No. 20-11622

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

ANTHONY SWAIN, ALEN BLANCO, BAYARDO CRUZ, RONNIEL MARTINEZ-FLORES, and DEONDRE WILLIS,
Plaintiffs-Appellees,

PETER BERNAL and WINFRED HILL,
Plaintiffs,

vs.

DANIEL JUNIOR, in his official capacity as Director of the Miami-Dade Corrections and Rehabilitation Department, and MIAMI-DADE COUNTY,
Defendants-Appellants.

Appeal from the United States District Court
for the Southern District of Florida

APPELLANTS' OPPOSED EMERGENCY MOTION TO STAY INJUNCTION PENDING APPEAL

ABIGAIL PRICE-WILLIAMS
MIAMI-DADE COUNTY ATTORNEY

Ezra S. Greenberg
Oren Rosenthal
Zach Vosseler
Bernard Pastor
Assistant County Attorneys

Stephen P. Clark Center
111 N.W. First Street, Suite 2810
Miami, Florida 33128
(305) 375-5151

Counsel for Appellants

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1, Appellants Daniel Junior and Miami-Dade County certify that the following persons and entities may have an interest in the outcome of this case:

1. Advancement Project, *Counsel for Plaintiffs-Appellees*
2. Bernal, Peter, *Plaintiff-Appellee*[*]
3. Blanco, Alen, *Plaintiff-Appellee*
4. Civil Rights Corps, *Counsel for Plaintiffs-Appellees*
5. Community Justice Project, *Counsel for Plaintiffs-Appellees*
6. Cruz, Bayardo, *Plaintiff-Appellee*
7. DLA Piper LLP (US), *Counsel for Plaintiffs-Appellees*
8. Dream Defenders, *Counsel for Plaintiffs-Appellees*
9. Flores, Ronniel, *Plaintiff-Appellee*
10. Greenberg, Ezra S., *Counsel for Defendants-Appellants*
11. GST LLP, *Counsel for Plaintiffs-Appellees*
12. Harvey, Thomas B., *Counsel for Plaintiffs-Appellees*
13. Hill, Winfred, *Plaintiff*[†]
14. Hochstadt, Jennifer L., *Counsel for Defendants-Appellants*
15. Hubbard, Katherine, *Counsel for Plaintiffs-Appellees*
16. Jagannath, Meena, *Counsel for Plaintiffs-Appellees*

[*] Peter Bernal was released from custody on April 29 via state-court order.
[†] Winfred Hill was released from custody on April 21 via state-court order.

17. Junior, Daniel, *Defendant-Appellant*
18. Karakatsanis, Alec, *Counsel for Plaintiffs-Appellees*
19. Miami-Dade County, *Defendant-Appellant*
20. Miami-Dade County Attorney's Office
21. Pastor, Bernard, *Counsel for Defendants-Appellants*
22. Price-Williams, Abigail, *Miami-Dade County Attorney*
23. Ragsdale, Maya, *Counsel for Plaintiffs-Appellees*
24. Rodriguez-Taseff, Lida, *Counsel for Plaintiffs-Appellees*
25. Rosenthal, Oren, *Counsel for Defendants-Appellants*
26. Sanoja, Katherine Alena, *Counsel for Plaintiffs-Appellees*
27. Smith, R. Quinn, *Counsel for Plaintiffs-Appellees*
28. Swain, Anthony, *Plaintiff-Appellee*
29. Torres, Hon. Edwin G., *United States Magistrate Judge*
30. Twinem, Alexandria, *Counsel for Plaintiffs-Appellees*
31. Viciana, Ana Angelica, *Counsel for Defendants-Appellants*
32. Vosseler, Zach, *Counsel for Defendants-Appellants*
33. Williams, Hon. Kathleen M., *United States District Judge*
34. Willis, Deondre, *Plaintiff-Appellee*
35. Yang, Tiffany, *Counsel for Plaintiffs-Appellees*
36. Zaron, Erica, *Counsel for Defendants-Appellants*

This appeal involves a governmental defendant, Miami-Dade County, which is a political subdivision of the State of Florida. There are no parent companies, subsidiaries, or affiliate companies that have issued shares to the public.

/s/ Ezra S. Greenberg
Ezra S. Greenberg
Assistant County Attorney

TABLE OF CONTENTS

INTRODUCTION AND NATURE OF EMERGENCY

Miami-Dade Corrections and Rehabilitation Department (MDCR), a department of Miami-Dade County, operates Metro West Detention Center, the largest direct-supervision (officer embedded in the unit with inmates) jail facility in the State of Florida. Approximately 1,550 of MDCR's 3,300 inmates are currently housed at Metro West.

Before the first case of COVID-19 was reported in Florida, MDCR began taking numerous steps to protect the inmate population from what would become a global pandemic. Those efforts began early in March 2020—weeks before this lawsuit—and have continually expanded as additional information becomes known and additional resources become available.

On April 5, seven Metro West inmates filed a two-count class action complaint. Count I challenged the conditions of their confinement under 42 U.S.C. §1983. Count II sought habeas relief under 28 U.S.C. §2241 for Plaintiffs and a "medically vulnerable" subclass of individuals at Metro West over age 60 or with various chronic health conditions. R.1. Plaintiffs also moved for an emergency temporary restraining order, an emergency preliminary injunction, and class certification. R.3; R.5.

On April 7, the district court entered a TRO based solely upon the unverified declarations of the seven named Plaintiffs. R.25¶¶1, 6. Plaintiffs' unchallenged allegations included that they had "limited access to soap," "no safe way to dry their hands," "sleep within one to two feet of one another, must wait days to seek medical attention, and are denied basic hygiene supplies such as laundry detergent, cleaning

supplies, and tissues." R.3 at 1. As part of the TRO, the district court ordered Defendants to file a notice of the steps they had taken to protect medically vulnerable individuals from COVID-19, which Defendants filed. R.25¶¶2, 30. The TRO contained a mandate "[t]o the maximum extent possible considering [Metro West's] current population level, provide adequate spacing of six feet or more between people . . . so that social distancing can be accomplished. R.25¶4.

