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HABEAS,ACO

U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:20-cv-01590-RPK-RLM

Chunn et al v. Edge
Assigned to: Judge Rachel P. Kovner
Referred to: Magistrate Judge Roanne L. Mann
Cause: 28:2241 Petition for Writ of Habeas Corpus (federa

Date Filed: 03/27/2020
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

Petitioner**Hassan Chunn***TERMINATED: 05/13/2020*

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Petitioner

Ayman Rabadi
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Petitioner

Justin Rodriguez

represented by **Alexander A. Reinert**

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individually and on behalf of all others
similarly situated*

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Respondent

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Warden Derek Edge

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Intervenor

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| Date Filed | # | Docket Text |
|------------|--------------------|---|
| 03/27/2020 | 1 | PETITION for Writ of Habeas Corpus <i>Under 28 U.S.C. § 2241</i> filing fee \$ 5, receipt number ANYEDC-12601809, filed by Justin Rodriguez, Hassan Chunn, Ayman Rabadi, Nehemiah McBride. (Attachments: # 1 Civil Cover Sheet, # 2 Proposed Summons to Respondent Warden Derek Edge, # 3 Proposed Order to Show Cause, # 4 Exhibit 1 - Declaration of Deirdre D. von Dornum with Exhibits, # 5 Exhibit 2 - Declaration of Jonathan Giftos, M.D.) (Rosenfeld, Katherine) (Entered: 03/27/2020) |
| 03/27/2020 | 3 | Unsigned Order to Show Cause by Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Bowens, Priscilla) (Entered: 03/30/2020) |
| 03/27/2020 | | Case Assigned to Judge Rachel P. Kovner. Please download and review the Individual Practices of the assigned Judges, located on our website . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. (Bowens, Priscilla) (Entered: 03/30/2020) |
| 03/27/2020 | 6 | Summons Issued as to Derek Edge. (Bowens, Priscilla) (Entered: 03/30/2020) |
| 03/29/2020 | 2 | Letter <i>Related Case Statement to Clerk of Court</i> by Hassan Chunn (Rosenfeld, Katherine) (Entered: 03/29/2020) |
| 03/30/2020 | 4 | NOTICE of Appearance by Scout Katovich on behalf of Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (aty to be noticed) (Katovich, Scout) (Entered: 03/30/2020) |
| 03/30/2020 | 5 | Civil Cover Sheet.. Re 1 Petition for Writ of Habeas Corpus, by Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 03/30/2020) |
| 03/30/2020 | 7 | Notice of Related Case: The Civil Cover Sheet filed in this civil action indicates a related case. (Bowens, Priscilla) (Entered: 03/30/2020) |
| 03/30/2020 | 8 | In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that <i>if</i> all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action including a (jury or nonjury) trial and to order the entry of a final judgment. Attached to the Notice is a blank copy of the consent form that should be filled out, signed and filed electronically only if all parties wish to consent. The form may also be accessed at the following link: http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf . You may withhold your consent without adverse substantive consequences. Do NOT return or file the consent unless all parties have signed the consent. (Bowens, Priscilla) (Entered: 03/30/2020) |
| 03/30/2020 | 9 | This attorney case opening filing has been checked for quality control. See the attachment for corrections that were made, if any. (Bowens, Priscilla) (Entered: 03/30/2020) |
| 03/30/2020 | 10 | NOTICE of Appearance by Betsy R. Ginsberg on behalf of Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (aty to be noticed) (Ginsberg, Betsy) (Entered: 03/30/2020) |
| 03/30/2020 | 11 | NOTICE of Appearance by Alexander A. Reinert on behalf of All Plaintiffs (notification declined or already on case) (Reinert, Alexander) (Entered: 03/30/2020) |
| 03/30/2020 | 12 | MOTION for Temporary Restraining Order by Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez. (Attachments: # 1 Memorandum in Support Memorandum of Law in Support of Petitioners' Motion for a Temporary Restraining Order, # 2 Declaration Declaration of Katherine Rosenfeld, # 3 Exhibit 1 - Declaration of Carmen Nevarez, # 4 Exhibit 2 - Letter from Kenneth Montgomery, # 5 Exhibit 3 - |

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| | | Declaration of Tasha Moore, # 6 Exhibit 4 - Letter from Robert Baum, # 7 Exhibit 5 - Declaration of Migdaliz Quinones, # 8 Exhibit 6 - Rabadi Medical Attention Form, # 9 Exhibit 7 - Letter from Mr. DuBoulay, # 10 Exhibit 8 - Declaration of Jacklyn Romanoff, # 11 Exhibit 9 - Declaration of Jaime Meyer, # 12 Declaration Supplemental Declaration of Deirdre D. Von Dornum) (Rosenfeld, Katherine) (Entered: 03/30/2020) |
| 03/30/2020 | 13 | NOTICE of Appearance by James R. Cho on behalf of Derek Edge (aty to be noticed) (Cho, James) (Entered: 03/30/2020) |
| 03/30/2020 | 14 | NOTICE of Appearance by O. Andrew F. Wilson on behalf of Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (aty to be noticed) (Wilson, O. Andrew) (Entered: 03/30/2020) |
| 03/30/2020 | 15 | NOTICE of Appearance by Samuel Shapiro on behalf of Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (aty to be noticed) (Shapiro, Samuel) (Entered: 03/30/2020) |
| 03/30/2020 | | Scheduling Order re: 12 Motion for Temporary Restraining Order: A hearing on Petitioners' motion for a temporary restraining order is hereby scheduled for April 1, 2020 at 11:30 a.m. The hearing will be held by telephone. At 11:30 a.m., the parties shall call into the Court's dedicated conference line at (888) 278-0296 and type in the access code 2012636, followed by the pound (#) key. By 2 p.m. on March 31, 2020, the Government shall file a written response to Petitioners' motion for a temporary restraining order. Ordered by Judge Rachel P. Kovner on 3/30/2020. (Liss, Jeremy) (Entered: 03/30/2020) |
| 03/30/2020 | 16 | NOTICE of Appearance by Alexander A. Reinert on behalf of Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (aty to be noticed) (Reinert, Alexander) (Entered: 03/30/2020) |
| 03/31/2020 | 17 | Consent MOTION for Extension of Time to File Response/Reply (<i>request for an extension of time until 4 p.m. to file respondent's response to the motion for a temporary restraining order</i>) by Derek Edge. (Cho, James) (Entered: 03/31/2020) |
| 03/31/2020 | | ORDER granting 17 Motion for Extension of Time to File Response/Reply (<i>request for an extension of time until 4 p.m. to file respondent's response to the motion for a temporary restraining order</i>). Respondent's deadline to respond to the TRO request is extended until 4 p.m. on 3/31/20. Ordered by Judge Rachel P. Kovner on 3/31/2020. (Kovner, Rachel) (Entered: 03/31/2020) |
| 03/31/2020 | 18 | RESPONSE in Opposition re 12 MOTION for Temporary Restraining Order filed by Derek Edge. (Attachments: # 1 Declaration (Declaration of Associate Warden Milinda King), # 2 Exhibit (Associate Warden King Declaration Exhibits 1-3))) (Cho, James) (Entered: 03/31/2020) |
| 03/31/2020 | 19 | Letter enclosing courtesy copies of Respondent's Memorandum of Law in Opposition to Petitioners' Motion for a Temporary Restraining Order, and Declaration of Associate Warden Milinda King with Exhibits 1-3 (ECF Nos. 18, 18-1 and 18-2) by Derek Edge (Cho, James) (Entered: 03/31/2020) |
| 03/31/2020 | 20 | NOTICE of Appearance by Seth D. Eichenholtz on behalf of Derek Edge (aty to be noticed) (Eichenholtz, Seth) (Entered: 03/31/2020) |
| 04/01/2020 | | ORDER: In preparation for the hearing on petitioners' request for a temporary restraining order, the parties should be prepared to discuss: (1) the extent to which petitioners and other inmates in the proposed class have alternative avenues for obtaining release, including compassionate release and bail, and whether the availability of alternative avenues bears on the TRO analysis; (2) why orders of release from custody, instead of orders directed at constitutionally deficient conditions, are the appropriate remedy for any |

