- they still
12 have someplace to go --

13 Q. A homeless shelter, right?

14 A. Yes.

15 Q. Okay. So someone has to give an
16 address, but they can give a homeless shelter,
17 right?

18 A. Yes.

19 Q. Can a sex offender parolee give a
20 homeless shelter as their address?

21 A. No.

22 Q. Why not?

23 A. It's too transient of a situation. You
24 can have another sex offender that moves -- or takes

1 up shelter there, and then now he's in violation,
2 our guy's in -- in violation, and will have to be
3 returned home.

4 Also, these shelters, the homeless
5 shelters, are -- you're in by 8:00 o'clock in the
6 evening, and you got to be out at 6:00 in the
7 morning. If you -- if a sex offender doesn't have
8 a job that's going to occupy his time, if he's not
9 in school at that time, if he's not doing something
10 constructive during that time, he's not going to be
11 allowed to roam around. Absolutely not.

12 Q. Okay. So a person who's been convicted
13 of a sex offense cannot parole to a homeless
14 shelter, right?

15 A. That's correct.

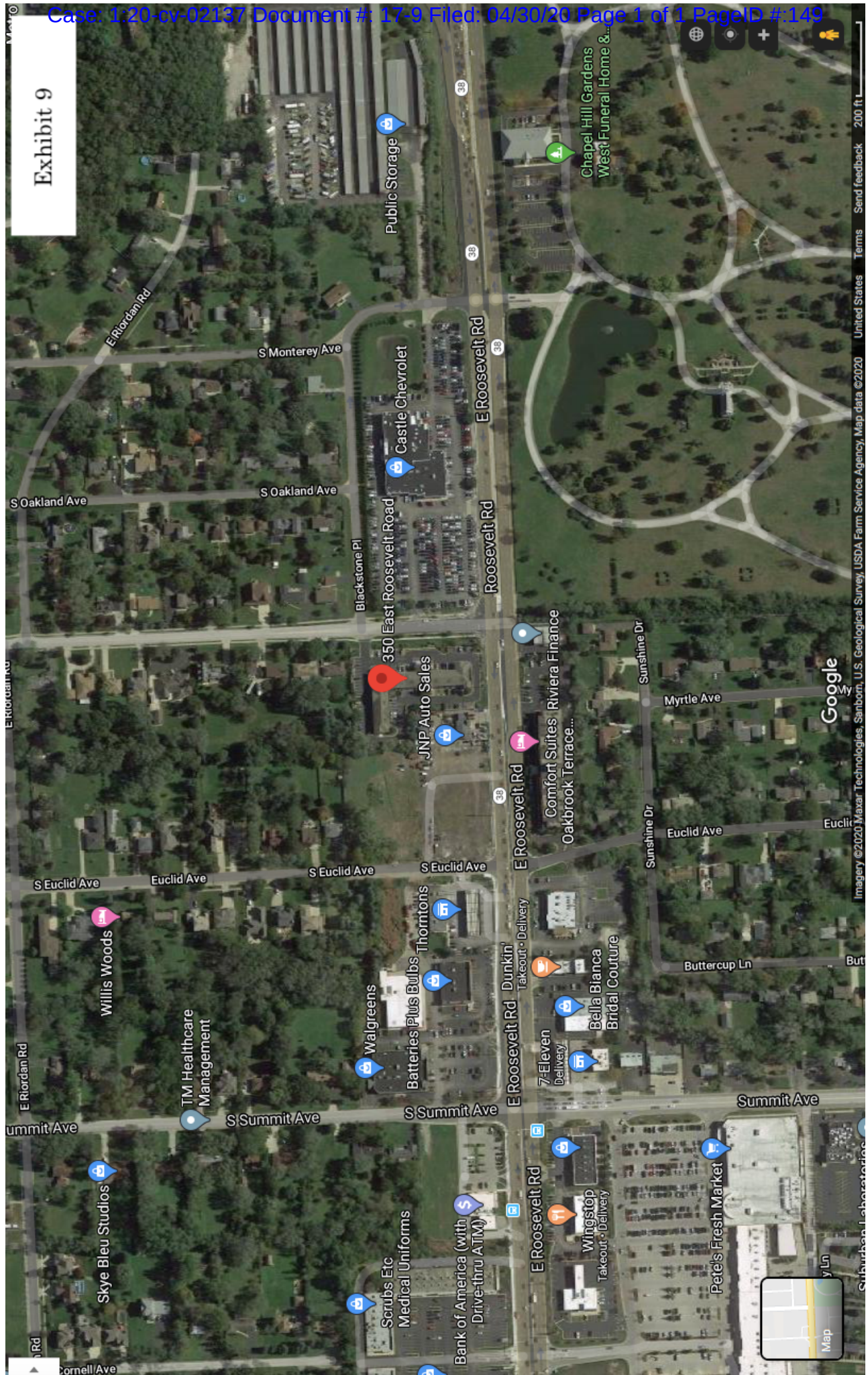
16 Q. Even if they're subject to GPS
17 monitoring, true?