On April 14, the district court extended the TRO six days beyond the initial fourteen to permit an independent inspection of Metro West to scrutinize Defendants' compliance with the TRO. R.52¶¶1, 4. That inspection revealed Plaintiffs' allegations as false: The inspection report, co-authored by two physicians, refuted Plaintiffs' allegations regarding the cleanliness, hygiene and supplies within the facility; did not indicate a single area in the TRO where Defendants were non-compliant or had not taken the steps they claimed to have taken. R.70-1. The report concluded that MDCR officials were doing their "best" under the difficult circumstances of controlling the spread of a viral infection in Metro West's dormitory-style housing units. *Id.* The report stated that MDCR "should be commended for their commitment to protect the staff and the inmates in this facility during this COVID-19 pandemic" and were "doing their best balancing social distancing and regulation applicable to the facility." *Id.*

In addition, Defendants submitted exhaustive evidence showing their continued efforts to mitigate the spread of COVID-19 and treat symptomatic individuals at

Metro West. R.65; R.69; R.92.[1] Those efforts include instituting comprehensive procedures designed to respond to changing conditions on-site.[2]

The district court heard the preliminary injunction motion on April 27 and 28. On April 27, the district court extended the TRO for an additional 48 hours based on a conclusory recital of good cause. R.96. Although the TRO stated it would be valid until Defendants demonstrated "substantial[] compli[ance]," the district court ultimately never made any such finding. R.25¶5. Instead, as set forth below, it created a new standard of liability reasoning that the increase in infections alone, without regard to the voluntary and extensive remedial measures taken both before and during the pendency of this case, proved that Defendants are deliberately indifferent.

Ignoring the findings of the inspection report that Metro West was "doing their best" to achieve social distancing, the district court entered a preliminary injunction on April 29, finding Defendants deliberately indifferent for failing to sufficiently achieve meaningful social distancing. R.100 ("Order"). In addition to the TRO's requirements, the injunction imposes expanded testing requirements, a new facemask change policy, inmate education requirements, a requirement to provide reports on

---

[1] Both the TRO and the extending order contained onerous reporting requirements that, together with subsequent orders, required *eight* detailed notices of compliance before the evidentiary hearing. R.25¶2; R.52¶¶6-8; R.88 (reporting requirements); R.30; R.54; R.55; R.59; R.71; R.72; R.87; R.90 (notices of compliance). One order required a detailed report about the decisionmaking process of *non*-County officials with less than 24 hours' notice over the weekend. R.88; R.90. The injunction imposes more reporting obligations every three days regarding testing of inmates and staff, and tallies of isolation and quarantine populations. R.52¶8; R.99.

[2] No Plaintiff has exhibited COVID-19 symptoms. R.92-1; R.92-3¶19. No inmates at Metro West have died from COVID-19; three who were hospitalized later returned. R.92-3¶13.

the number of inmates and staff tested and quarantined every three days, a requirement to provide weekly population data for Metro West and, most onerously, a vague mandate to submit a proposal within seven days "outlining steps Defendants will undertake to ensure additional social distancing safeguards in terms of housing inmate and inmate activity (medical visits, telephones, etc.)." Order 49-52.

A stay is warranted. Ignoring the Supreme Court's admonition that "[f]ederal courts do not sit to supervise state prisons," *Meachum v. Fano*, 427 U.S. 215, 229 (1976), the district court abused its discretion in enjoining the County despite a dearth of evidence supporting deliberate indifference. The injunction is without basis because Plaintiffs did not show a likely violation of the Eighth Amendment (or, more accurately, the Fourteenth Amendment). Defendants have implemented comprehensive policies to minimize the risk to Plaintiffs and other inmates, and they have continuously updated those policies as new information and new resources become available. Defendants are not ignoring a substantial risk at Metro West.

In addition to misapplying deliberate indifference, the district court abused its discretion by abdicating its obligation to address two threshold issues: municipal liability under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), and failure to exhaust administrative remedies under the PLRA.

Defendants filed a notice of appeal and motion to stay pending appeal in the district court on April 29, requesting a ruling by 2:00 p.m. today (R.101; R.102). The court failed to afford the relief requested, so Defendants seek a stay under Federal

Rule of Appellate Procedure 8(a)(2) and respectfully request a ruling by **5:00 P.M. ON MAY 5, 2020**, or entry of an administrative stay.

STATEMENT OF JURISDICTION

This Court has jurisdiction over the district court's preliminary injunction order. 28 U.S.C. §1292(a)(1).

STANDARD OF REVIEW

A stay applicant must satisfy four factors: (1) the applicant is likely to succeed on the merits; (2) the applicant will be irreparably harmed absent a stay; (3) issuance of the stay will not substantially harm the opposing parties; and (4) the public interest favors a stay. *Nken v. Holder*, 556 U.S. 418, 434 (2009). The first two factors are "the most critical." *Id.*

"In considering whether to stay a preliminary injunction, . . . we examine the district court's grant of the preliminary injunction for abuse of discretion, reviewing *de novo* any underlying legal conclusions and for clear error any findings of fact." *Democratic Exec. Comm. v. Lee*, 915 F.3d 1312, 1317 (11th Cir. 2019). A district court abuses its discretion when it "applies the wrong legal standard, follows improper procedures in making its determination, bases its decision on clearly erroneous findings of fact, or applies the law in an unreasonable or incorrect manner." *Sellers v. Rushmore Loan Mgmt. Servs., LLC*, 941 F.3d 1031, 1038 (11th Cir. 2019) (cleaned up).

Importantly, "[t]he burdens at the preliminary injunction stage *track the burdens at trial*," *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 429 (2006) (emphasis added), so "where a nonmovant would bear the burden of

persuasion at trial" on an affirmative defense, a movant cannot be deemed likely to succeed on the merits if the nonmovant "make[s] an adequate showing" on that defense, *LSSi Data Corp. v. Comcast Phone, LLC*, 696 F.3d 1114, 1123 n.11 (11th Cir. 2012) (cleaned up).

ARGUMENT

I. Defendants Are Likely to Succeed on the Merits.

The injunction goes beyond maintaining the status quo: it directs MDCR how to conduct its affairs. "[W]hen a plaintiff applies for a mandatory preliminary injunction" like Plaintiffs have, "such relief should not be granted except in *rare instances in which the facts and law are clearly in favor of the moving party*." *Exhibitors Poster Exch., Inc. v. Nat'l Screen Serv. Corp.*, 441 F.2d 560, 561-62 (5th Cir. 1971) (emphasis added) (cleaned up). The facts and law were not clearly in Plaintiffs' favor. The district court abused its discretion in finding that they were.[3]

A. The district court erred in finding deliberate indifference.

To prevail on an Eighth Amendment conditions-of-confinement claim, the plaintiff must first show "that a condition of his confinement poses an unreasonable risk of serious damage to his future health or safety," and "deprive[s] [him] of the minimal civilized measure of life's necessities." *Chandler v. Crosby*, 379 F.3d 1278, 1289 (11th Cir. 2004). "[O]nly those conditions which objectively amount to an 'extreme deprivation' violating contemporary standards of decency are subject to

[3] The district court's legal errors began here, invoking a "sliding scale" standard for injunctive relief that this Court has *never* applied in the case of a mandatory injunction. Order 8-9.