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| | | such conditions; and (3) the relevance, if any, of additional BOP measures publicly reported this evening ("BOP COVID-19 Action Plan Phase Five"). If Respondent believes that the new BOP measures are relevant, the Court requests that Respondent submit a supplemental declaration that outlines the additional measures or incorporates a memorandum setting out those measures. Ordered by Judge Rachel P. Kovner on 4/1/2020. (Hershey, Kenneth) (Entered: 04/01/2020) |
| 04/01/2020 | 21 | AFFIDAVIT/DECLARATION in Opposition re 12 MOTION for Temporary Restraining Order (<i>supplemental declaration of Associate Warden Milinda King and MDC's implementation of Phase 5 of the COVID-19 Action Plan</i>) filed by Derek Edge. (Cho, James) (Entered: 04/01/2020) |
| 04/01/2020 | 22 | MEMORANDUM in Opposition re 12 MOTION for Temporary Restraining Order <i>supplemental memorandum</i> filed by Derek Edge. (Eichenholtz, Seth) (Entered: 04/01/2020) |
| 04/01/2020 | | Minute Entry for telephonic hearing before Judge Rachel P. Kovner on 04/01/2020. Katherine Rosenfeld, Alexander Reinert, Betsy Ginsberg, and Andrew Wilson appeared for petitioners. James Cho and Seth Eichenholtz appeared for respondent. Argument held on petitioners' request for a temporary restraining order. Decision reserved. (Court Reporter Anthony Frisolone.) (Hershey, Kenneth) (Entered: 04/01/2020) |
| 04/02/2020 | 23 | ORDER REFERRING CASE FOR SETTLEMENT DISCUSSIONS: This case is respectfully referred to Magistrate Judge Mann for the purpose of exploring settlement. As further discussed in the attached order, the parties are directed to make themselves available to Judge Mann today for discussion of the issues raised in petitioners' request for a temporary restraining order. Ordered by Judge Rachel P. Kovner on 4/2/2020. (Hershey, Kenneth) (Entered: 04/02/2020) |
| 04/02/2020 | 24 | Minute Entry for Settlement Conference held on 4/2/2020 before Magistrate Judge Roanne L. Mann. Settlement discussions held and continued to April 3, 2020 at 9:00 a.m. <u>See attached for appearances.</u> (Proujansky, Josh) (Entered: 04/02/2020) |
| 04/03/2020 | 25 | Minute Entry for Settlement Conference held on 4/3/2020 before Magistrate Judge Roanne L. Mann. Further settlement discussions held. The government will provide the Court and petitioner's counsel with a prompt update. <u>See attached for appearances.</u> (Proujansky, Josh) (Entered: 04/03/2020) |
| 04/03/2020 | 26 | Letter to Honorable Rachel P. Kovner Regarding Status of Settlement Discussions and Enclosing Supplemental Declaration by Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Attachments: # 1 Supplemental Declaration of Katherine Rosenfeld in Further Support of Petitioners' Request for a Temporary Restraining Order, # 2 Exhibit A - Charts, # 3 Exhibit B - BOP Letter dated April 3, 2020, # 4 Exhibit C - Declaration of Homer Venters, # 5 Exhibit D - Transcript of April 1, 2020 Proceeding, # 6 Exhibit E - Declaration of Robert C. Cohen, M.D.) (Rosenfeld, Katherine) (Entered: 04/03/2020) |
| 04/03/2020 | 27 | STATUS REPORT <i>on behalf of the government in response to the Court's April 2, 2020 Order (ECF No. 23), and April 3, 2020 Order (ECF No. 25)</i> by Derek Edge (Cho, James) (Entered: 04/03/2020) |
| 04/03/2020 | 28 | Letter Updating Court on Respondents' Denials of Petitioners' Compassionate Release Requests by Hassan Chunn (Rosenfeld, Katherine) (Entered: 04/03/2020) |
| 04/03/2020 | 29 | MEMORANDUM in Opposition to <i>Petitioners' Supplemental Declarations (ECF No. 26)</i> filed by Derek Edge. (Cho, James) (Entered: 04/03/2020) |
| 04/03/2020 | | SCHEDULING ORDER: A teleconference on the 12 motion for a temporary restraining |

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| | | order is hereby scheduled for April 4, 2020 at 10:00 a.m. The parties are directed to call (888) 278-0296 and type in the access code 2012636 to join the conference. Ordered by Judge Rachel P. Kovner on 4/3/2020. (Yaffe, Leah) (Entered: 04/03/2020) |
| 04/03/2020 | 30 | Letter <i>on behalf of the government in response to petitioners' letter to the Court regarding the denials of petitioners' compassionate release requests</i> by Derek Edge (Cho, James) (Entered: 04/03/2020) |
| 04/03/2020 | 31 | NOTICE of Appearance by Joseph Anthony Marutollo on behalf of Derek Edge (aty to be noticed) (Marutollo, Joseph) (Entered: 04/04/2020) |
| 04/04/2020 | 32 | Letter <i>respectfully informing the Court of the Attorney General's April 3, 2020 Memorandum to BOP</i> by Derek Edge (Attachments: # 1 Exhibit) (Marutollo, Joseph) (Entered: 04/04/2020) |
| 04/04/2020 | 33 | Letter <i>respectfully informing the Court of the BOP Memorandum dated April 3, 2020</i> by Derek Edge (Attachments: # 1 Exhibit) (Marutollo, Joseph) (Entered: 04/04/2020) |
| 04/05/2020 | | Order and minute entry for telephonic conference before Judge Rachel P. Kovner on 04/04/2020. Katherine Rosenfeld, Alexander Reinert, Betsy Ginsberg, Andrew Wilson, and Scout Katovich appeared for petitioners. James Cho, Seth Eichenholtz, and Allon Lifshitz appeared for respondent. Holly Pratesi joined the call on behalf of the Bureau of Prisons (BOP). Deirdre von Dornum joined the call on behalf of the Federal Defenders. Lisa Olson joined the call on behalf of the Department of Justice. The Court held in abeyance petitioners' 12 motion for a temporary restraining order while petitioners pursue their applications for compassionate release. Respondent shall file a letter by April 7, 2020, stating whether the BOP has reached a final decision on petitioners' applications. If BOP has not yet reached a final decision, respondent shall advise the Court when final decisions will be reached and whether the government is pressing (or intends to press) failure to fully exhaust administrative remedies as a basis to oppose consideration of applications by petitioners' sentencing courts under 18 U.S.C. 3582(c)(1)(A). (Yaffe, Leah) (Entered: 04/05/2020) |
| 04/07/2020 | 34 | Letter <i>pursuant to the Court's April 5, 2020 Order</i> by Derek Edge (Marutollo, Joseph) (Entered: 04/07/2020) |
| 04/07/2020 | 35 | Letter <i>Response to Government's 4/7/20 Submission</i> by Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 04/07/2020) |
| 04/07/2020 | 36 | Letter <i>addendum to Respondent's April 7 letter, and opposition to Petitioners' April 7 letter</i> by Derek Edge (Marutollo, Joseph) (Entered: 04/07/2020) |
| 04/07/2020 | | A phone conference in this case is scheduled for April 8 at 5 p.m. The parties are directed to call (888) 278-0296 and type in the access code 2012636 to join the conference. Ordered by Judge Rachel P. Kovner on 4/7/2020. (Hershey, Kenneth) (Entered: 04/07/2020) |
| 04/08/2020 | | Order and minute entry for telephonic conference before Judge Rachel P. Kovner on 4/08/2020. Katherine Rosenfeld, Alexander Reinert, Betsy Ginsberg, Andrew Wilson, and Scout Katovich appeared for petitioners. James Cho, Seth Eichenholtz, Joseph Marutollo, and Allon Lifshitz appeared for respondent. Holly Pratesi and Darrin Howard joined the call on behalf of the Bureau of Prisons (BOP). Deirdre von Dornum joined the call on behalf of the Federal Defenders. Lisa Olson joined the call on behalf of the Department of Justice. The parties discussed the compassionate-release applications that are pending with the BOP and petitioners' sentencing judges. The Court denied the 12 motion for a temporary restraining order. The parties agreed to confer about an expedited discovery schedule and a date for a preliminary injunction hearing. The parties are directed to submit a joint proposed schedule by 4/10/2020. If the parties cannot agree on a schedule, |

