

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

ARISTOTELES SANCHEZ MARTINEZ, *et al.*,

Petitioners/Plaintiffs,

v.

RUSSELL WASHBURN, *et al.*,

Respondents/Defendants.

Case No.: 7:20-cv-0062-CDL-MSH

**PETITIONERS-PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION
AND EMERGENCY WRIT OF HABEAS CORPUS**

Pursuant to Federal Rule of Civil Procedure 65 and 28 U.S.C. § 2241, Plaintiffs-Petitioners Michael Robinson, Peter Owusu, Hugh Tinarwo, Shehza Khan, Joseph Lloyd Thompson, Ansumana Jammeh, Karen Lopez, Nilson Barahona Marriaga, Shelley Dings, Kimberly Salazar, and Sonia Cabrera Benitez, (collectively, "Petitioners") hereby submit this Motion for Preliminary Injunction and Emergency Habeas Relief.¹ Petitioners are medically vulnerable individuals who are detained at Stewart Immigration Detention Center ("Stewart") or Irwin County Detention Center ("Irwin") and at high risk of both contracting COVID-19 and suffering severe negative health impacts, including organ damage and possible death, if they do. Because the severe risk of serious illness or death vastly outweighs any legitimate government interest in continuing to detain Petitioners, their continued detention constitutes impermissible punishment. Because Respondents-Defendants ("Respondents") know or should know of the

¹ Petitioners Karen Lopez, Michael Robinson, and Peter Owusu have been granted leave to proceed with this action under pseudonyms. Dkt. 15. Petitioner Kimberly Salazar seeks leave to proceed pseudonymously in a concurrently filed, unopposed motion.

substantial risk of serious harm to Petitioners, their continued detention also demonstrates deliberate indifference. For both reasons, Respondents' conduct violates the Petitioners' rights under the Fifth Amendment Due Process Clause. Accordingly, Petitioners move the Court to issue a Writ of Habeas Corpus or a Preliminary Injunction securing their immediate release from detention.

If the Court does not grant Petitioners' release, Petitioners in the alternative request that the Court order the following relief to maximize their safety, to the extent possible, while in detention:

1. Respondents to immediately conduct custody redeterminations for all Petitioners, with specific consideration of the medical conditions that make Petitioners especially vulnerable to severe illness, long-term organ damage, or death from COVID-19. These custody redeterminations cannot consider deterrence of future migration as a factor for justifying detention and must provide Petitioners the opportunity to submit medical records relevant to their risk to complications if they were to contract COVID-19;
2. Respondents to immediately comply with CDC Guidance regarding COVID-19 at Stewart and Irwin, including but not limited to the provisions requiring:
 - a. Implementation and enforcement of social distancing (maintaining at least 6 feet of distance) among all people in the detention centers at all times, with exceptions for emergency situations that require closer contact;
 - b. Intensified cleaning and disinfecting practices, including: (1) evaluating dilution levels of cleaning products; (2) cleaning, several times per day, all frequently touched surfaces with household cleaners and EPA-registered disinfectants that are effective against COVID-19 and appropriate for the surface, (3) taking relevant precautions needed when using these products, particularly around detained people with underlying respiratory conditions, and (4) adapting cleaning and disinfecting practices when suspected or confirmed COVID-19 cases have been identified;
 - c. Testing of all symptomatic individuals, including rapid identification and appropriate triage of those at highest risk of complication of infection;