Eighth Amendment scrutiny." *Thomas v. Bryant*, 614 F.3d 1288, 1306-07 (11th Cir. 2010) (cleaned up). Courts additionally consider whether the prison has objectively enacted policies to limit that risk. *Helling v. McKinney*, 509 U.S. 25, 35-37 (1993).

Plaintiffs must also satisfy the state-of-mind requirement—deliberate indifference. *Thomas*, *supra*, at 1304.[4] This standard precludes liability unless a prison official "knows of and disregards an excessive risk to inmate health or safety." *Farmer v. Brennan*, 511 U.S. 825, 837 (1994). The plaintiff must show that prison officials are both "aware of facts from which the inference could be drawn that a substantial risk of serious harm exists," and "also draw the inference." *Marbury v. Warden*, 936 F.3d 1227, 1233 (11th Cir. 2019) (cleaned up). The plaintiff must then show "disregard of that risk . . . by conduct that is *more than gross negligence*." *Harrison v. Culliver*, 746 F.3d 1288, 1298 (11th Cir. 2014) (emphasis added) (cleaned up). A prison official's mere failure to avoid harm or eliminate a risk does not violate the Eighth Amendment. *See Farmer*, *supra*, at 847.

Plaintiffs cannot prevail under this standard, which the district court did not even recite in its 52-page Order. MDCR officials have not been indifferent, let alone deliberately so. Beginning weeks before the lawsuit was filed, and continuing to this

[4] The district court's heavy reliance on *Mays v. Dart*, No. 20-2134, 2020 WL 1812381 (N.D. Ill. Apr. 9, 2020), is improper. *Mays* was decided under a standard that requires pretrial detainees asserting conditions-of-confinement claims to show only that a defendant's conduct was objectively unreasonable. *Id.* at *7. That is not the law in this Circuit. *Dang ex rel. Dang v. Sheriff, Seminole Cty.*, 871 F.3d 1272, 1279 n.2 (11th Cir. 2017). This Court adheres to its long-held view that these claims are analyzed no differently than convicted prisoners' claims under the Eighth Amendment. *E.g.*, *Taylor v. Hughes*, 920 F.3d 729, 733 (11th Cir. 2019).

very day, MDCR implemented and updated numerous policies targeted at preventing the introduction and spread of COVID-19 within Metro West:

(1) screening all new arrestees for COVID-19 symptoms at intake and, if necessary, transferring them to a hospital for testing, treatment, and evaluation (R.65-1¶¶36, 67);

(2) enhancing cleaning and sanitization procedures, including using industrial-grade sanitation equipment to clean housing units (R.65-1¶¶32-34; R.65-5¶10; R.65-14; R.65-30);

(3) prohibiting visitation in the facility and requiring that attorney conferences be conducted behind glass or via telephone/video conference (R.65-1¶52; R.65-8¶4; R.65-14);

(4) halting all social activities that would enable inmates to come into contact with inmates from other housing units (R.65-1¶52);

(5) posting information throughout the facility, in English, Spanish, and Creole, about the risk of COVID-19 and how to reduce its transmission, and including pictures for inmates with literacy issues (R.65-5¶¶13-14; R.65-6¶12; R.65-9¶14; R.65-32);

(6) quarantining all new arrestees for fourteen days, a period which resets if any arrestee becomes symptomatic (R.65-1¶¶38, 67);

(7) conducting medical screenings, including temperature checks, of all staff, police officers, or other entrants to the facility (R.65-1¶42; R.65-2¶13; R.65-19);

(8) prohibiting anyone feeling unwell from entering the facility (R.65-2¶14; R.65-8¶4);

(9) providing gloves to staff to be worn when they have contact with any inmates (R.65-2¶17; R.65-5¶6);

(10) providing disinfectant wipes and hand sanitizer to staff and letting them bring additional personal sanitizer (R.65-1¶35);

(11) limiting recreation to one unit at a time, preventing inmates from using high-touch items during recreation (e.g., basketballs), enforcing social distancing during recreation, and disinfecting the equipment between each unit's recreation time (R.65-1¶¶44, 102(vii); R.65-2¶31);

(12) requiring inmates to sleep head-to-toe and staggering bunks to maximize social distancing (R.65-1¶23; R.65-2¶25);

(13) cooperating with the State Attorney and Public Defender's efforts to reduce overall inmate population by providing information about inmates, including medically vulnerable inmates, resulting in a decrease of close to 900 inmates and brining the Metro West overall population to below 70% of capacity in under two months (R.54; R.65-1¶¶17, 90-91; R.65-22; R.92-2¶¶16-17).

(14) updating the sick-call procedure to allow for immediate evaluation of inmates exhibiting flu-like symptoms or symptoms that may be indicative of COVID-19 (R.65-3¶15);

(15) removing symptomatic inmates from the unit, testing them for COVID-19,

and placing them in medical isolation with negative air in a single inmate unit (R.65-3¶16; R.65-4¶15);

(16) issuing surgical masks to inmates and N-95 masks to staff, and replacing these masks regularly or as needed (R.65-1¶79; R.65-2¶¶16, 17; R.70-1), and updating policy to issue two masks per week to inmates and daily masks to inmates testing positive (R.92-2¶10);

(17) providing face shields to all staff interacting with inmates testing positive (*Id.*);

(18) conducting daily temperature checks of *all* inmates (R.65-11¶93);

(19) installing body-heat sensors at strategic places in Metro West to indicate temperatures of more than 100 degrees (R.92-2¶6);

(20) purchasing and installing several dozen air purification machines to neutralize and destroy bacteria and virus cells (*Id.*¶5);

(21) quarantining inmates who may have had contact with symptomatic inmates (R.65-1¶97; R.65-3¶17);

(22) increasing testing as resources became available, performing on-site testing of symptomatic inmates, and conducting contact tracing and testing of inmates who may have come into contact with inmates testing positive (R.92-1¶¶4-5, 9-10; R.92-2¶7; R.92-3¶¶4-5, 9-10);

(23) cohorting asymptomatic positive inmates apart from asymptomatic negative inmates as a result of contact testing; providing additional quarantine periods for both groups and closely monitoring both groups for symptoms

(R.92-1¶11; R.92-2¶8; R.92-3¶11); and

(24) conducting contact testing of staff in units with asymptomatic positive inmates (R.92-1¶14; R.92-2¶11; R.92-3¶14).

