

**U.S. District Court
Southern District of Indiana (Terre Haute)
CIVIL DOCKET FOR CASE #: 2:20-cv-00630-JMS-DLP**

SMITH et al v. BARR et al
Assigned to: Judge Jane Magnus-Stinson
Referred to: Magistrate Judge Doris L. Pryor
Cause: 28:2201 Declaratory Judgement

Date Filed: 11/25/2020
Date Terminated: 03/16/2021
Jury Demand: None
Nature of Suit: 555 Prisoner
Petitions - Prison Condition
Jurisdiction: U.S. Government
Defendant

Plaintiff

PATRICK R. SMITH

represented by **Caroline M. Mew**
PERKINS COIE LLP
700 13th St. NW
Suite 800
Washington, DC 20005-33960
202-654-1767
Fax: 202-654-6211
Email: cmew@perkinscoie.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Robert A. Burgoyne
PERKINS COIE LLP
700 13th St. NW
Suite 800
Washington, DC 20005-3960
202-654-1744
Fax: 202-654-6211
Email: rburgoyne@perkinscoie.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Sarah Howland
PERKINS COIE LLP
1155 Avenue of the Americas
22nd Floor
New York, NY 10036-2711
(212) 262-6900
Fax: (212) 977-1649
Email: showland@perkinscoie.com
PRO HAC VICE

ATTORNEY TO BE NOTICED

John R. Maley
BARNES & THORNBURG, LLP
(Indianapolis)
11 South Meridian street
Indianapolis, IN 46204
(317) 231-7464
Fax: (317) 231-7433
Email: jmaley@btlaw.com
ATTORNEY TO BE NOTICED

Plaintiff

BRANDON S. HOLM

represented by **Caroline M. Mew**
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Robert A. Burgoyne
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Sarah Howland
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

John R. Maley
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

WILLIAM P. BARR
U.S. Attorney General

represented by **Jordan L. Von Bokern**
U.S. DEPARTMENT OF JUSTICE
(Washington DC)
1100 L Street, NW
Washington, DC 20001
202-305-7919
Fax: 202-616-8460
Email:
jordan.l.von.bokern2@usdoj.gov
ATTORNEY TO BE NOTICED

Lisa A. Olson
U.S. DEPARTMENT OF JUSTICE
(Washington DC)
1100 L Street, NW
Washington, DC 20001
202-514-5633
Fax: 202-616-8470
Email: lisa.olson@usdoj.gov
ATTORNEY TO BE NOTICED

Shelese M. Woods
UNITED STATES ATTORNEY'S
OFFICE (Indianapolis)
10 West Market Street
Suite 2100
Indianapolis, IN 46204
(317) 226-6333
Fax: (317) 226-5027
Email: shelese.woods@usdoj.gov
ATTORNEY TO BE NOTICED

Defendant

MICHAEL CARVAJAL
*Director of Federal Bureau of
Prisons*

represented by **Jordan L. Von Bokern**
(See above for address)
ATTORNEY TO BE NOTICED

Lisa A. Olson
(See above for address)
ATTORNEY TO BE NOTICED

Shelese M. Woods
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

T.J. WATSON
*Warden of Terre Haute Federal
Correctional Complex*

represented by **Jordan L. Von Bokern**
(See above for address)
ATTORNEY TO BE NOTICED