- d. Immediate response to symptoms of COVID-19, including: (1) placement of the symptomatic individual under safe medical isolation, with their own housing space and bathroom, and regular provision of a clean face mask, and (2) determination of whether the symptomatic individual is at higher risk for several illness from COVID-19 due to an underlying condition, and provision of further evaluation and treatment as appropriate;
 - e. Quarantine for 14 days of all “close contacts,” individually whenever possible, with PPE. A “close contact” is defined as a person who came within 6 feet of a confirmed (defined as confirmed by a laboratory test) or suspected (defined as exhibiting COVID-19 symptoms) case in the last 14 days;
 - f. Halting of transfers of detained people to and from Stewart and Irwin unless “absolutely necessary,” and adhering to infection control measures for the transportation of detained people if any transfers are “absolutely necessary”;
 - g. Implementation of routine quarantining of new intakes for 14 days at both Stewart and Irwin with regular assessment for symptomatic individuals; and
 - h. Clear and regular verbal and written communication about COVID-19 and risk reduction to the detained populations, including: (1) posting signs throughout the facilities that advise detained people of the symptoms of COVID-19, hand hygiene and cough etiquette, and other methods of protection against COVID-19, and that can be understood by non-English speakers and those with low literary or needing other accommodations, and (2) clear and frequent in-person communication with detained people about risk reduction and the presence of COVID-19 cases inside the facilities;
3. Respondents must submit to monitoring to ensure ongoing compliance with CDC Guidance;
 4. Respondents to provide nutritionally appropriate meals three times per day at regular and consistent times to Petitioners at Stewart in a manner that allows for social distancing;
 5. Respondents to provide reporting to this Court and Petitioners’ Counsel twice per week with the following:
 - a. Total detainee population at Stewart and Irwin;
 - b. Total number of COVID-19 tests performed for detainees at Stewart and Irwin, CoreCivic and LaSalle Corrections staff employed at Stewart and Irwin, ICE staff on site at Stewart and Irwin, and any other contractors who visit Stewart and Irwin; and dates of samples taken;
 - c. Number of positive results among those performed and reported under 5.b.;
 - d. Number of suspected COVID-19 cases, or presumed positive cases among detainees at Stewart and Irwin, CoreCivic and LaSalle Corrections staff employed at

Stewart and Irwin, ICE staff on site at Stewart and Irwin, and any other contractors who visit Stewart and Irwin;

- e. Number of people quarantined due to COVID-19 at time of report;
- f. Number of people cohorted due to COVID-19 at time of report;
- g. Number of people in negative pressure rooms due to COVID-19 at time of report;
- h. Total number of medical appointment requests received since the last report (with the first report referring back to April 1, 2020) and number of medical appointments completed since the last report (with the first report referring back to April 1, 2020), including the date the medical appointment took place and where the medical appointment took place (i.e., in the medical unit or in the housing unit);
- i. Number of people transferred to Irwin and Stewart since the last report (with the first report referring back to April 1, 2020), including the specific location where they were transferred from and the date(s) of transfer(s);
- j. Compliance with this Court's order, to the extent not covered in the reporting and monitoring requirements above; and

6. Such other relief as this Court may deem appropriate.

The grounds for Petitioners' Motion are set forth in more detail in the accompanying

Memorandum of Law in Support of their Motion for Temporary Restraining Order.

Dated: April 30, 2020

Respectfully submitted,

SOUTHERN POVERTY LAW CENTER

ASIAN AMERICANS ADVANCING JUSTICE-
ATLANTA

By: /s/ Gracie Willis

By: /s/ Hillary Li

Gracie Willis (GA Bar #851021)
Rebecca Cassler (GA Bar #487886)
Lorilei Williams* (NY Bar #5302617)
150 E. Ponce de Leon Ave., Ste. 340
Decatur, GA 30030
Tel: (404) 521-6700
Fax: (404) 221-5857

Hillary Li (GA Bar #898375)
Phi Nguyen (Ga Bar #578019)
5680 Oakbrook Pkwy, Ste. 148
Norcross, GA 30093
Tel: (404) 585-8466
Fax: (404) 890-5690

gracie.willis@splcenter.org
rebecca.cassler@splcenter.org

hli@advancingjustice-atlanta.org
pnguyen@advancingjustice-atlanta.org

Paul Chavez** (FL Bar #1021395)
Victoria Mesa-Estrada*(FL Bar #076569)
2 S. Biscayne Blvd., Ste. 3200
Miami, FL 33101
Tel: (786) 347-2056
paul.chavez@splcenter.org
victoria.mesa@splcenter.org

KILPATRICK TOWNSEND & STOCKTON LLP
By: /s/ Tayah Woodard
Tayah Woodard (GA Bar #312548)
Tamara Serwer Caldas (GA Bar #617053)
Kathryn E. Isted (GA Bar #908030)
Amanda Brouillette (GA Bar #880528)

Melissa Crow** (DC Bar #453487)
1101 17th Street, NW, Ste. 705
Washington, DC 20036
Tel: (202) 355-4471
Fax: (404) 221-5857
melissa.crow@splcenter.org

1100 Peachtree St., NE, Ste. 2800
Atlanta, GA 30309
Tel: (404) 815-6006
Fax: (404) 541-4754
twoodard@kilpatricktownsend.com
tcaldas@kilpatricktownsend.com
kisted@kilpatricktownsend.com
abrouillette@kilpatricktownsend.com

**appearing pro hac vice*

***pro hac vice motions forthcoming*