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| | | then they should submit letters describing their competing proposals and any points of agreement. Ordered by Judge Rachel P. Kovner on 4/08/2020. (Court Reporter Linda Marino) (Yaffe, Leah) (Entered: 04/08/2020) |
| 04/08/2020 | | ORDER denying 12 motion for a temporary restraining order. As discussed at today's telephonic conference, the motion for a TRO is denied. Ordered by Judge Rachel P. Kovner on 4/08/2020. (Yaffe, Leah) (Entered: 04/08/2020) |
| 04/10/2020 | 37 | Letter <i>enclosing parties' proposed case management plan, and setting forth respondent's position regarding discovery, respondent's request to stay discovery and request for entry of a briefing schedule with respect to respondent's anticipated motion to dismiss</i> by Derek Edge (Attachments: # 1 (Proposed Case Management Plan)) (Cho, James) (Entered: 04/10/2020) |
| 04/10/2020 | 38 | NOTICE of Appearance by Paulina Stamatelos on behalf of Derek Edge (aty to be noticed) (Stamatelos, Paulina) (Entered: 04/10/2020) |
| 04/10/2020 | | ORDER: Petitioners may respond to 37 respondent's letter motion concerning discovery by 4/11/2020 at 5 p.m. Ordered by Judge Rachel P. Kovner on 4/10/2020. (Kovner, Rachel) (Entered: 04/10/2020) |
| 04/11/2020 | | ORDER: A telephone conference is scheduled in this case for 4/13/20 at 3 p.m. While reserving judgment on respondent's motion to stay, the Court (1) directs petitioners to promptly file on ECF the discovery demands that they served on 4/10/20; (2) authorizes petitioners to serve their Rule 30(b)(6) notice of deposition on 4/12/20 as proposed; (3) directs petitioners to file the Rule 30(b)(6) notice on ECF once served; and (4) directs respondent to be prepared to discuss during the teleconference any objections to petitioners' discovery demands, including objections based on burdensomeness. The parties are directed to call (888) 278-0296 and type in the access code 2012636 to join the conference. Ordered by Judge Rachel P. Kovner on 4/11/20. (Kovner, Rachel) (Entered: 04/11/2020) |
| 04/11/2020 | 39 | Letter <i>Response to Government's 4/10/20 Letter-Motion</i> by Hassan Chunn, Derek Edge, Ayman Rabadi, Justin Rodriguez (Attachments: # 1 Exhibit Ex. A and B) (Rosenfeld, Katherine) (Entered: 04/11/2020) |
| 04/12/2020 | | ELECTRONIC ORDER re 39 Letter filed by Ayman Rabadi, Derek Edge, Hassan Chunn, Justin Rodriguez. Petitioners neglected to attach Exhibits A (notice of site inspection) and B (Dr. Venters' CV) to their April 11th letter (DE #39). They are directed to promptly cure that omission. Ordered by Magistrate Judge Roanne L. Mann on 4/12/2020. (Proujansky, Josh) (Entered: 04/12/2020) |
| 04/12/2020 | 40 | Letter <i>Providing Exhibits A and B to Letter at Dkt. 39</i> by Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 04/12/2020) |
| 04/12/2020 | 41 | Letter <i>Enclosing Notice of 30(b)(6) Deposition</i> by Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 04/12/2020) |
| 04/13/2020 | 42 | Letter <i>in response to petitioners' discovery demands and pursuant to the Court's April 11, 2020 Order</i> by Derek Edge (Cho, James) (Entered: 04/13/2020) |
| 04/13/2020 | | Minute entry for telephonic conference before Judge Rachel P. Kovner and Judge Roanne L. Mann on 4/13/2020. Katherine Rosenfeld and Betsy Ginsberg appeared for petitioners. James Cho, Seth Eichenholtz, and Joseph Marutollo appeared for respondent. Holly Pratesi and Darrin Howard joined the call on behalf of the Bureau of Prisons (BOP). Deirdre von Dornum joined the call on behalf of the Federal Defenders. Lisa Olson joined the call on behalf of the Department of Justice. The parties discussed their proposals for discovery. The Court took the proposals and objections under advisement. Ordered by |

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| | | Judge Rachel P. Kovner on 4/13/2020. (Court Reporter Sophia Nolan) (Hershey, Kennet) (Entered: 04/13/2020) |
| 04/14/2020 | 43 | ORDER: The Court has considered the parties' proposals and objections regarding discovery. The parties are directed to adhere to the schedule for expedited discovery and preliminary injunction briefing set out in the attached order. Ordered by Judge Rachel P. Kovner on 4/14/2020. (Liss, Jeremy) (Entered: 04/14/2020) |
| 04/14/2020 | 44 | Letter <i>Supplementing Petitioners' Letter Request dated 4/11/2020</i> by Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Attachments: # 1 Exhibit A - Consent Order Appointing Amicus, # 2 Exhibit B - Administrative Order 2019-03) (Rosenfeld, Katherine) (Entered: 04/14/2020) |
| 04/15/2020 | 45 | ORDER: The Court considered the parties' proposals and objections regarding a site inspection and concludes that the petitioners should be permitted to perform an inspection. As further detailed in the attached order, the parties are directed to advise the Court on April 16, 2020, whether they have reached an agreement on the parameters of an inspection. If areas of disagreement remain, the parties shall explain their positions on the disputed issues. Ordered by Judge Rachel P. Kovner on 4/15/2020. (Hershey, Kenneth) (Entered: 04/15/2020) |
| 04/15/2020 | 46 | Letter <i>Enclosing Joint Proposed Stipulation and Protective Order</i> by Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Attachments: # 1 Joint Proposed Stipulation and Protective Order) (Rosenfeld, Katherine) (Entered: 04/15/2020) |
| 04/15/2020 | 47 | Letter <i>pursuant to the Court's April 14, 2020 discovery order and responsive documents</i> by Derek Edge (Attachments: # 1 (Declaration of Lieutenant Commander D. Jordan, RN/BSN), # 2 (Responsive Documents Bates numbered BOP 1-203)) (Cho, James) (Entered: 04/15/2020) |
| 04/15/2020 | | ORDER: The Court approves and so orders the parties' joint proposed stipulation and protective order (Dkt. No. 46), with the following clarifications: (1) <u>Paragraph 6</u> : The Court and court personnel are not required by this paragraph to sign Exhibit A; and (2) <u>Paragraph 9</u> : This paragraph does not apply to the Court's copies of Confidential Material. Ordered by Judge Rachel P. Kovner on 4/15/2020. (Hershey, Kenneth) (Entered: 04/15/2020) |
| 04/15/2020 | | ORDER: Respondent has submitted 47 a letter seeking an extension of certain discovery deadlines. The letter does not state whether petitioners consent and, if not, the reasons given for refusing consent. <i>See Individual Rule of Practice I.F.1</i> . Respondent is requested to promptly advise the Court of his adversary's position on the proposed extension. The Court defers decision until that information is received. Ordered by Judge Rachel P. Kovner on 4/15/2020. (Kovner, Rachel) (Entered: 04/15/2020) |
| 04/15/2020 | 48 | Letter <i>in response to the Court's April 15 order</i> by Derek Edge (Marutollo, Joseph) (Entered: 04/15/2020) |
| 04/16/2020 | | ORDER: The Court adopts the briefing schedule for respondent's anticipated motion to dismiss as set forth in the letter at Docket No. 37 . Respondent shall file his motion to dismiss by April 24, 2020. Petitioners shall file their opposition by May 8, 2020. Respondent shall file his reply, if any, by May 15, 2020. Ordered by Judge Rachel P. Kovner on 4/16/2020 (Hershey, Kenneth) (Entered: 04/16/2020) |
| 04/16/2020 | 49 | Letter <i>respectfully informing the Court of Petitioners' consent with respect to yesterday's requests</i> by Derek Edge (Marutollo, Joseph) (Entered: 04/16/2020) |
| 04/16/2020 | | ORDER: Respondent's 47 request for a three-business day extension of certain discovery deadlines is granted. Respondent may (1) provide any supplement to his response |