These policies reasonably respond to the COVID-19 threat. They demonstrate that Defendants have been anything but deliberately indifferent. The district court's finding that those policies are inadequate or insufficient—based on unpublished, out-of-circuit district court cases—does not give rise to a deliberate indifference claim. Given that the Fifth Circuit has twice stayed similar injunctions in recent days, it can hardly be said that the law is clearly in Plaintiffs' favor. *See Valentine v. Collier*, — F.3d —, 2020 WL 1934431, at *4 (5th Cir. Apr. 22, 2020) (district court inappropriately "collapsed the objective and subjective components of the Eighth Amendment inquiry . . . [by] treating inadequate measures as dispositive of the Defendants' mental state"); *Marlowe v. LeBlanc*, No. 20-30276, 2020 WL 2043425, at *3 (5th Cir. Apr. 27, 2020) (district court inappropriately applied civil negligence standard).

The district court's analysis turns the deliberate-indifference inquiry on its head, focusing exclusively on the results of a remedial effort rather than its reasonableness in the face of the immense challenges facing MDCR. Replacing deliberate indifference with *res ipsa loquitur*, the court reasoned that Defendants must be deliberately indifferent because they failed to prevent the introduction and spread of a viral infection into Metro West. The district court specifically rejected the steps Defendants took as insufficient simply because it did not prevent widespread

asymptomatic infection. Order 37.[5] This is inconsistent with *Farmer*'s holding that prison officials who respond *reasonably* to risks cannot be liable "even if the harm ultimately was not averted." *Farmer*, *supra*, at 844; *Marlowe*, *supra*, at *3 ("[A]n increase in infection rate alone is insufficient to prove deliberate indifference."); *Truss v. Warden*, 684 F. App'x 794, 796-97 (11th Cir. 2017) (reasonable policies to mitigate spread of tuberculosis defeated deliberate indifference claim).

What's more, the district court found Defendants deliberately indifferent without ever explaining what Defendants should have done differently. The district court specifically set aside any factual dispute regarding implementation of Defendants' policies yet still found that the record demonstrated deliberate indifference. Order 37. The district court found Defendants failed to achieve sufficient social distancing without identifying anything Defendants should have done differently. The inspection report and Plaintiffs' experts opined that ideal social distancing could only be achieved through prison depopulation. The Court found that

[5] As part of its COVID-19 strategy at Metro West, MDCR implemented widespread contact tracing and testing of asymptomatic inmates who had contact with positive inmates so that positive and negative inmates could be cohorted after testing. R.92-1¶¶11,14; R.92-2¶8,11; R.92-3¶11,14. The level of testing went beyond CDC guidelines and was not required by the TRO. Knowing that it would lead to an increase in their reported positives in the midst of litigation, Defendants nevertheless undertook these efforts to protect the inmate population when the resources became available to do so. R.92-1¶7; R.92-2¶7; R.92-3¶7. Amazingly, the district court then predicted its finding of deliberate indifference on these numbers, and discredited, in the absence of any contrary evidence, the sworn declarations of three high ranking individuals that none of the measures taken would cease and that they would continue to address the pandemic. R.92-1¶16; R.92-2¶7; R.92-3¶16.

Plaintiffs met their burden because social distancing could not be achieved "absent additional reduction in Metro West's population *or some other measure to achieve meaningful social distancing*." Order 35 (emphasis added). But the County, of course, is unable to release inmates without a court order, which must be obtained through the state criminal court. R.65-1¶¶89-90. The County has nevertheless cooperated with the State Attorney and Public Defender by providing information that they have used to seek the release of hundreds of inmates because of COVID-19. R.54; R.65-1¶¶17, 90-91; R.65-22; R.92-2¶¶16-17.

As for the *other measures to achieve meaningful social distancing*, the district court does not tell us what those are. Defendants' expert opined that in assessing whether adequate measures have been taken to prevent the spread of infection, it is necessary to view all the steps that Metro West has taken as a whole, rather than each step in a vacuum. R.65-10¶18.[6] And the CDC's Guidance to Detention Facilities notes that while achieving six-foot social distancing is "ideal[]", "[s]trategies will need to be tailored to the individual space in the facility and the needs of the population and staff" because "[n]ot all strategies will be feasible in all facilities." R.65-10 p.89.

Without identifying any specific social distancing strategies that Metro West should have employed, the district court found Defendants deliberately indifferent for failing to achieve "meaningful social distancing." Order 37. But since the district court lacked an evidentiary basis of *how* defendants could achieve such meaningful social distancing (absent mass inmate release), the only remedial step it took was

[6] The district court neither cited nor rejected this opinion in its order.

ordering Defendants to submit "a proposal." *Id.* 52. While *Marlowe* and *Valentine* faulted the Fifth Circuit's district courts for applying a negligence standard, the district court here appears to have applied an even lower standard than that. By labeling Defendants deliberately indifferent for failing to achieve additional reductions in inmate population (which is almost entirely outside their control) or to implement "other" unspecified social distancing measures in the face of an increase in positive COVID tests at Metro West, the standard of culpability imposed by the district is more akin to strict liability than to negligence.[7]

B. The district court abused its discretion by refusing to consider Plaintiffs' failure to establish municipal liability.

The district court decided that it needn't consider Defendants' argument at this stage that Plaintiffs completely failed to establish municipal liability under *Monell*.[8] Order 32-33. "[T]he Supreme Court has made clear that the bar to establish municipal liability is very high." *Simmons v. Bradshaw*, 879 F.3d 1157, 1169 (11th Cir. 2018). Because the Plaintiffs are suing a municipality, even if they showed a likelihood of success of proving that a constitutional right was violated, they still must show a likelihood of proving (1) that the County has either "an officially promulgated county

---

[7] The district court's findings of deliberate indifference are predicated on Defendants' failure to adhere to an unknown standard of "meaningful social distancing," so it is likely that whatever "other measures" defendants propose will be deemed insufficient and lead to the convening of a three-judge panel to order inmate release. Order 1 n.1.