18 A. True.

19 Q. And can you tell me a little bit
20 more about the GPS systems that the department of
21 corrections currently uses? What data does the GPS
22 monitoring bracelet return to the department?

23 A. Where and -- where the offender goes,
24 when he goes, or when he arrives, or how -- you

Exhibit 9



Declaration of Stephen Goldberg

1. My name is Stephen N. Goldberg. I was formerly a member of the State Bar of Illinois and a member of the bar of this Court. I am also a now-retired inactive member of the State Bar of California and a member of the bar of various California federal district courts, the Ninth Circuit Court of Appeals, and the United States Supreme Court. I am familiar with the facts stated herein and could testify about them if called as a witness.

2. I am the brother of Alvin Lee Goldberg, who pleaded guilty in November of 2012 to two offenses: PRED CRIM SEX ASLT/VICTIM <13; and AGG CRIM SEX ABUSE/FAMILY. My brother will be 81 on May 14 of this year.

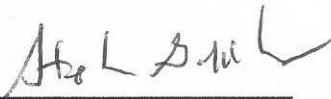
3. My brother currently is an inmate at the Taylorville Correctional Center, 1144 Illinois Rte 29, Taylorville IL 62568. His IDOC number is M36526. He was scheduled for release in November of 2018, subject to required mandatory supervised release ("MSR") with a discharge date of three years to life. He is actively looking for an apartment to move to that is acceptable to the IDOC while he is on MSR.

4. I have applied on behalf of my brother to NewDay Apartments, an organization that rents apartments to convicted sex offenders. I have spoken with their representatives. The latter have told me (1) that NewDay will put my brother, if he passes a background and credit check, on a waiting list for apartments it owns that currently are allowed by the IDOC only to house registered sex offenders who are no longer on parole or probation (i.e. MSR) and (2) that they are precluded from renting to him in such facilities by the Illinois statute precluding more than one registrant from residing at a residence housing more than one registrant. 730 ILCS 5/5-6-3(a)(8.6).

5. I today received a notification from Newday that my brother Alvin's application has been accepted subject to his obtaining a court order allowing NewDay to house him in one of these buildings. A true copy of the letter I received today is attached to this declaration as Exhibit A.

Pursuant to 28 U.S.C § 1746, I certify under penalty of perjury that the foregoing statements are true and correct.

Executed in Los Angeles, California on April 30, 2020



Stephen Goldberg



NewDay Apartments LLC
25 Telser Road, #56
Lake Zurich, IL 60047



Alvin Goldberg
co/Stephen Goldberg
444 N. La Jolla Avenue
Los Angeles, CA 90048

April 30th, 2020

Dear Mr. Goldberg:

NewDay Apartments LLC has accepted your brother Alvin's rental housing application based on his credit & criminal background check. However, Illinois law [730 ILCS 5/5-6-3(a)(8.6)] currently states that a registrant on parole, probation or supervised release cannot live at an address housing other registrants. Because NewDay specializes in registrant housing, our typical buildings contain more than one registrant per address. In order for NewDay to allow Alvin to live in one of these buildings, you will need a court order allowing NewDay to house Alvin with other registrants who live in other units at the same address.

For now, we have added Alvin's name to our wait-list. Once you provide us with the proper documentation, NewDay will be able to provide housing for him as soon as a unit becomes available.

Please feel free to call us with any questions or concerns: 847-628-7999.

Best regards,

Bob McKelvey
Manager, NewDay Apartments LLC

Exhibit A