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| | | regarding soap purchases and deliveries and (2) provide further information regarding petitioners' request for production of sick-call requests by April 20, 2020. Ordered by Judge Rachel P. Kovner on 4/16/2020. (Hershey, Kenneth) (Entered: 04/16/2020) |
| 04/16/2020 | 50 | STATUS REPORT (<i>Parameters for Inspection of the Metropolitan Detention Center, Brooklyn</i>) by Derek Edge (Cho, James) (Entered: 04/16/2020) |
| 04/16/2020 | | SCHEDULING ORDER: The parties may file letters describing their positions on the parameters of an inspection of the Metropolitan Detention Center (MDC) by 10 AM on 4/17/2020 if they wish. A phone conference is scheduled for 4/17/2020 at 1 PM. The parties are directed to call (888) 278-0296 and type in the access code 2012636 to join the conference. Ordered by Judge Rachel P. Kovner on 4/16/2020. (Kovner, Rachel) (Entered: 04/16/2020) |
| 04/17/2020 | 51 | Letter <i>in support of respondent's proposed inspection parameters</i> by Derek Edge (Cho, James) (Entered: 04/17/2020) |
| 04/17/2020 | 52 | Letter <i>Regarding Rule 34 Inspection Parameters</i> by Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 04/17/2020) |
| 04/17/2020 | | Minute entry and order for teleconference held before Judge Rachel P. Kovner and Judge Roanne L. Mann on 4/17/2020. Katherine Rosenfeld, Betsy Ginsberg, and Alexander Reinert appeared on behalf of petitioners. James Cho, Seth Eichenholtz, Joseph Marutollo, and Paulina Stamatelos appeared on behalf of respondent. Lisa Olson joined the call on behalf of the Department of Justice. Darrin Howard joined the call on behalf of the Bureau of Prisons. The parties discussed their positions on the parameters of an inspection of the Metropolitan Detention Center by petitioners' expert, Dr. Homer Venters. The inspection will take place on April 23, 2020, from 9 a.m. to 12 p.m. The inspection will include (i) one housing unit not under quarantine or isolation; (ii) the intake unit; (iii) one quarantine unit; (iv) K84 or another appropriate isolation unit as determined by the parties; (v) the Special Housing Unit; and (vi) the Health Services Offices and Exam Rooms. For petitioners, the inspection is limited to Dr. Venters, one attorney from petitioners' legal team, and Deirdre von Dornum of the Federal Defenders. The parties will resolve amongst themselves whether the inspection team will be permitted to use hand sanitizer during the inspection. The Court also took the parties' alternative proposals for Dr. Venters to speak with inmates during the inspection under advisement. Ordered by Judge Rachel P. Kovner on 4/17/2020. (Court Reporter Sophie Nolan.) (Yaffe, Leah) (Entered: 04/17/2020) |
| 04/17/2020 | 53 | ORDER: The Court considered the parties' proposals for petitioners' expert, Dr. Homer Venters, to speak with inmates during the inspection of the Metropolitan Detention Center on April 23, 2020. As further detailed in the attached order, Mr. Venters shall be permitted cell-front access to inmates for brief conversations, subject to the inmates' willingness to speak with Dr. Venters. Ordered by Judge Rachel P. Kovner on 4/17/2020. (Yaffe, Leah) (Entered: 04/17/2020) |
| 04/20/2020 | 54 | Letter MOTION to Quash <i>the Deposition Subpoena of Dr. Venters</i> by Hassan Chunn, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez. (Attachments: # 1 Exhibit A - Respondent's First Set of Interrogatories, # 2 Exhibit B - Respondent's Request for Documents, # 3 Exhibit C - Respondent's Notices of Depositions for Petitioners Rabadi and Rodriguez, # 4 Exhibit D - Respondent's Notice of Deposition of Dr. Venters) (Rosenfeld, Katherine) (Entered: 04/20/2020) |
| 04/20/2020 | | ORDER: Respondent is directed to respond by 4/22/20 to 54 Letter MOTION to Quash <i>the Deposition Subpoena of Dr. Venters</i> filed by Ayman Rabadi, Hassan Chunn, Justin Rodriguez, Nehemiah McBride. Ordered by Judge Rachel P. Kovner on 4/20/2020. (Kovner, Rachel) (Entered: 04/20/2020) |

