

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

LEA ALLISON, <i>et al.</i> , on behalf of themselves and those similarly situated,	)	
	)	
Plaintiffs,	)	
	)	Case No. 19-cv-1126
v.	)	
	)	(Class Action)
BRADLEY R. ALLEN, SR., in his official capacity as Chief District Court Judge, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**PLAINTIFFS’ MOTION FOR  
TEMPORARY RESTRAINING ORDER**

Plaintiffs Lea Allison, Antonio Harrell, and Katherine Guill respectfully move the Court for an entry of a temporary restraining order (“TRO”) under Federal Rule of Civil Procedure 65. Plaintiffs are presumptively innocent individuals who are currently unconstitutionally jailed in Alamance County solely because they do not have enough money to pay the secured bond that was set in their cases, without any individualized inquiry, as a condition of their pretrial release. Plaintiffs seek a TRO requiring Defendant Sheriff Johnson to release Plaintiffs unless they are provided, within 24 hours from the time of this Court’s Order, the procedures listed in ¶ 6 below.

Plaintiffs file this Motion for TRO today along with their Complaint, Motion for Preliminary Injunction, and Motion for Certification of Class. Plaintiffs have provided electronic notice of the Complaint, Motion for Certification of Class, and this Motion for

Temporary Restraining Order to Ms. Tina Crasner, General Counsel of the North Carolina Office of the Courts, and Alamance County Attorney Clyde Albright, and have made arrangements to serve all Defendants with the same via certified, overnight mail.

As more fully presented in their brief in support of their Motions for TRO and Preliminary Injunction, and its accompanying evidentiary attachments,<sup>1</sup> Plaintiffs state the following in support of their Motion:

1. Plaintiffs are likely to succeed on the merits of their claims that Defendants' bail and pretrial detention policies violate their right to be free of wealth-based detention under the equal protection and due process clauses of the Fourteenth Amendment (Count I); their substantive due process right to pretrial liberty (Count II); their procedural due process rights (Count III); and their Sixth Amendment Right to Counsel (Count IV).

2. Without immediate injunctive relief from this Court, Plaintiffs will continue to suffer immediate, irreparable harm in the form of deprivation of their constitutional right to pretrial liberty and right to be free from wealth-based detention. They will also suffer resulting additional harms, including loss of jobs, loss of homes, and disruption to family life, as well as the hindering of their ability to prepare for their own defense.

3. Entry of an injunction poses no harm to Defendants, as it would release individuals who are unconstitutionally held in Defendant Sheriff's custody.

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<sup>1</sup> For purposes of efficiency and the Court's convenience, Plaintiffs file, simultaneously with the instant motion and their Motion for Preliminary Injunction, a single, combined memorandum in support of both motions.

4. An injunction serves the public interest because it prevent the continued violation of constitutional rights, including such fundamental rights as the right to pretrial liberty and the right to be free of wealth-based detention.

5. Plaintiffs respectfully request that the Court exercise its discretion in waiving the security permitted under Federal Rule of Evidence 65(c) because no harm, pecuniary or otherwise, will result to Defendants if an injunction is granted, and Plaintiffs are indigent.

6. Accordingly, Plaintiffs respectfully request that this Court issue a TRO requiring Defendant Sheriff to release them, unless he is provided, within 24 hours of the date of this Court's Order, with bail orders that include a finding that Plaintiffs' detention is necessary because less restrictive conditions of release are inadequate and notice that Plaintiffs have received an individualized hearing regarding their pretrial release conditions, at which Defendants provide, at a minimum, the following procedures:

- (a) Notice to the individual that financial information will be collected and the significance of such information;
- (b) An inquiry into and findings on the record regarding each individual's ability to pay money bail and the amount of money they can afford;
- (c) An opportunity for the individual to present evidence, make arguments concerning those issues, and to contest any evidence or argument offered by the government concerning those issues;
- (d) Substantive findings on the record about why an individual's continued incarceration is warranted and that no less restrictive alternatives to detention address the state's concerns; and
- (e) Representation of counsel free of charge.