Lisa A. Olson
(See above for address)
ATTORNEY TO BE NOTICED

Shelese M. Woods

(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/25/2020	<u>1</u>	COMPLAINT (<i>Class Action Complaint for Declaratory Judgment and Injunctive Relief</i>) against All Defendants, filed by All Plaintiffs. (Filing fee \$400, receipt number 0756-6295043) (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Proposed Summons, # <u>3</u> Proposed Summons, # <u>4</u> Proposed Summons)(Maley, John) (Entered: 11/25/2020)
11/25/2020	<u>2</u>	NOTICE of Appearance by John R. Maley on behalf of Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Maley, John) (Entered: 11/25/2020)
11/30/2020	<u>3</u>	ORDER OF RECUSAL. Clerk is directed to randomly reassign case and notify parties of newly assigned Judge. Signed by Judge James R. Sweeney II on 11/30/2020. (BRR) (Entered: 11/30/2020)
11/30/2020	<u>4</u>	NOTICE of Reassignment of Case to Judge Jane Magnus-Stinson. Judge James R. Sweeney II is no longer assigned to this case. Please include the new case number, 2:20-cv-00630-JMS-MJD , on all future filings in this matter. (RSF) (Entered: 11/30/2020)
11/30/2020	<u>5</u>	PRACTICES AND PROCEDURES before Judge James R. Sweeney II. (KAA) (Entered: 11/30/2020)
11/30/2020	<u>6</u>	MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (KAA) (Entered: 11/30/2020)
11/30/2020	<u>7</u>	MOTION for Attorney(s) Robert A Burgoyne to Appear pro hac vice (Filing fee \$100, receipt number 0756-6295949), filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # <u>1</u> Exhibit A - Attorney Certification, # <u>2</u> Text of Proposed Order)(Maley, John) (Entered: 11/30/2020)
11/30/2020	<u>8</u>	Summons Issued as to WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (KAA) (Entered: 11/30/2020)
11/30/2020	<u>9</u>	MOTION for Attorney(s) Caroline M. Mew to Appear pro hac vice (Filing fee \$100, receipt number 0756-6296008), filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # <u>1</u> Exhibit A - Attorney Certification, # <u>2</u> Text of Proposed Order)(Maley, John) (Entered: 11/30/2020)

11/30/2020	10	MOTION for Attorney(s) Sarah Howland to Appear pro hac vice (Filing fee \$100, receipt number 0756-6296049), filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # 1 Exhibit A - Attorney Certification, # 2 Text of Proposed Order)(Maley, John) (Entered: 11/30/2020)
11/30/2020	11	NOTICE of Reassignment of Case to Magistrate Judge Doris L. Pryor. Magistrate Judge Mark J. Dinsmore is no longer assigned to this case. Please include the new case number, 2:20-cv-00630-JMS-DLP , on all future filings in this matter. (RSF) (Entered: 11/30/2020)
11/30/2020	12	Emergency MOTION for Preliminary Injunction <i>and Request for Expedited Consideration</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # 1 Text of Proposed Order)(Maley, John) (Entered: 11/30/2020)
11/30/2020	13	<p>Appendix of Exhibits in Support of Motion re 12 Emergency MOTION for Preliminary Injunction <i>and Request for Expedited Consideration</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # 1 Exhibit A - Dr. Joe Goldenson Declaration, # 2 Exhibit A-1 - Goldenson CV, # 3 Exhibit B - Shelby Rampolo Declaration, # 4 Exhibit B-1 - Rick Winter Declaration from 2:20-cv-336, # 5 Exhibit B-2 - Timothy Floyd Declaration from 2:20-cv-336, # 6 Exhibit B-3 - BOP Execution Protocol from 2:20-cv-336, # 7 Exhibit B-4 - Rick Winter Declaration from 2:20-cv-350, # 8 Exhibit B-5 - 5/19/19 PREA, # 9 Exhibit B-6 - 11/19/20 Screenshot BOP website, # 10 Exhibit B-7 - 11/19/20 Screenshot BOP website, # 11 Exhibit B-8 - Demonstrator Info, # 12 Exhibit B-9 - Interim Guidance, # 13 Exhibit B-10 - FAQs, # 14 Exhibit B-11 - AFGE Complaint, # 15 Exhibit C - Sarah Howland Declaration Regarding Smith, # 16 Exhibit C-1 - 11/5/2020 Lee Email, # 17 Exhibit C-2 - Smith Screenshot, # 18 Exhibit C-3 - Smith First Request for Compassionate Release, # 19 Exhibit C-4 - Smith's Second Request for Compassionate Release, # 20 Exhibit C-5 - 6/30/20 Denial of Smith's Second Request, # 21 Exhibit D - Sarah Howland Declaration Regarding Holm, # 22 Exhibit D-1 - 11/4/20 Rieger Email, # 23 Exhibit D-2 - Holm Screenshot, # 24 Exhibit D-3 - 9/28/20 Judicial Request, # 25 Exhibit D-4 - 7/30/20 Pro Se Judicial Request, # 26 Exhibit E - Jennifer Davis Declaration,</p>