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| 04/20/2020 | 55 | STATUS REPORT <i>in connection with the Court's April 16, 2020 Order and Respondent's discovery responses</i> by Derek Edge (Cho, James) (Entered: 04/20/2020) |
| 04/22/2020 | 56 | Consent MOTION for Leave to File Excess Pages ; <i>Motion for Extension of Page Limit</i> by Derek Edge. (Stamatelos, Paulina) (Entered: 04/22/2020) |
| 04/22/2020 | | ORDER: The parties' 56 consent motion for leave to file excess pages is granted. The parties shall adhere to the page limits set forth in their motion. Ordered by Judge Rachel P. Kovner on 4/22/2020. (Hershey, Kenneth) (Entered: 04/22/2020) |
| 04/22/2020 | 57 | RESPONSE in Opposition re 54 Letter MOTION to Quash <i>the Deposition Subpoena of Dr. Venters and motion to compel deposition of Petitioners' expert, Dr. Homer Venters</i> filed by Derek Edge. (Cho, James) (Entered: 04/22/2020) |
| 04/23/2020 | | ORDER REFERRING MOTION: Petitioners' 54 letter motion to quash the deposition subpoena of Dr. Venters is respectfully referred to Magistrate Judge Mann. Ordered by Judge Rachel P. Kovner on 4/23/2020. (Hershey, Kenneth) (Entered: 04/23/2020) |
| 04/23/2020 | 58 | MOTION for Extension of Time to File <i>Respondent's Motion to Dismiss</i> by Derek Edge. (Stamatelos, Paulina) (Entered: 04/23/2020) |
| 04/23/2020 | 59 | Minute Entry for Discovery Hearing held before Magistrate Judge Roanne L. Mann on 4/23/2020. The parties call with an emergency application concerning today's site inspection of the MDC. The Court resolves the dispute on the record, ruling that petitioners' expert, Dr. Venters, is to take the lead in the questioning of inmates, but that petitioners' counsel, while observing social distancing, may sparingly ask clarifying questions, and Ms. von Dornum may act as interpreter for Spanish-speaking inmates. <u>See attached.</u> (Proujansky, Josh) (Entered: 04/23/2020) |
| 04/23/2020 | 60 | Amended PETITION for Writ of Habeas Corpus filing fee \$ 5, receipt number ANYEDC-12714502, filed by Justin Rodriguez, Hassan Chunn, Ayman Rabadi, Nehemiah McBride, Elodia Lopez, James Hair. (Attachments: # 1 Exhibit 1 - Declaration of Deirdre D. von Dornum with Exhibits, # 2 Exhibit 2 - Declaration of Jonathan Giftos, M.D.) (Rosenfeld, Katherine) (Entered: 04/23/2020) |
| 04/23/2020 | | ELECTRONIC SCHEDULING ORDER re 54 Letter MOTION to Quash <i>the Deposition Subpoena of Dr. Venters</i> filed by petitioners. A Telephone Conference before Magistrate Judge Roanne L. Mann is set for Saturday, April 25, 2020, at 11:00 AM. The parties are instructed to contact the Court using the following conference line and dial-in information: toll free number 1-877-336-1839; access code 6672833. Ordered by Magistrate Judge Roanne L. Mann on 4/23/2020. (Proujansky, Josh) (Entered: 04/23/2020) |
| 04/23/2020 | 61 | RESPONSE to Motion re 58 MOTION for Extension of Time to File <i>Respondent's Motion to Dismiss</i> filed by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez. (Attachments: # 1 Red-lined Version of the Amended Petition) (Rosenfeld, Katherine) (Entered: 04/23/2020) |
| 04/23/2020 | | ORDER: Respondent's 58 request to extend the deadline for his motion to dismiss until 4/28/20 is granted. It is not evident whether respondent will need that extra time given the modest changes in the amended petition, which was filed after respondent's extension request was submitted. If respondent avails himself of the extension, petitioners may have a corresponding two-day extension, to 5/12/20, for their response. Ordered by Judge Rachel P. Kovner on 4/23/2020. (Hershey, Kenneth) (Entered: 04/23/2020) |
| 04/24/2020 | | SCHEDULING ORDER: Petitioners' request to amend the briefing schedule for petitioners' preliminary injunction motion is granted. Petitioners' moving brief and supplemental expert report shall be due on April 30. Respondent's opposition papers shall |

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| | | be due on May 7. Petitioners' reply shall be due on May 11. Ordered by Judge Rachel P. Kovner on 4/24/2020 (Hershey, Kenneth) (Entered: 04/24/2020) |
| 04/24/2020 | 62 | MOTION to Dismiss for Failure to State a Claim , MOTION to Dismiss for Lack of Jurisdiction by Derek Edge. (Attachments: # 1 Memorandum in Support) (Cho, James) (Entered: 04/24/2020) |
| 04/24/2020 | 63 | Letter <i>Regarding 30(b)(6) Objection Protocol and Request for Paper Sick-Call Requests</i> by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 04/24/2020) |
| 04/25/2020 | 64 | Letter <i>in response to Plaintiffs' Letter (Dkt. No. 63) and in advance of Saturday's conference</i> by Derek Edge (Attachments: # 1 Exhibit Respondent's Letter to Petitioners) (Marutollo, Joseph) (Entered: 04/25/2020) |
| 04/25/2020 | 65 | <p>Minute Order for Telephonic Motion Hearing / Discovery Conference held before Magistrate Judge Roanne L. Mann: Magistrate Judge Mann conducts a telephonic hearing, with Judge Kovner on the line. For the reasons stated on the record, and as set forth in greater detail in the attached Minute Entry, Judge Mann rules as follows:</p> <p>Respondent is improperly pursuing full discovery on an expedited timeline, rather than tailoring his discovery demands to what is needed in advance of the preliminary injunction hearing scheduled for May 12, 2020.</p> <p>It is premature for the Court to rule on the reasonableness of specific document demands or interrogatories, or on the length and/or scope of depositions of any of the petitioners, as the parties have not conferred in good faith.</p> <p>With respect to Dr. Venters, the Court declines to quash the subpoena for his deposition. Respondent is directed to advise petitioners, before noon on April 28, 2020, whether they opt (1) to be served with a Rule 26(a)(2)(B) report prepared and signed by Dr. Venters or, in the alternative, (2) to conduct a deposition of Dr. Venters, in which event petitioners' counsel will prepare and serve disclosures relating to Dr. Venters under Rule 26(a)(2)(C). Similarly, in the event respondent decides to present expert testimony at the May 12th hearing, petitioners will have the same option.</p> <p>With respect to Monday's Rule 30(b)(6) depositions, the Court rules that any objection that a question is outside the scope of the Rule 30(b)(6) notice should be concisely noted on the record, with the witness' testimony taken subject to that objection; the witness should not be instructed to answer, except in extremely limited circumstances. The deposition of Ms. Vasquez shall be limited to five hours, and the deposition of Ms. King shall be limited to two hours.</p> <p>With respect to petitioners' demand for paper sick call requests, the issue is not ripe for a judicial ruling. The parties are directed to confer further in a good faith attempt to resolve this issue. A joint status report is due by April 28, 2020.</p> <p>See attached Minute Entry for additional discussion. (Vallens, Adrian) (Entered: 04/25/2020)</p> |
| 04/27/2020 | 66 | NOTICE of Appearance by Yeugenia Shvets on behalf of Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (aty to be noticed) (Shvets, Yeugenia) (Entered: 04/27/2020) |
| 04/27/2020 | 67 | Letter <i>(courtesy copy to the Court of letter advising Petitioners' counsel that Respondent intends to conduct the deposition of Dr. Homer Venters in lieu of production of his expert report by the Court-ordered deadline of April 30, 2020 for the production of Petitioners'</i> |