Dated: November 12, 2019

Respectfully submitted,

/s/ Katherine Hubbard  
Katherine Hubbard (D.C. Bar 1500503)\*  
Eric Halperin (D.C. Bar 491199)\*  
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/s/ Leah Kang  
Irena Como (N.C. Bar 51812)  
Leah J. Kang (N.C. Bar 51735)  
Ann C. Webb (N.C. Bar 44894)  
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/s/ Twyla Carter  
Twyla Carter (WA Bar 39405)\*  
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*\*Appearing by special appearance in  
accordance with Local Rule 83.1(d).*

***Attorneys for Plaintiffs***

**CERTIFICATE OF SERVICE**

I certify that on November 12, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. I further certify that arrangements have been made to deliver a true and correct courtesy copy of the foregoing to the following via Certified U.S. Mail, Return Receipt Requested.

/s/ Irena Como  
*Counsel for Plaintiffs*

Bradley Allen, Sr.,  
Chief District Court Judge  
Judge J.B. Allen Jr. Criminal Courthouse  
212 W Elm St., Ste. 120  
Graham, NC 27253

D. Thomas Lambeth,  
Senior Resident Superior Court Judge  
Judge J.B. Allen Jr. Criminal Courthouse  
212 West Elm Street, Suite 245  
Graham, NC 27253

Brenda Brown, Magistrate  
Kelly Councilman, Magistrate  
David Crabbe, Magistrate  
Rhonda Crisp, Magistrate  
Bertram Heathcote, Magistrate  
Wendy Hunter, Magistrate  
Amelia Knauff, Magistrate  
Bobbie Nance, Magistrate  
Helena Rodgers, Magistrate  
Kimesha Thorpe, Magistrate  
John Watterson, Magistrate  
Susan Wortinger, Magistrate  
Judge J.B. Allen Jr. Criminal Courthouse  
212 W. Elm St.  
Graham, NC 27253

Terry S. Johnson, Sheriff  
Alamance County Detention Center  
109 S Maple St.  
Graham, NC 27253

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Case No. 19-cv-1126

(Class Action)

**[PROPOSED] TEMPORARY RESTRAINING ORDER**

The Court having considered the Plaintiffs’ Motion for Temporary Restraining Order, Memorandum in Support of Motions for Temporary Restraining Order and Preliminary Injunction, and the attached Declarations and Exhibits, hereby **ORDERS** that Plaintiffs’ Motion for Temporary Restraining Order is **GRANTED**.

The Court **FINDS** that Plaintiffs have shown that immediate and irreparable injury will result unless a temporary restraining order is granted. Plaintiffs will face irreparable injury without a preliminary injunction because they will remain unconstitutionally jailed for an additional period of time in violation of equal protection and due process. The Court further **FINDS** that Plaintiffs are likely to prevail on Counts I, II, III, and IV, that the balance of interests shifts in favor of Plaintiffs, and that the interest of the public favors granting a temporary restraining order.

Accordingly, Defendant Sheriff is **ENJOINED** from continuing to jail Plaintiffs due solely to their inability to pay a secured monetary amount as a condition of release, unless Defendant Sheriff is notified in writing that there has been, within 24 hours from the time of this Court's Order, an individualized determination on pretrial release conditions, at which a judicial officer provided, at a minimum, the following procedural safeguards:

1. Notice to the individual that financial information will be collected and explanation of the significance such information;
2. An inquiry into and findings on the record regarding each individual's ability to pay money bail and the amount of money they can afford;
3. An opportunity for the individual to present evidence and make arguments concerning the individual's ability to afford money bail and what nonmonetary release conditions, if any, are necessary , and to contest any evidence or argument offered by the government concerning those issues;
4. Substantive findings on the record about why an individual's continued incarceration is warranted and that no less restrictive alternatives to detention address the state's concerns; and
5. The individual must be provided counsel free of charge at the hearing.

Time: \_\_\_\_\_ Date: \_\_\_\_\_

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UNITED STATES DISTRICT JUDGE