		# 27 Exhibit F - Cassandra Stubbs Declaration, # 28 Exhibit F-1 - BOP FOIA Excerpts, # 29 Exhibit G - Yusuf Ahmed Nur Declaration, # 30 Exhibit G-A - 11/26/20 Inconclusive COVID test results, # 31 Exhibit G-B - 11/30/20 Positive COVID test results)(Maley, John) (Entered: 11/30/2020)
11/30/2020	14	BRIEF/MEMORANDUM in Support re 12 Emergency MOTION for Preliminary Injunction <i>and Request for Expedited Consideration</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Maley, John) (Entered: 11/30/2020)
12/01/2020	15	PRACTICES AND PROCEDURES before Judge Jane Magnus-Stinson. (KAA) (Entered: 12/01/2020)
12/01/2020	16	MOTION for Emergency Hearing re 12 Emergency MOTION for Preliminary Injunction <i>and Request for Expedited Consideration (Plaintiffs' Request for Hearing on their Emergency Motion for Preliminary Injunction)</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # 1 Text of Proposed Order)(Maley, John) (Entered: 12/01/2020)
12/02/2020	17	SCHEDULING ORDER: A Status Conference is set for 12/3/2020 at 1:30 PM (Eastern Time) by Telephone before Magistrate Judge Doris L. Pryor. The purpose of the conference is to discuss a briefing schedule for the pending motion for preliminary injunction. Counsel shall attend the conference by calling the designated phone number, to be provided by the Court via email generated by the Court's ECF system. Signed by Magistrate Judge Doris L. Pryor on 12/2/2020.(KAA) (Entered: 12/02/2020)
12/02/2020	18	ORDER granting 7 Motion to Appear pro hac vice. Attorney Robert A. Burgoyne for BRANDON S. HOLM,Robert A. Burgoyne for PATRICK R. SMITH added. Applicant shall register for electronic filing, as required by Local Rule5-3, within ten (10) days of the entry of this Order. Copy to Mr. Burgoyne via US Mail. Signed by Magistrate Judge Doris L. Pryor on 12/2/2020. (KAA) (Entered: 12/02/2020)
12/02/2020	19	ORDER granting 9 Motion to Appear pro hac vice. Attorney Caroline M. Mew for BRANDON S. HOLM,Caroline M. Mew for PATRICK R. SMITH added. Applicant shall register for electronic filing, as required by Local Rule 5-3, within ten (10) days of the entry of this Order. Copy to Ms. Mew via US Mail. Signed by Magistrate Judge Doris L. Pryor on 12/2/2020. (KAA) (Entered: 12/02/2020)

