

ENTERED

September 15, 2017

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KEITH COLE, et al.,

Plaintiffs,

V.

BRYAN COLLIER, et al.,

Defendants.

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CIVIL ACTION NO. 4:14-cv-1698

ORDER

Before this Court is Defendants’ opposed Motion to Modify Preliminary Injunction Due to Emergency Hurricane Evacuations (Doc. No. 796). Upon consideration of Defendants’ motion, Plaintiffs’ response (Doc. No. 813), Defendants’ reply (Doc. No. 819), the parties’ prior submissions and testimony regarding the preliminary injunction, and the applicable law, the Court denies Defendants’ motion to modify the preliminary injunction.

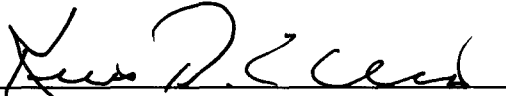
Defendants request that the Court temporarily suspend the preliminary injunction requirement that Defendants identify members of the heat-sensitive subclass and house them in areas where the apparent temperature remains below 88 degrees. (Doc. No. 796 at 3.) In its Memorandum and Opinion dated July 19, 2017, this Court found that there is a substantial risk of serious injury or death as a result of overheating. (Doc. No. 737 at 83-85.) The Court also found that the risk of serious illness or death can only be reduced to acceptable levels for the heat-sensitive subclass by housing these heat-sensitive individuals in areas with apparent temperatures of 88 degrees or lower. (Doc. No. 737 at 96.) Approximately 600 individuals who are currently housed in the Pack Unit as a result of the hurricane evacuations are heat sensitive. (Doc. No.

796-1 at 1.) The risk of harm to these individuals when they are housed in dangerously hot areas has not changed. The record shows that multiple avenues are available through which TDCJ can comply with the requirement to house heat-sensitive members of the subclass in areas with a safe temperature, including transfer to air-conditioned beds in other units or use of temporary air-conditioning in the Pack Unit.

For the reasons set forth above, the Court DENIES Defendants' motion to modify the injunction.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 14th day of September, 2017.



KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE