

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE**

JOSEPH A. DENBOW and SEAN R.
RAGSDALE, on their own and on behalf of a
class of similarly situated persons,

Petitioners,

v.

MAINE DEPARTMENT OF CORRECTIONS
and RANDALL A. LIBERTY, Commissioner of
Maine Department of Corrections, in his official
capacity,

Respondents.

CIVIL NO. 1:20-cv-00175-JAW

NOTICE OF SUPPLEMENTAL AUTHORITY

Earlier today, May 21, 2020, the U.S. District Court for the Eastern District of Michigan issued a decision in *Cameron et al. v. Bouchard, et al.*, Docket No. 2:20-cv-10949-LVP-MJH, granting equitable and other relief for incarcerated persons endangered by the COVID-19 pandemic. A copy of the Court's opinion is attached as Exhibit A, and a copy of the Court's order is attached as Exhibit B.

One of the preliminary issues that has been raised in this case is whether the relief sought is available under 28 U.S.C. § 2241, or else whether plaintiffs must only seek relief under a different habeas corpus provision or under a federal civil rights law. Beginning on page 28 of its opinion, the Court in *Cameron* discusses why §2241 is the proper vehicle for plaintiffs to challenge the continued confinement of medically-vulnerable jail inmates during the COVID-19

pandemic, and the Court's analysis is equally applicable to the class of medically-vulnerable prison inmates here.

In addition, one of the issues that has already arisen in this case involves how to define classes and subclasses of prisoners who are especially vulnerable to COVID-19 and are, therefore, entitled to injunctive relief from the Court. Beginning on page 37 of its opinion, the Court in *Cameron* discusses similar issues and concludes that class relief is appropriate.

Finally, the Court in *Cameron*, beginning on page 56, discusses the “deliberate indifference” standard as applied to corrections officials who have been generally unwilling to enlarge the custody of medically vulnerable prisoners to permit social distancing. As the court explained at pages 60-61, “in light of Defendants’ awareness of the deathly risk that COVID-19 poses to the medically-vulnerable population, Defendants’ failure to make prompter, broader, and more meaningful use of their authority to implement what appears to be the only solution capable of adequately protecting medically-vulnerable inmates may constitute deliberate indifference under the Eighth Amendment.”

In short, *Cameron* confirms that preliminary injunctive relief is appropriate under §2241 and that, likewise, certifying a class of medically-vulnerable prisoners is a proper tool for ensuring that Maine prisoners are not unlawfully confined.

Dated May 21, 2020

Respectfully Submitted,

/s/ Emma E. Bond

Emma E. Bond

Zachary L. Heiden

American Civil Liberties Union of Maine
Foundation

P.O. Box 7860

Portland, Maine 04112

(207) 619-8687

ebond@aclumaine.org

(207) 619-6224

heiden@aclumaine.org

Moe Keshavarzi*

Robert Sturgeon*

Alex Kuljis*

Sheppard Mullin Richter & Hampton LLP

333 South Hope Street, 43rd Floor

Los Angeles, CA 90071-1422

213.617.5544

MKeshavarzi@sheppardmullin.com

213-617-5435

RSturgeon@sheppardmullin.com

213-617-4239

AKuljis@sheppardmullin.com

Jodi Nofsinger

Miriam Johnson

Taylor Asen

Berman and Simmons

129 Lisbon Street

Lewiston, Maine 04240

jnofsinger@bermansimmons.com

(207) 784-7699

mjohnson@bermansimmons.com

(207) 784-3576

tasen@bermansimmons.com

Attorneys for Petitioners and Proposed Class

* pro hac vice application pending

CERTIFICATE OF SERVICE

The undersigned certifies that she has electronically filed this date the foregoing NOTICE OF SUPPLEMENTAL AUTHORITY with the Clerk of the Court using the CM/ECF system.

This filing is available for viewing and downloading from the ECF system.

Dated: May 21, 2020

/s/ Emma E. Bond
Emma E. Bond
American Civil Liberties Union of Maine
Foundation
P.O. Box 7860
Portland, Maine 04112
(207) 619-8687
ebond@aclumaine.org

Counsel for Petitioners