

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION**

PATRICK R. SMITH and BRANDON S.
HOLM, individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

WILLIAM P. BARR, in his official capacity as the
Attorney General of the United States; MICHAEL
CARVAJAL, in his official capacity as the Director
of the Federal Bureau of Prisons; and T. J. WATSON, in
his official capacity as Complex Warden for the Terre
Haute Federal Correctional Complex,

Defendants.

No. 2:20-cv-630-JMS-DLP

**PLAINTIFFS' EMERGENCY MOTION FOR PRELIMINARY INJUNCTION
AND REQUEST FOR EXPEDITED CONSIDERATION**

Pursuant to Fed. R. Civ. P. 65 and S.D. Ind. L.R. 65-2, plaintiffs Patrick R. Smith and Brandon S. Holm ("Plaintiffs"), individually and on behalf of a putative class of all others similarly situated, specifically, all people who are currently incarcerated at the Terre Haute Federal Correctional Complaint ("FCC Terre Haute"), hereby move for a preliminary injunction prohibiting the Defendants from conducting further executions at FCC Terre Haute during the ongoing COVID-19 pandemic, until such time as Plaintiffs and all other members of the putative Class have received an effective vaccine and COVID-19 no longer jeopardizes their health and their lives.

As set forth in the accompanying memorandum of law and demonstrated in the supporting declarations, Plaintiffs are likely to succeed on the merits in this case and will suffer irreparable harm in the absence of a temporary restraining order and preliminary injunction. The balance of

harms weighs in Plaintiffs' favor, and the public interest favors a preliminary injunction temporarily prohibiting the executions and the public health risk they present.

Counsel for Plaintiffs notified Defendants of the filing of this action by sending a copy of the Complaint by email to Assistant United States Attorney for the Southern District of Indiana, Shelese Woods, shortly after it was filed on November 27. Counsel for Plaintiffs will also send an email copy of this motion and the accompanying papers to Ms. Woods promptly after filing. Emergency relief is needed and expedited consideration is requested, given that the next execution is scheduled to occur at FCC Terre Haute on December 10, 2020.

Wherefore, Plaintiffs respectfully request that the Court grant their motion and preliminarily enjoin Defendants from conducting further executions at FCC Terre Haute until such time as Plaintiffs and all other members of the putative Class have received an effective vaccine and COVID-19 no longer jeopardizes their health and their lives.

Dated: November 30, 2020

Respectfully submitted,

/s/ John R. Maley

John R. Maley
Barnes & Thornburg LLP
11 South Meridian Street
Indianapolis, Indiana 46204-3535
Telephone: (317) 231-7464 (direct)
(317) 432-5509 (mobile)
Facsimile: (317) 231-7433
John.maley@btlaw.com

Robert A. Burgoyne, *pro hac vice**
Caroline M. Mew, *pro hac vice**
Perkins Coie LLP
700 13th St. NW, Suite 800
Washington, DC 20005-3960
Telephone: (202) 654-1767
Facsimile: (202) 654-6211
rburgoyne@perkinscoie.com
cmew@perkinscoie.com

Sarah Howland, *pro hac vice**
Perkins Coie LLP
1155 Avenue of the Americas, 22nd Floor
New York, N.Y. 10036-2711
Telephone: (212) 262-6900
showland@perkins.coie.com

Attorneys for Plaintiffs

**Pro hac vice* applications pending

CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2020, copies of the foregoing document and the accompanying declarations and proposed order were filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the court's electronic filing system. Parties may access this filing through the court's system, including to:

Shelese M. Woods
Civil Chief
United States Attorney's Office
10 W. Market Street
Suite 2100
Indianapolis, IN 46204
shelese.woods@usdoj.gov

I further certify that on November 30, 2020, copies of the foregoing document and the accompanying declarations and proposed order were mailed, by first-class U.S. Mail, postage prepaid and properly addressed to the following:

William P. Barr, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Michael Carvajal
Acting Director Federal Bureau of Prisons
U.S. Department of Justice
320 First St., NW
Washington, DC 20534

T.J. Watson, Complex Warden
USP - Terre Haute
U.S. Penitentiary
4700 Bureau Road South
Terre Haute, IN 47802

Respectfully submitted,

/s/ John R. Maley
John R. Maley