[8] The official-capacity claims against Director Junior are redundant of the claims against the County. *Kentucky v. Graham*, 473 U.S. 159, 165-66 (1986); *Busby v. City of Orlando*, 931 F.2d 764, 766 (11th Cir. 1991). Plaintiffs are not likely to succeed on any claim predicated against an improper party.

policy" or "an unofficial custom or practice of the county shown through the *repeated acts of a final policymaker for the county*" constituting deliberate indifference to that right and (2) that the policy or custom caused the violation. *Grech v. Clayton County*, 335 F.3d 1326, 1329 (11th Cir. 2003) (en banc) (emphasis added). Plaintiffs presented no evidence that *any* inaction they claim is occurring at Metro West results from deliberate indifference by the County's final policymakers, the Mayor and the Board of County Commissions. The district court's failure to address *Monell* was critical: its focus on anecdotal evidence of incomplete implementation of the County's policies is precisely the type of *respondeat superior* theory that *Monell* prohibits. *Knight ex rel. Kerr v. Miami-Dade County*, 856 F.3d 795, 819 (11th Cir. 2017).

This failure to consider *Monell* flouts this Court's holding in *Church v. City of Huntsville*, where it vacated a preliminary injunction solely because the plaintiffs "failed to establish the existence of a municipal policy or a pervasive practice that could serve as a predicate to municipal liability under section 1983," meaning they had "not shown a substantial likelihood of success on the merits." 30 F.3d 1332, 1347 (11th Cir. 1994). The district court ignored this. It decided it didn't need to analyze, as *Church* did, whether Plaintiffs had met their burden to "show[] a likelihood of success on the merits with respect to the existence of a [county] policy" before granting mandatory injunctive relief. *Id.* (caps modified). This was an abuse of discretion.

C. The district court abused its discretion by failing to address exhaustion.

The district court's abandonment of the PLRA's exhaustion requirement was

also an abuse of discretion. "There is no question that exhaustion is mandatory under the PLRA and that unexhausted claims cannot be brought in court." *Jones v. Bock*, 549 U.S. 199, 211 (2007); *see* 42 U.S.C. §1997e(a); *see United States v. Raia*, 954 F.3d 594, 597 (3d Cir. 2020) ("[S]trict compliance with [statutory exhaustion requirements] takes on added—and critical—importance" when prison officials, who have a "shared desire for a safe and healthy prison environment," engage in "extensive and professional efforts to curtail the virus's spread.").

The County properly raised this affirmative defense through its motion to dismiss, and then argued Plaintiffs' unlikelihood of overcoming it in its response to the preliminary injunction motion (R.66; R.67). *See Bryant v. Rich*, 530 F.3d 1368, 1374-75 (11th Cir. 2008) ("an exhaustion defense . . . should be raised in a motion to dismiss"). Once raised, the question of exhaustion is a threshold matter that a court "must address" before it may consider the merits of a case. *Chandler*, *supra*, at 1286.

Despite those instructions, the district court sidestepped any consideration of exhaustion based on an erroneous belief that affirmative defenses are irrelevant to a preliminary injunction determination. Order 29-30. *Contra Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017) ("[O]nce the moving party has carried its burden of showing a likelihood of success on the merits, the burden shifts to the non-moving party to show a likelihood that its affirmative defense will succeed."); *Valentine*, *supra*, at *5-7, and *Marlowe*, *supra*, at *3 (staying injunctions in part because plaintiffs hadn't exhausted). This failure was an abuse of discretion.

II. Defendants Will Suffer Irreparable Injury Absent a Stay.

Absent immediate relief from this Court, Miami-Dade County's elected Mayor and Commissioners, and all MDCR officials, will lose the discretion vested in them under state law to make decisions in response to the COVID-19 pandemic and to weigh the costs and demands of those decisions against the limited resources available to all County operations to fight the pandemic. Limited testing resources must now be allocated to Metro West over any other County priority on pain of contempt. Jail housing classifications indicated by state law and departmental policies to ensure inmate and staff safety, Fla. Stat. §§951.23(4)(a)(2), 944.17-1905; R.65-48; R.65-49, will now be weighed and evaluated by a U.S. District Judge to ensure they comply with a heightened standard of social distancing beyond anything the CDC requires without regard to the resource allocation among the various responsibilities of the County. The professionals who have spent their careers running correctional systems and the elected officials they report to will lose the ability to allocate both the County's and MDCR's limited resources in the midst of their pandemic response.

Beyond this very real, immediate, and specific injury suffered by MDCR and the County as a result of the Order, "[a]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury." *Maryland v. King*, 567 U.S. 1301 (2012) (Roberts, C.J., in chambers) (cleaned up). The Florida Legislature assigned the prerogatives of county prison policy to the counties, whose commissioners "shall designate a chief correctional officer" who "shall see that all rules and regulations prescribed by law or the

department are fully observed and complied with." Fla. Stat. §951.06(1)-(2). Miami-Dade County's Charter delegates to the Mayor responsibility "for the management of all administrative departments of the County government." Miami-Dade Cty. Home Rule Charter art. 2, §2.02(A) (2018). The MDCR Director serves at the pleasure of the Mayor and is subject to his supervision. R.65-1¶2. The State has enacted specific statutes assigning the duties of county jails and regulating the terms and conditions of pretrial confinement. Fla. Stat. §§903.011-.36 (bond and bail); §§907.04-.045 (pretrial detention release); §§951.01-.29 (county jails).

In recent days, the Fifth Circuit stayed two injunctions against corrections departments, finding irreparable harm because the injunctions "prevent[ed] the State from effectuating the Legislature's choice." *Valentine*, *supra*, at *4; *Marlowe*, *supra*, at *3; *accord Abbott v. Perez*, 138 S. Ct. 2305, 2324 n.17 (2018) ("[T]he inability to enforce its duly enacted plans clearly inflicts irreparable harm on the State."). The district court inflicts a similar harm: preventing MDCR from effectuating the Florida Legislature's, the Board's, and Mayor's collective choice.