12/02/2020	20	ORDER granting 10 Motion to Appear pro hac vice. Attorney Sarah Howland for BRANDON S. HOLM,Sarah Howland for PATRICK R. SMITH added. Applicant shall register for electronic filing, as required by Local Rule 5-3, within ten (10) days of the entry of this Order. Copy to Ms. Howland via US Mail. Signed by Magistrate Judge Doris L. Pryor on 12/2/2020. (KAA) (Entered: 12/02/2020)
12/02/2020	22	NOTICE of Appearance by Shelese M. Woods on behalf of Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Woods, Shelese) (Entered: 12/02/2020)
12/03/2020	23	NOTICE of Appearance by Lisa A. Olson on behalf of Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Olson, Lisa) (Entered: 12/03/2020)
12/03/2020	24	NOTICE of Appearance by Jordan L. Von Bokern on behalf of Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Von Bokern, Jordan) (Entered: 12/03/2020)
12/03/2020	25	ENTRY SETTING HEARING - The above cause is set for a hearing on Plaintiff's Motion for Preliminary Injunction, Dkt 16 , on Tuesday, December 8, 2020 at 10:00 a.m. by video. The parties are to file witness and exhibit lists on or before December 7, 2020 by 10:00 a.m. The Court has reserved up to 2 hours for the hearing. The court will contact counsel by separate email with the information to be used to participate in this hearing. SEE ORDER. Distributed pursuant to distribution list. Signed by Judge Jane Magnus-Stinson on 12/3/2020.(KAA) (Entered: 12/03/2020)
12/03/2020	27	MINUTE ORDER for proceedings held before Magistrate Judge Doris L. Pryor: The parties appeared by telephone for a Status Conference on December 3, 2020. The Court sets the following briefing schedule for the pending motion for preliminary injunction:*Defendants' Response is due by December 5, 2020 at 12:00 am.*Plaintiffs' Reply is due by December 7, 2020 at 10:00 am.The call was held and concluded. Signed by Magistrate Judge Doris L. Pryor. (CAG) (Entered: 12/04/2020)
12/04/2020	26	Order Directing Briefing - The defendants' brief in response to the plaintiffs' motion for a preliminary injunction is due at 12:00 a.m. on December 6, 2020. The Court directs the defendants to answer the following questions in their brief: (See Order.) Copies distributed pursuant to distribution list. Signed by Judge Jane Magnus-Stinson on 12/4/2020.(RSF) (Entered: 12/04/2020)
12/05/2020	28	RESPONSE in Opposition re 12 Emergency MOTION for Preliminary Injunction <i>and Request for Expedited Consideration</i> ,

		<p>filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Attachments: # 1 Exhibit 1, Declaration of T.J. Watson, # 2 Exhibit 2, Declaration of Kevin Pistro)(Von Bokern, Jordan) (Entered: 12/05/2020)</p>
12/07/2020	29	<p>Appendix of Exhibits in Support of Reply in Support of Motion re 12 Emergency MOTION for Preliminary Injunction <i>and Request for Expedited Consideration</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # 1 Exhibit A - Second Rampolo Declaration, # 2 Exhibit A-1 - Vigo County COVID data, # 3 Exhibit A-2 - Pennsylvania/National COVID data 11.29.20, # 4 Exhibit A-3 - Indiana/National COVID data 11.22.20, # 5 Exhibit A-4 - CDC Summary of Guidance Dec. 2020, # 6 Exhibit B - Second Nur Declaration)(Burgoyne, Robert)</p> <p>Modified on 12/7/2020 - created link to 31 (RSF). (Entered: 12/07/2020)</p>
12/07/2020	30	<p>APPENDIX re 28 Response in Opposition to Motion <i>List of Exhibits for Preliminary Injunction Hearing</i> by All Defendants. (Olson, Lisa) Modified on 12/7/2020 -edited title (RSF). (Entered: 12/07/2020)</p>
12/07/2020	31	<p>REPLY in Support of Motion re 12 Emergency MOTION for Preliminary Injunction <i>and Request for Expedited Consideration</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Burgoyne, Robert) (Entered: 12/07/2020)</p>
12/07/2020	32	<p>Exhibit List , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH, Witness List <i>for Preliminary Injunction Hearing</i>, filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Burgoyne, Robert) (Entered: 12/07/2020)</p>
12/07/2020	33	<p>MOTION for Leave to File <i>Two Supplemental Declarations in Support of Their Opposition to Plaintiffs' Motion for a Preliminary Injunction</i>, filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Attachments: # 1 Affidavit Supplemental Declaration of T.J. Watson, # 2 Affidavit Declaration of Rick Winter)(Olson, Lisa) (Entered: 12/07/2020)</p>
12/08/2020	34	<p>ORDER - This matter comes before the Court on Defendants' Motion for Leave to File Two Supplemental Declarations in Support of Their Opposition to Plaintiffs' Motion for a Preliminary Injunction, Dkt. 33 . The Court, being duly advised, hereby finds</p>