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| | | <i>expert disclosures pursuant to the Court's April 24, 2020 Order (Dkt. No. 65))</i> by Derek Edge (Cho, James) (Entered: 04/27/2020) |
| 04/28/2020 | 68 | TRANSCRIPT of Proceedings held on April 25, 2020 before Judge Mann. Court Transcriber: Transcription Plus II, Inc. Email address: laferrara44@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. File redaction request using event "Redaction Request - Transcript" located under "Other Filings - Other Documents". Redaction Request due 5/19/2020. Redacted Transcript Deadline set for 5/29/2020. Release of Transcript Restriction set for 7/27/2020. (Rocco, Christine) (Entered: 04/28/2020) |
| 04/28/2020 | 69 | STATUS REPORT <i>Jointly Submitted By the Parties</i> by Derek Edge (Stamatelos, Paulina) (Entered: 04/28/2020) |
| 04/29/2020 | | STATUS REPORT ORDER re #69: A joint updated status report is due by April 30, 2020 . Ordered by Magistrate Judge Roanne L. Mann on 4/29/2020. (LK) (Entered: 04/29/2020) |
| 04/30/2020 | 70 | STATUS REPORT <i>Jointly Submitted By the Parties</i> by Derek Edge (Stamatelos, Paulina) (Entered: 04/30/2020) |
| 04/30/2020 | 71 | MOTION for Preliminary Injunction by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez. (Attachments: # 1 Declaration of Ayman Rabadi, dated April 29, 2020, # 2 Declaration of Elodia Lopez, dated April 28, 2020, # 3 Declaration of James Hair, dated April 30, 2020, # 4 Declaration of Hassan Chunn, dated April 30, 2020, # 5 Declaration of Katherine R. Rosenfeld re: class counsel, dated April 30, 2020, # 6 Declaration of Betsy Ginsberg, dated April 30, 2020, # 7 Declaration of Alex A. Reinert, dated April 30, 2020, # 8 Declaration of Yeugenia (Jane) Shvets dated April 30, 2020) (Rosenfeld, Katherine) (Entered: 04/30/2020) |
| 04/30/2020 | 72 | AFFIDAVIT/DECLARATION in Support re 71 MOTION for Preliminary Injunction filed by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez. (Attachments: # 1 Facility Evaluation: Report of Metropolitan Detention Center by Dr. Homer Venters dated April 30, 2020) (Rosenfeld, Katherine) (Entered: 05/01/2020) |
| 05/01/2020 | 73 | MEMORANDUM in Support re 71 MOTION for Preliminary Injunction filed by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez. (Rosenfeld, Katherine) (Entered: 05/01/2020) |
| 05/01/2020 | | ORDER: A status conference will be held on May 2, 2020 at 10 AM. The parties are instructed to call (888) 278-0296 and type in the access code 2012636. The principal subject of the status conference will be logistics for the preliminary injunction hearing to be held on May 12, 2020. Ordered by Judge Rachel P. Kovner on 5/1/2020. (Hershey, Kenneth) (Entered: 05/01/2020) |
| 05/01/2020 | 74 | MOTION to Strike <i>expert report of Dr. Homer Venters (Dkt. No. 72-1) or, in the alternative, motion to compel Dr. Venters's re-opened deposition</i> by Derek Edge. (Cho, James) (Entered: 05/01/2020) |
| 05/01/2020 | 75 | Letter <i>Opposition to Respondent's Motion to Strike expert report of Dr. Homer Venters (Dkt. No. 72-1) or, in the alternative, motion to compel Dr. Venters's re-opened deposition</i> by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 05/01/2020) |
| 05/02/2020 | | Minute Entry and Order: A telephonic conference was held before the Honorable Rachel P. Kovner and the Honorable Judge Roanne Mann on May 2, 2020. Katherine Rosenfeld, |

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| | | <p>Alexander Reinert, Betsy Ginsberg, Andrew Wilson, and Scout Katovich appeared for petitioners. James Cho, Seth Eichenholtz, Joseph Marutollo, and Paulina Stamatelos appeared for respondent. Holly Pratesi joined on behalf of the Bureau of Prisons. The Court first heard argument regarding respondent's 74 motion to strike Dr. Venters' expert report and petitioners' 75 opposition thereto. For reasons stated on the record, Judge Mann concluded that petitioners' service of Dr. Venters' expert report did not violate her April 25 order and did not prejudice respondents. Judge Mann therefore denied respondent's motion. The parties also discussed logistics for the preliminary injunction hearing to be held on May 12, 2020. The parties will work together on mechanisms to conduct the hearing remotely, including via video testimony if feasible. The parties agreed to notify the Court on the morning of May 5 of any inmates at the MDC who they plan to have testify at the hearing. The Court adopts the following schedule for submissions relating to that hearing: Petitioners will serve their witness list and exhibit list on respondent by May 7. Respondent will serve his witness list and exhibit list on petitioners by May 8. The parties will file their final witness and exhibit lists by May 9. Any motions in limine will be filed by May 9, with any oppositions filed by May 10. (Court Reporter Denise Parisi.) (Hershey, Kenneth) (Entered: 05/02/2020)</p> |
| 05/05/2020 | 76 | <p>EXHIBIT 26 <i>Corrected Declaration of Dino Sanchez, Dkt. No. 72 (p.483-486)</i> by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez. Related document: 72 Affidavit in Support of Motion, filed by Ayman Rabadi, Hassan Chunn, Justin Rodriguez, James Hair, Nehemiah McBride, Elodia Lopez. (Rosenfeld, Katherine) (Entered: 05/05/2020)</p> |
| 05/05/2020 | 77 | <p>STATUS REPORT - <i>Parties' Joint Report to Court regarding Witness Identities and Other Items</i> by Hassan Chunn, Derek Edge, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 05/05/2020)</p> |
| 05/05/2020 | | <p>ORDER:</p> <p><i>Identification of MDC witnesses:</i> The Court has received the parties' status update, which does not definitively identify the incarcerated individuals who may be called at the preliminary injunction hearing, but instead lists 6 such individuals and states that petitioners may call 3 or 4 of those individuals. Petitioners are directed to identify by May 6, 2020 which of the named individuals will be called. The Court needs a definitive list to coordinate remote testimony from the MDC.</p> <p><i>Non-party testimony:</i> The parties' status update notes that respondent objects to the testimony of any non-party inmates. Respondent argues that any such testimony would be duplicative, disproportionate, or a waste of time and resources. Petitioners have represented that inmate testimony will be limited to 3 or 4 witnesses and that each witness's testimony will be "brief" -- "approximately 20 minutes per person." Under these circumstances, the Court cannot find that testimony of non-party inmates would be inherently duplicative, disproportionate, or a waste of time. Accordingly, the Court will not categorically preclude testimony from non-party inmates. Respondent may raise any specific objection to particular testimony of any non-party witnesses when those witnesses testify.</p> <p><i>Argument:</i> The parties may give opening statements of no more than ten minutes. The Court anticipates giving the parties an opportunity for closing argument, either on the hearing date or after the hearing date, depending on the duration of the hearing.</p> <p><i>Video testimony:</i> The Court is endeavoring to arrange video conferencing for the testimony of the non-inmate witnesses.</p> <p>Ordered by Judge Rachel P. Kovner on 5/5/2020. (Herrera, Isaiah) (Entered: 05/06/2020)</p> |