In short, the preliminary injunction creates "an administrative nightmare" for MDCR "to comply with the district court's quotas and deadlines." *Ruiz v. Estelle*, 650 F.2d 555, 571 (5th Cir. Unit A June 1981). "[T]he burden on [MDCR] in terms of time, expense, and administrative red tape is too great," *id.*, especially when it must simultaneously respond in rapidly evolving ways to "a crisis that defies fixed approaches," *Valentine*, *supra*, at *5. The order "prevents [MDCR] from responding to the COVID-19 threat without a permission slip from the district court. That

constitutes irreparable harm." *Id.*

Prison officials, not judges, are the ones who "make the difficult judgments concerning institutional operations." *Pesci v. Budz*, 935 F.3d 1159, 1166 (11th Cir. 2019). Courts do not "sit[] as a super-warden to second-guess the decisions of the real wardens," but rather

> owe wide-ranging and substantial deference to the decisions of prison administrators because of the complexity of prison management, the fact that responsibility therefor is necessarily vested in prison officials, and the fact that courts are ill-equipped to deal with such problems.

Prison Legal News v. Sec'y, Fla. Dep't of Corr., 890 F.3d 954, 965 (11th Cir. 2018) (cleaned up). Contravening this, the order below is "tantamount to a presumption that Defendants will act in an unconstitutional manner" if their response to COVID-19 is not subject to the supervision of the district court. *McClendon v. City of Albuquerque*, 79 F.3d 1014, 1023-24 (10th Cir. 1996) (irreparable harm shown when injunction would "interfere with law enforcement initiatives, prosecutorial discretion and state judicial power"). Rather than effectuate limited relief for the five remaining Plaintiffs, the Order places the district court in full control of nearly all aspects of the entire detention facility. The injunction now in force effectively reduces the County's elected officials and the employees they control to mere agents of the court, which has appointed itself super-warden, overseeing and administrating the County's response to COVID-19 at Metro West which must now submitted a plan for court approval.

III. The Balance of Harms and Public Interest Favor a Stay.

The question to be determined on the balance-of-harms factor is "whether Plaintiffs have shown that they will suffer irreparable injuries *even after* accounting for the protective measures" adopted by MDCR. *Valentine*, *supra*, at *5. Plaintiffs cannot show that they will be irreparably harmed because there is no evidence that Defendants will discontinue the protective measures they have taken in the absence of the preliminary injunction. R.92-1¶16; R.92-2¶7; R.92-3¶16. The district court's rejection of Defendants' unrebutted assertion that it will continue to address the COVID-19 pandemic without a court order improperly flipped the burden of proof and fails to apply the presumption of voluntary cessation that governmental actions enjoy. Order 31, 40; *Atheists of Florida, Inc. v. City of Lakeland*, 713 F.3d 577, 594 (11th Cir. 2013). The district court's application of the voluntary cessation doctrine in the case of mandatory injunction is especially awkward because there was never any conduct to cease. Like the rest of society, Defendants have continued to take steps to respond to COVID-19 even after this lawsuit was filed nearly one month ago. And the district court's assertion that an injunction must remain in place to ensure Defendants' compliance with their own policies is, as the Fifth Circuit explained, an injunction prohibited by *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89 (1984). *Marlowe*, *supra*, *2.

Plaintiffs cannot seriously argue otherwise when they never even sought the preliminary injunction's keystone relief—the social distancing proposal and mandatory contact testing. *See RNC v. DNC*, — S. Ct. —, 2020 WL 1672702, at *2 (Apr.

6, 2020) (staying injunction; noting the "critical point that the plaintiffs themselves did not ask for this additional relief in their preliminary injunction motions"). And because this factor and the public-interest factor "merge when the Government is the opposing party," *Nken*, *supra*, at 435, both factors weigh in the Defendants' favor.

CONCLUSION

The district court's preliminary injunction should be stayed pending appeal. If the injunction is not stayed, Defendants request that the Court expedite this appeal.

Dated: April 30, 2020.

Respectfully submitted,

ABIGAIL PRICE-WILLIAMS
MIAMI-DADE COUNTY ATTORNEY

By: */s/ Ezra S. Greenberg*

Ezra S. Greenberg
Fla. Bar No. 85018
ezrag@miamidade.gov

Oren Rosenthal
Fla. Bar No. 86320
orosent@miamidade.gov

Zach Vosseler
Fla. Bar No. 1008856
zach@miamidade.gov

Bernard Pastor
Fla. Bar No. 46852
pastor@miamidade.gov

Assistant County Attorneys

Stephen P. Clark Center
111 N.W. First Street, Suite 2810
Miami, Florida 33128
(305) 375-5151

Counsel for Appellants

CERTIFICATES OF COMPLIANCE

1. This document complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 5,200 words.

2. This document complies with the typeface and type-style requirements of Fed. R. App. P. 27(d)(1)(E) because it was prepared using Microsoft Word for Office 365 in size 14 Equity font.

/s/ Ezra S. Greenberg
Ezra S. Greenberg
Assistant County Attorney

CERTIFICATE OF SERVICE

On April 30, 2020, this document was filed electronically with the Court of Appeals via ECF, and true and correct copies were served on counsel for the Plaintiffs-Appellees via the below:

Lida Rodriguez-Taseff
lida.rodriguez-taseff@dlapiper.com
DLA Piper LLP (US)
200 South Biscayne Blvd., Ste. 2500
Miami, Florida 33131
(305) 423-8525

Alexandria Twinem
alexandria@civilrightscorps.org
Katherine Hubbard
katherine@civilrightscorps.org
Alec Karakatsanis
alec@civilrightscorps.org
Civil Rights Corps
1601 Connecticut Ave. NW, Ste. 800
Washington, DC 20009
(202) 894-6126

Meena Jagannath
meena@communityjusticeproject.com
Community Justice Project
3000 Biscayne Blvd., Ste. 106
Miami, Florida 33137
(305) 907-7697

Tiffany Yang
tyang@advancementproject.org
Thomas B. Harvey
tharvey@advacementproject.org
Advancement Project
1220 L Street NW, Ste. 850
Washington, DC 20005
(202) 728-9557

R. Quinn Smith
quinn.smith@gstllp.com
Katherine Alena Sanoja
katherine.sanoja@gstllp.com
GST LLP
1111 Brickell Ave., Ste. 2715
Miami, Florida 33131
(305) 856-7723

/s/ Ezra S. Greenberg
Ezra S. Greenberg
Assistant County Attorney

EXHIBIT LIST

(*N.B. No sealed exhibits are attached to this motion.*)

