

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

| | | |
|--------------------------|---|----------------------|
| STEPHANIE GASCA, et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Case No. 17-cv-04149 |
| |) | |
| ANNE PRECYTHE, et al., |) | |
| |) | |
| Defendants. |) | |

**PLAINTIFFS’ EMERGENCY MOTION
FOR RELIEF PURSUANT TO ALL WRITS ACT**

Plaintiffs, by and through their undersigned counsel, respectfully request emergency relief from the court pursuant to the All Writs Act, 28 U.S.C. § 1651, in the face of the unprecedented and deadly threat presented by the COVID-19 pandemic. In support of this motion, Plaintiffs state as follows:

1. We are living in the midst of an unprecedented, world-wide health emergency caused by the rapid spread of the deadly coronavirus, COVID-19. COVID-19 is highly transmissible, even by those who are asymptomatic. The number of known infections increases daily and exponentially. As of March 25, 2020, the new strain of coronavirus which causes COVID-19 has infected over 459,800 people, leading to at least 20,846 deaths worldwide.¹ As of the filing of this motion, 372 Missourians have been infected with COVID-19 and eight have died.² On March 23, Missouri Department of Corrections (“MDOC”) confirmed the first positive COVID-19 case among inmates in its custody.³

¹ *Coronavirus Map: Tracking the Spread of the Outbreak*, The New York Times (Mar. 25, 2020), at <https://nyti.ms/2U4kmud> (updating regularly).

² *Coronavirus in the U.S.: Latest Map and Case Count*, The New York Times (Mar. 25, 2020), at <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html> (updating regularly).

³ See *Missouri Department of Corrections Offender Tests Positive for COVID-19* (Mar. 23, 2020), at

2. For a variety of reasons, prisons and jails create the ideal environment for the transmission of contagious disease, including COVID-19. Unavoidable conditions inherent to all prisons, including but not limited to close quarters and limited access to sanitation products, make prisons a prime target for a viral outbreak. The risk is not only to the prison population. As corrections staff, contractors, and new inmates come into and out of facilities, they threaten the spread of the disease within detention facilities and are at risk of contracting the virus themselves, in turn spreading the virus to others with whom they come in contact in their homes, neighborhoods, and communities.

3. The class members in the case are processed in and out of Missouri jails and prisons at a rate of hundreds every month, most for mere technical violations, subject to policies and practices this Court has already deemed unconstitutional. These class members will now have to wait until at least mid-June for a final judgment in this case.

4. In the meantime, and in the face of the deadly pandemic, this Court should take swift action to order Defendants to halt all parole revocation proceedings, except to withdraw or cancel any pending parole warrants and parole board holds, and to release on parole supervision (either continuing their parole or “delaying action”): (a) all class members with conditions or characteristics which, according to the CDC, categorize them as high-risk for severe illness from COVID-19; (b) all persons held in custody and still awaiting a parole revocation decision; (c) all class members whose parole has been revoked on the basis of technical violations; (d) all class members whose parole was revoked and who have less than one year left before their release date; and (e) all class members whose parole was revoked on the basis of a laws violation based on conduct which did not result in a criminal conviction.

<https://content.govdelivery.com/accounts/MODOC/bulletins/282c94f>.

5. To fail to act would amplify the rate at which COVID-19 is spreading in our jails, prisons, and communities. To fail to act could result in the death of class members. Such an outcome is unconscionable. A parole revocation should not be a death sentence.

6. Pursuant to L.R. 7.0(a), Plaintiffs have filed suggestions in support of this motion contemporaneously herewith, and incorporate the same by reference.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that the Court grant this motion, enter a writ of mandamus or injunctive order as further described in the suggestions in support filed contemporaneously herewith, and grant such further relief as is just and appropriate under the circumstances. Plaintiffs also ask for an expedited briefing schedule and expedited telephonic hearing on the motion in light of its emergency nature.

Dated: March 25, 2020

Respectfully submitted,

RODERICK AND SOLANGE MACARTHUR
JUSTICE CENTER

By: /s/ Amy E. Breihan
Amy E. Breihan, #65499
Megan G. Crane, #71624
3115 South Grand Blvd., Suite 300
St. Louis, MO 63118
Phone: (314) 254-8540
Fax: (314) 254-8547
amy.breihan@macarthurjustice.org
megan.crane@macarthurjustice.org

Locke E. Bowman*
Sheila A. Bedi*
Northwestern Pritzker School of Law
375 East Chicago Avenue
Chicago, IL 60611
Phone: (312) 503-1271
l-bowman@law.northwestern.edu
sheila.bedi@law.northwestern.edu

*Admitted Pro Hac Vice

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of March, 2020, a true and correct copy of the foregoing was electronically filed using the Court's online case filing system, which will send notice to all counsel of record.

By: /s/ Amy E. Breihan
One of Plaintiffs' Attorneys