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| 05/06/2020 | 78 | NOTICE of Appearance by Noelle E. Lyle on behalf of Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (aty to be noticed) (Lyle, Noelle) (Entered: 05/06/2020) |
| 05/07/2020 | | ORDER: A hearing on petitioners' motion for a preliminary injunction will be held on May 12, 2020 at 9:30 AM. The parties have been provided information on joining the hearing using an audio and video link. Others can access the hearing by calling the number (571) 353-2300 and typing in the access code 910660277. Ordered by Judge Rachel P. Kovner on 05/07/2020. (Chan, Tsz) (Entered: 05/07/2020) |
| 05/07/2020 | 79 | MEMORANDUM in Opposition to <i>petitioners' motion for a preliminary injunction and in opposition to petitioners' motion for class certification</i> filed by Derek Edge. (Cho, James) (Entered: 05/07/2020) |
| 05/07/2020 | 80 | DECLARATION of <i>Health Services Administrator Stacey Vasquez</i> by Derek Edge (Attachments: # 1 (Vasquez Declaration Exhibits A-D)) (Cho, James) (Entered: 05/07/2020) |
| 05/07/2020 | 81 | DECLARATION of <i>Associate Warden Milinda King</i> by Derek Edge (Attachments: # 1 Exhibit (King Declaration Exhibits A-H)) (Cho, James) (Entered: 05/07/2020) |
| 05/07/2020 | 82 | DECLARATION of <i>Associate Warden Caryn Flowers</i> by Derek Edge (Attachments: # 1 Exhibit (Flowers Declaration Exhibits A-B)) (Cho, James) (Entered: 05/07/2020) |
| 05/07/2020 | 83 | DECLARATION of <i>AUSA James R. Cho</i> by Derek Edge (Attachments: # 1 Ex. A (Venters's deposition transcript), # 2 Ex. B (expert report of Jeffrey A. Beard, Ph.D.), # 3 Ex. C (expert report of Asma Tekbali, M.P.H. with exhibits 1-15), # 4 Ex. D (screening form), # 5 Ex. E (CDC guidance)) (Cho, James) (Entered: 05/07/2020) |
| 05/08/2020 | 84 | Letter <i>enclosing courtesy copy of Respondent's opposition to petitioners' motion for preliminary injunction and opposition to petitioners' motion for class certification and supporting materials</i> by Derek Edge (Cho, James) (Entered: 05/08/2020) |
| 05/08/2020 | 85 | MEMORANDUM in Opposition re 62 MOTION to Dismiss for Failure to State a Claim MOTION to Dismiss for Lack of Jurisdiction filed by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez. (Rosenfeld, Katherine) (Entered: 05/08/2020) |
| 05/09/2020 | 86 | MOTION in Limine by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez. (Attachments: # 1 Petitioners' Memorandum of Law in Support of Motion in Limine, # 2 Declaration of Katherine Rosenfeld and Exhibits 1-6) (Rosenfeld, Katherine) (Entered: 05/09/2020) |
| 05/10/2020 | 87 | Exhibit List and Witness List submitted on behalf of all parties by Derek Edge., Witness List by Derek Edge (Cho, James) (Entered: 05/10/2020) |
| 05/10/2020 | 88 | REPLY in Support re 62 MOTION to Dismiss for Failure to State a Claim MOTION to Dismiss for Lack of Jurisdiction filed by Derek Edge. (Attachments: # 1 Declaration of AUSA James R. Cho, # 2 Exhibit A, # 3 Exhibit B) (Marutollo, Joseph) (Entered: 05/10/2020) |
| 05/10/2020 | 89 | RESPONSE in Opposition re 86 MOTION in Limine filed by Derek Edge. (Attachments: # 1 Declaration of Seth D. Eichenholtz, with Exhibits, # 2 Declaration of Expert Witness Asma Tekbali) (Eichenholtz, Seth) (Entered: 05/10/2020) |
| 05/11/2020 | 90 | REPLY in Support re 71 MOTION for Preliminary Injunction - <i>Reply Memorandum of Law in Further Support of Petitioners' Motion for Preliminary Injunction</i> filed by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez. (Rosenfeld, Katherine) (Entered: 05/11/2020) |

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| 05/11/2020 | | ORDER: Petitioners indicate in their reply that they intended to file a "Supplemental Declaration of Dr. Homer Venters" with their brief, but no such declaration has been filed on the docket. Petitioners are instructed to file Dr. Venters' Supplemental Declaration. Ordered by Judge Rachel P. Kovner on 5/11/2020. (Hershey, Kenneth) (Entered: 05/11/2020) |
| 05/11/2020 | 91 | AFFIDAVIT/DECLARATION in Support re 71 MOTION for Preliminary Injunction - <i>Declaration of Alexander A. Reinert</i> filed by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez. (Attachments: # 1 Exhibit 1 - Declaration of Anthony Sanon dated May 10, 2020, # 2 Exhibit 2 - Respondents Response to Petitioners' Interrogatory 1(f) dated April 27, 2020, # 3 Exhibit 3 - Declaration of Justin Rodriguez dated May 5, 2020, # 4 Exhibit 4 - Sick Call Records produced by Respondent (To Be Filed Under Seal), # 5 Exhibit 5 - Declaration of Soffredo Gonzalez dated May 1, 2020, # 6 Exhibit 6 - Supplemental Report of Dr. Homer Venters dated May 11, 2020, # 7 Exhibit 7 - Excerpts from the 30(b)(6) Deposition of Stacey Vasquez, # 8 Exhibit 8 - Excerpts from the 30(b)(6) Deposition of Melinda King, # 9 Exhibit 9 - Declaration of James Hair dated May 11, 2020) (Rosenfeld, Katherine) (Entered: 05/11/2020) |
| 05/11/2020 | 92 | Letter <i>re: DOCUMENT SEALING</i> by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Shapiro, Samuel) (Entered: 05/11/2020) |
| 05/11/2020 | 93 | Letter <i>enclosing redacted versions of Docket Nos. 83-3 and 89-2 and requesting the Court seal the original filings</i> by Derek Edge (Attachments: # 1 Redacted Filing for Docket No. 83-3, # 2 Redacted Filing for Docket No. 89-2) (Eichenholtz, Seth) (Entered: 05/11/2020) |
| 05/11/2020 | 94 | Exhibit List <i>and Witness List submitted on behalf of all parties (Revised)</i> by Derek Edge. (Marutollo, Joseph) (Entered: 05/11/2020) |
| 05/12/2020 | | ORDER: The hearing on petitioners' motion for a preliminary injunction will be continued on May 13, 2020 at 9:30 AM. The parties have been provided information on joining the hearing using an audio and video link. Others can access the hearing by calling the number (571) 353-2300 and typing in the access code 910660277. Ordered by Judge Rachel P. Kovner on 05/12/20. (Hershey, Kenneth) (Entered: 05/12/2020) |
| 05/13/2020 | | Minute Entry and Order: A hearing was held by video conference on petitioners' motion for a preliminary injunction. Katherine Rosenfeld, Betsy Ginsberg, Scout Katovich, Alexander Reinert, and Andrew Wilson appeared for petitioners. James Cho, Seth Eichenholtz, Joseph Marutollo, and Paulina Stamatelos appeared for respondent. Holly Pratesi from the Bureau of Prisons joined the conference. The Court heard argument on petitioners' motions in limine and has taken the parties' arguments under advisement. The parties agreed that the claims asserted by petitioners Hassan Chunn and Nehemiah McBride are moot, and accordingly, those claims will be dismissed. The Court heard testimony from petitioner's expert witness, Dr. Homer Venters, as well as from two witnesses for respondent: Nicole English and Asma Tekbali. Ordered by Judge Rachel P. Kovner on 05/12/2020. (Court Reporter Anthony Frisolone.) (Hershey, Kenneth) (Entered: 05/13/2020) |
| 05/13/2020 | | Minute Entry and Order: The hearing on petitioners' motion for a preliminary injunction was continued by video conference. Katherine Rosenfeld, Betsy Ginsberg, Scout Katovich, Alexander Reinert, and Andrew Wilson appeared for petitioners. James Cho, Seth Eichenholtz, Joseph Marutollo, and Paulina Stamatelos appeared for respondent. Holly Pratesi from the Bureau of Prisons joined the conference. The Court heard testimony from respondent's witness, James Beard. Summation arguments on the preliminary injunction motion will be held on May 14, 2020 at 2:00 PM. The parties have |