DE 1 Class Action Complaint

- 1-1 Civil Cover Sheet
- 1-2 Summons Daniel Junior
- 1-3 Summons Daniel Junior
- 1-4 Declaration of Jonathan Golob
- 1-5 Declaration of Jaime Meyer
- 1-6 Interim Guidance on Management of Coronavirus Disease 2019
- 1-7 03/12/2020 Doctors in NYC Hospitals, Jails, and Shelters Call on the City to Take More Aggressive Action to Combat the Spread of Coronavirus, Medium.com Editorial Article
- 1-8 03/25/2020 Letter to Hon. Larry Hogan, Governor of Maryland
- 1-9 Declaration of Marc Stern
- 1-10 Declaration of Ranti Mishori
- 1-11 Declaration of Robert Greifinger, M.D.
- 1-12 Declaration of Dr. Chiao
- 1-13 03/12/2020 Miami-Dade Department of Corrections, Twitter post
- 1-14 03/16/2020 State Attorney Kathryn Rundle Twitter Post
- 1-15 04/03/2020 State Attorney Kathy Rundle, Miami-Dade County's "Prosecutors, Public Defenders & Courts Enact COVID-19 Early Jail Release Plan 18 To Be Released
- 1-16 03/20/2020 Miami-Dade Department of Corrections, Twitter post
- 1-17 03/27/2020 Miami-Dade Corrections and Rehabilitation Department Press Release 1-18 Declaration of Dr. Carlos Franco Paredes

DE 3 Emergency Motion for Temporary Restraining Order and Preliminary Injunction with Certification of Emergency

- 3-1 Certification Emergency Cert.
- 3-2 Text of Proposed Order TRO
- 3-3 Text of Proposed Order PI
- 3-4 Declaration of Anthony Swain
- 3-5 Declaration of Winfred Hill
- 3-6 Declaration of Alan Blanco
- 3-7 Declaration of Deondre Willis
- 3-8 Declaration of Bayardo Cruz

3-9 Declaration of Ronniel Flores
3-10 Declaration of Peter Bernal
3-11 Miami-Dade County Corrections and Rehabilitation Department Daily Jail Population Statistics
3-12 Miami-Dade County Corrections and Rehabilitation Department Daily Jail Population Statistics
3-13 Declaration of Jacqueline Ebert
3-14 Miami-Dade County Corrections and Rehabilitation Department Daily Jail Population Statistics

DE 11 Notice of Filing Declaration of Dr. Fred Rottnek
11-1 Declaration of Dr. Fred Rottnek

DE 17 Notice of Filing Declaration of Dr. Armen Henderson
17-1 Declaration of Dr. Armen Henderson

DE 25 Order Granting in part Plaintiffs' Emergency Motion for a Temporary Restraining Order

DE 27 Motion for Scheduling Order

DE 30 Defendants' Notice of Compliance with Paragraph Two of Order

DE 35 Defendants' Supplemental Brief on Habeas Relief

DE 36 Plaintiffs' Supplemental Brief in Support of Habeas Relief for Named Plaintiffs
36-1 Affidavit of Maya Ragsdale

DE 37 Notice of Requested Information Regarding Named Plaintiffs

DE 41 Notice of Requested Information Regarding Named Plaintiffs

DE 47 Paperless Order

DE 52 Amended Scheduling Order

DE 55 Defendant's Notice of Compliance with Paragraph Eight of Amended Scheduling Order

DE 59 Defendant's Second Notice of Compliance with Paragraph Eight of Amended Scheduling Order

DE 65 Notice of Filing

- 65-1 Declaration of Director Daniel Junior
- 65-2 Declaration of Captain Safani Summons (DE 65-2)
- 65-3 Declaration of Director Edith Wright, RN (DE 65-3)
- 65-4 Declaration of Dr. Reggie Egins, MD (DE 65-4)
- 65-5 Declaration of Corporal Bridgett Johnson (DE 65-5)
- 65-6 Declaration of Officer Patricia Delancy (DE 65-6)
- 65-7 Declaration of Officer Dasmine Mayo
- 65-8 Declaration of Corporal Nicole Pieze
- 65-9 Declaration of Officer Beatrice Almonor
- 65-10 Declaration of Dr. Aileen Marty (DE 65-10)
- 65-11 SOP 090 Communicable Disease Temporary Housing Plan, April 3, 2020
- 65-12 Notification to Inmates re: COVID-19, March 12, 2020
- 65-13 Inmate notification re: free calls, March 16, 2020
- 65-14 Memo re: COVID-19 Preparedness, March 12, 2020 (DE 65-14)
- 65-15 Memo Directing Non-Essential Personnel to Work from Home, Mask Use, Social Distancing and Hygiene, April 3, 2020
- 65-16 Wellness Screening Memo, March 16, 2020
- 65-17 Second Wellness Screening Memo, March 23, 2020
- 65-18 Third Wellness Screening Memo, March 27, 2020
- 65-19 Law Enforcement Screening Letter, March 20, 2020
- 65-20 Photographs of entry temperature check
- 65-21 Script of Director's Video re: COVID-19 Pandemic
- 65-22 Directive re: cleaning of high-touch area and enhanced cleaning procedure attaching janitorial handbook, March 10, 2020
- 65-23 Release statistics (DE 65-23)
- 65-24 Notification to all inmates re: use of PPEs
- 65-25 Emails re: Social Distancing and Personal Hygiene, March 28, 2020, March 31,2020, April 9, 2020
- 65-26 Memo to all MDCR staff re: COVID-19 preparedness, March 12, 2020 (DE 65-26)

65-27 Inmate Handbook in 3 languages
65-28 Inventory of Critical Items at MDCR
65-29 Inventory of distribution to MWDC
65-30 Sanitation Schedule at MWDC (DE 65-30)
65-31 Directive from Captain Summons Regarding Paper Towels (DE 65-31)
65-32 Inmate Notifications re: Hygiene and Social Distancing Posted in three language in housing units with pictures for low-literacy inmates
65-33 Cell Representative Meeting, March 19, 2020
65-34 March 30, 2020 command staff meeting
65-35 COVID-19 Incident Command Center Response Line
65-36 Eleventh Judicial Circuit Miami-Dade County, Florida, Administrative Order No. 20-04 (DE 65-36)
65-37 Omnibus Order to Terminate Jail Sentences Early, April 3, 2020 (DE 65-37)
65-38 Second Omnibus Order to Terminate Jail Sentences Early, April 17, 2020 (DE 65-38)
65-39 Motion to Set Bond for Inmate Blanco, March 16, 2020
65-40 Motion for Release from Custody by Plaintiff Willis, April 7, 2020 (DE 65-40)
65-41 Criminal Justice Information System Information (Swain) (DE 65-41)
65-42 Criminal Justice Information System Information (Blanco) (DE 65-42)
65-43 Criminal Justice Information System Information (Cruz) (DE 65-43)
65-44 Criminal Justice Information System Information (Flores) (DE 65-44)
65-45 Criminal Justice Information System Information (Hill) (DE 65-45)
65-46 Criminal Justice Information System Information (Willis) (DE 65-46)
65-47 Criminal Justice Information System Information (Bernal) (DE 65-47)
65-48 SOP 19-005: Inmate Classifications (DE 65-48)
65-49 Intake and Release Bureau SOP CL 20-001: Classification Procedures (DE 65-49)
65-50 Pride Safety Data Sheet