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| | | been provided information on joining the hearing using an audio and video link. Others can access the hearing by calling the number (571) 353-2300 and typing in the access code 910660277. Ordered by Rachel P. Kovner on 05/13/20. (Court Reporter Anthony Frisolone.) (Hershey, Kenneth) (Entered: 05/13/2020) |
| 05/13/2020 | | ORDER: By agreement of the parties, the claims asserted by petitioners Hassan Chunn and Nehemiah McBride are dismissed as moot. Ordered by Judge Rachel P. Kovner on 5/13/2020 (Hershey, Kenneth) (Entered: 05/13/2020) |
| 05/15/2020 | | Minute Entry and Order: Summation arguments on petitioners' motion for a preliminary injunction were held on 5/14/20 by video conference before the Honorable Rachel P. Kovner. Katherine Rosenfeld, Betsy Ginsberg, Scout Katovich, Alexander Reinert, and Andrew Wilson appeared for petitioners. James Cho, Seth Eichenholtz, Joseph Marutollo, and Paulina Stamatelos appeared for respondent. The Court directed the parties to submit proposed findings of fact by 5/19/20. The Court directed the parties to confer about a stipulation on the continuation during this case of sanitation and medical practices that petitioner has proposed and that respondent agrees are warranted under its own policies, such as the making available of soap, masks, and cleaning supplies, the cleaning of surfaces in common areas, and the use of masks by staff. The Court directed the parties to consider discussing with a mediator how sick-call requests are being handled and used, and requests that the parties advise the Court by 5/15/20 on the parties' willingness to hold those discussions with a mediator. Ordered by Judge Rachel P. Kovner. (Court Reporter Anthony Frisolone.) (Hershey, Kenneth) (Entered: 05/15/2020) |
| 05/15/2020 | 95 | STATUS REPORT by Derek Edge (Cho, James) (Entered: 05/15/2020) |
| 05/18/2020 | 96 | Letter in Response to Respondent's Status Report (Dkt. No. 95) and for Leave to File Exhibit 88 by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 05/18/2020) |
| 05/19/2020 | 97 | STATUS REPORT in response to the Court's discussion regarding sick call requests and to respectfully submit supplemental declarations by Derek Edge (Attachments: # 1 Declaration of Cdr. Scott A. Griffith, MSN, RN-BC, # 2 Declaration (Supplemental) of Health Services Administrator Stacey Vasquez) (Marutollo, Joseph) (Entered: 05/19/2020) |
| 05/19/2020 | 98 | First MOTION to Unseal Document by David S Bralow. (Attachments: # 1 Exhibit A to Letter Motion, # 2 Notice of Appearance for D. Bralow, # 3 Rule 7 Corporate Disclosure) (Bralow, David) (Entered: 05/19/2020) |
| 05/19/2020 | | ELECTRONIC ORDER re 98 First MOTION to Unseal Document filed by David S Bralow. This Court grants the request of First Look Media Works, Inc. ("FLMW") to intervene for the limited purpose of opposing the sealing of sick-call request documents, but declines to address the merits of the sealing issue; that matter is pending before District Judge Rachel P. Kovner, who will consider the arguments advanced by FLMW in today's submission to this magistrate judge. Ordered by Magistrate Judge Roanne L. Mann on 5/19/2020. (Proujansky, Josh) (Entered: 05/19/2020) |
| 05/19/2020 | | ORDER TO SHOW CAUSE: Respondent is directed to respond by May 20, 2020 to the requests of petitioners and intervenor to have Exhibit 88, consisting of redacted sick call requests showing possible COVID-19 symptoms, filed on the public docket. Ordered by Judge Rachel P. Kovner on 5/19/2020. (Hershey, Kenneth) (Entered: 05/19/2020) |
| 05/19/2020 | 99 | Proposed Findings of Fact by Derek Edge (Attachments: # 1 (cover letter enclosing Respondent's [redacted] proposed findings of fact)) (Cho, James) (Entered: 05/19/2020) |
| 05/19/2020 | 100 | MOTION for Leave to Electronically File Document under Seal (Respondent's [unredacted] post-hearing proposed findings of fact) by Derek Edge. (Attachments: # 1 |

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| | | (Respondent's [unredacted] post-hearing proposed findings of fact) (Cho, James) (Entered: 05/19/2020) |
| 05/20/2020 | 101 | Proposed Findings of Fact by James Hair, Elodia Lopez, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 05/20/2020) |
| 05/20/2020 | 102 | Letter <i>Opposing Respondent's Request (Dkt 97) to submit new Declarations and Documents</i> by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 05/20/2020) |
| 05/20/2020 | 103 | RESPONSE in Opposition re 98 First MOTION to Unseal Document <i>and Petitioners' request for Leave to File Exhibit 88 at ECF No. 96</i> filed by Derek Edge. (Stamatelos, Paulina) (Entered: 05/20/2020) |
| 05/21/2020 | 104 | STATUS REPORT <i>re: release of Petitioner Ayman Rabadi and Response to (Dkt 102) Petitioners' Letter Opposing Respondent's Request (Dkt 97) to submit new Declarations and Documents</i> by Derek Edge (Stamatelos, Paulina) (Entered: 05/21/2020) |
| 05/21/2020 | 105 | REPLY to Response to Motion re 98 First MOTION to Unseal Document filed by David S Bralow. (Bralow, David) (Entered: 05/21/2020) |
| 05/26/2020 | 106 | STATUS REPORT <i>notifying the Court that Petitioner James Hair is no longer housed at MDC Brooklyn, and his claims are now moot</i> by Derek Edge (Cho, James) (Entered: 05/26/2020) |
| 05/27/2020 | 107 | Letter <i>in response to Respondent's Status Report that the recent release of Petitioners Hair and Rabadi from the custody of the Metropolitan Detention Center renders their claims moot. (Dkt. 104 & 106)</i> by James Hair, Elodia Lopez, Ayman Rabadi, Justin Rodriguez (Rosenfeld, Katherine) (Entered: 05/27/2020) |
| 05/27/2020 | 108 | Letter <i>respectfully informing the Court of the supplemental authority in further support of his motion to dismiss</i> by Derek Edge (Attachments: # 1 Exhibit) (Marutollo, Joseph) (Entered: 05/27/2020) |
| 05/28/2020 | 109 | Letter <i>re: RELEVANT AUTHORITY</i> by Hassan Chunn, James Hair, Elodia Lopez, Nehemiah McBride, Ayman Rabadi, Justin Rodriguez (Wilson, O. Andrew) (Entered: 05/28/2020) |
| 05/29/2020 | 110 | STATUS REPORT <i>re: denial of Petitioner Elodia Lopez's motion for compassionate release at U.S. v. Elodia Lopez, No. 93-CR-306 (N.D.N.Y) (Scullin, J.)</i> by Derek Edge (Attachments: # 1 Exhibit A - Memorandum and Order) (Stamatelos, Paulina) (Entered: 05/29/2020) |
| 06/05/2020 | 111 | Letter <i>respectfully informing the Court of supplemental authority in further support of his motion to dismiss and in opposition to Petitioners' motion for a preliminary injunction</i> by Derek Edge (Attachments: # 1 Exhibit Williams v. Wilson, # 2 Exhibit Nellson v. Barnhart, # 3 Exhibit A.S.M. v. Warden, # 4 Exhibit Lucero-Gonzalez v. Kline) (Marutollo, Joseph) (Entered: 06/05/2020) |
| 06/09/2020 | 112 | MEMORANDUM AND ORDER: The Court denies petitioners' 71 motion for a preliminary injunction. Petitioners are not entitled to immediate injunctive relief because they have not shown a clear or substantial likelihood that they will prevail on the merits. Ordered by Judge Rachel P. Kovner on 6/09/2020. (Hershey, Kenneth) (Entered: 06/09/2020) |
| 06/11/2020 | 113 | ORDER: As explained in the attached order, the Court grants the petitioners' request to file Exhibit 88 on the public docket. <i>See</i> Dkt. 96 and 98. Petitioners are directed to ensure that all inmate names, register numbers, housing units, and arrival and departure dates are |

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| | | redacted before filing. Ordered by Judge Rachel P. Kovner on 6/11/2020. (Yaffe, Leah) (Entered: 06/11/2020) |
| 06/14/2020 | 114 | EXHIBIT 88 (<i>Sick Call Records</i>) by Elodia Lopez. Related document: 113 Order on Motion to Unseal Document,. (Rosenfeld, Katherine) (Entered: 06/14/2020) |
| 07/28/2020 | 115 | Letter regarding release of last remaining named petitioner Elodia Lopez from the MDC by Derek Edge (Cho, James) (Entered: 07/28/2020) |

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