DE 66 Defendants' Motion to Dismiss Count I of the Complaint for Failure to Exhaust Administrative Remedies
66-1 DSOP 15-001: Inmate Complaint/Grievance Process
66-2 Inmate Handbook
66-3 Inmate Orientation Statements
66-4 Declaration of Reynaldo Romero

66-5 Declaration of Terrence Mathews

DE 67 Defendants' Response to Emergency Motion for Preliminary Injunction

DE 69 Joint Notice of Filing Unsealed Inspection Report as required by Court's Paperless Order (ECF 64)

DE 70 Joint Notice of Filing Unsealed Inspection Report as Required by Court's Paperless Order (ECF 64)

70-1 Metro West Detention Center (MWDC) Inspection Report, April 18, 2020, by Dr. Dushyantha Jayaweera & Dr. Hansel Tookes

DE 72 Defendants' Second Notice of Compliance with Paragraph Eight of Amended Scheduling Order

DE 74 Defendants' Witness and Exhibit List

74-1 Motion for Release

74-2 New York Times Article

DE 76 Plaintiff's Exhibit and Witness List

DE 80 Plaintiffs' Notice of Filing

80-1 Miami-Dade County Corrections and Rehabilitation Department Daily Jail Population Statistics

80-2 03/12/2020 Miami-Dade Department of Corrections, Twitter post

80-3 03/12/2020 Doctors in NYC Hospitals, Jails, and Shelters Call on the City to Take More Aggressive Action to Combat the Spread of Coronavirus, Medium.com Editorial Article

80-4 03/16/2020 State Attorney Kathryn Rundle Twitter Post

80-5 03/20/2020 Miami-Dade Department of Corrections, Twitter post

80-6 Interim Guidance on Management of Coronavirus Disease

80-7 03/25/2020 Letter to Hon. Larry Hogan, Governor of Maryland

80-8 03/27/2020 Miami-Dade Corrections and Rehabilitation Department Press Release

80-9 04/03/2020 State Attorney Kathy Rundle, Miami-Dade County's "Prosecutors, Public Defenders & Courts Enact COVID-19 Early Jail Release Plan 18 To Be Released

80-10 Miami-Dade County Corrections and Rehabilitation Department Daily Jail Population Statistics
80-11 Miami-Dade County Corrections and Rehabilitation Department Daily Jail Population Statistics
80-12 Correspondence from Deondre Willis
80-13 04/04/20 Email from Dr. Aillen Marty
80-14 Declaration of Dr. Jonathan Louis Golob
80-15 Declaration of Jaime Meyer
80-16 Declaration of Dr. Marc Stern
80-17 Declaration of Ranit Mishori, MD
80-18 Declaration of Robert B. Greifinger
80-19 Declaration of Dr. Chiao
80-20 Declaration of Dr. Carlos Franco-Paredes
80-21 Declaration of Dr. Fred Rottnek
80-22 Declaration of Dr. Arment Henderson
80-23 Declaration of Anthony Swain
80-24 Declaration of Winifred Hill
80-25 Declaration of Alan Blanco
80-26 Declaration of Deondre Willis
80-27 Declaration of Bayardo Cruz
80-28 Declaration of Ronniel Flores
80-29 Declaration of Peter Bernal
80-30 Declaration of Jacqueline Ebert
80-31 Declaration of Pedro J. Greer, Jr.
80-32 Declaration of Dr. Aileen Marty, MD
80-33 Supplemental Declaration of Dr. Pedro Greer, Jr.
80-34 Supplemental Declaration of Fred Rottnek
80-35 Declaration of Carlos Franco- Paredes

DE 81 Plaintiffs' Notice of Filing
81-1 Declaration of Adriano Nese
81-2 Declaration of Andre Smith
81-3 Declaration of Antwan Devon Lee
81-4 Supplemental Declaration of Deondre Willis
81-5 Declaration of Frankie Sierra

DE 84 Motion for Leave to File Motion to Convent Three-Judge Panel and to Exceed Page Limit

DE 85 Plaintiffs' Combined Reply in Support of Motion for Preliminary Injunction and Motion for Convening of Three-Judge Panel

DE 86 Defendants' Notice of Compliance with Paragraph Eight of Amended Scheduling Order

DE 87 Defendants' Amended Notice of Compliance with Paragraph Eight of Amended Scheduling Order

DE 88 Paperless Order

DE 90 Defendants' Notice of Compliance with Paperless Order
- 90-1 April 20, 2020 Daily Court Order Transmittal Receipt Log
- 90-2 April 21, 2020 Daily Court Order Transmittal Receipt Log
- 90-3 Sample of Orders Authorizing Release

DE 91 Defendants' Reply in Further Support of Their Motion to Dismiss Count I of the Complaint for Failure to Exhaust and Administrative Remedies

DE 92 Notice of Filing
- 92-1 Supplemental Declaration of Director Edith Wright, RN
- 92-2 Supplemental Declaration of Director Daniel Junior
- 92-3 Supplemental Declaration of Dr. Reggie Egins, MD

DE 93 Paperless Order

DE 94 Notice of Filing
- 94-1 Eleventh Circuit Covid-19 Emergency Procedures for Courtroom 4-1
- 94-2 Administrative Order No. 20-03
- 94-3 Administrative Order No. 20-04

DE 95 Plaintiffs' Notice of Filing in Support of the Motion for Preliminary Injunction (ECF No. 3)
- 95-1 Declaration of Maya Ragsdale
- 95-2 Emergency Motion to Reduce Bond

DE 96 Paperless Minute Entry

DE 97 Paperless Minute Entry

DE 99 Notice of Compliance

DE 100 Order Granting in Part and Denying in Part Plaintiffs' Emergency Motion for a Preliminary Injunction

DE 101 Notice of Appeal

DE 102 Defendants' Opposed Emergency Motion to Stay Pending Appeal