		that said Motion should be GRANTED. Signed by Magistrate Judge Doris L. Pryor on 12/8/2020. (RSF) (Entered: 12/08/2020)
12/08/2020	35	MINUTE ORDER for proceedings held before Judge Jane Magnus-Stinson: A hearing on the plaintiffs' motion for preliminary injunction was held by video conference on December 8, 2020 16 . The plaintiffs seek to enjoin all scheduled federal executions until the COVID-19 crisis has abated. Counsel Robert Burgoyne, Sarah Howland and John Maley appeared for plaintiffs Patrick Smith and Brandon Holm. Lisa Olson and Jordan L. Von Bokern appeared on behalf of the U.S. Department of Justice, and Shelese Woods appeared on behalf of the U.S. Attorney's Office. The hearing was recorded by Court Reporter, Jean Knepley. The parties presented oral argument on the pending motion. No witnesses were called. Spectators were present by video. The Court will issue an order in due course. Signed by Judge Jane Magnus-Stinson. (Court Reporter Jean Knepley.) (MRI) (Entered: 12/08/2020)
12/08/2020	36	MOTION for Leave to File <i>Post-Hearing Responses to Questions</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Burgoyne, Robert) (Entered: 12/08/2020)
12/08/2020	37	Order Denying Motion for Preliminary Injunction - Circuit precedent arising from prior recent executions makes clear the nearly limitless discretion the Attorney General possesses in conducting federal executions. The only limitation to such discretion argued here is the Eighth Amendment to the United States Constitution, and the plaintiffs have not met their burden of showing their constitutional claim is likely to succeed. That others, or a court, might exercise discretion differently in light of the risks presented by a deadly virus is not the relevant calculus. The plaintiffs' emergency motion for preliminary injunction, dkt. 12 , is therefore denied. The plaintiffs' motion for leave to file post-hearing responses to the Court's questions, dkt. 36 , is granted. The Court considered these responses in deciding the motion. (See Order.) Signed by Judge Jane Magnus-Stinson on 12/8/2020. (RSF) (Entered: 12/08/2020)
12/08/2020	38	TRANSCRIPT of Video Motion for Preliminary Injunction held on 12-8-2020 before Chief Judge Jane Magnus-Stinson. (35 pages.) Court Reporter/Transcriber: Jean Knepley (Telephone: (317) 696-3565). Please review Local Rule 80-2 for more information on redaction procedures. Redaction Statement due 12/29/2020. Release of Transcript Restriction set for 3/8/2021. (Knepley, Jean) Released on 3/9/2021 (SWM). (Entered: 12/08/2020)

12/08/2020	39	NOTICE of FILING of OFFICIAL TRANSCRIPT of Video Motion for Preliminary Injunction held before Chief Judge Jane Magnus-Stinson on 12-8-2020 (Knepley, Jean) (Entered: 12/08/2020)
12/09/2020	40	MOTION <i>for Leave to Take Limited, Expedited Discovery</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # 1 Exhibit 1 - Example Contact Tracing Records)(Burgoyne, Robert) (Entered: 12/09/2020)
12/09/2020	41	Order Directing Defendants to Respond to Motion for Leave to Take Expedited Discovery The plaintiffs have filed a motion for leave to take expedited discovery regarding positive COVID-19 cases among execution team members and FCC Terre Haute staff, as well as any interaction between these COVID-positive individuals and FCI Terre Haute inmates and staff. The defendants shall have until 11:59 p.m. on December 9, 2020, to respond to the plaintiffs' motion. Signed by Magistrate Judge Doris L. Pryor on 12/9/2020.(RSF) (Entered: 12/09/2020)
12/09/2020	42	MOTION to Stay <i>Discovery</i> , filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Attachments: # 1 Text of Proposed Order)(Woods, Shelese) (Entered: 12/09/2020)
12/09/2020	43	RESPONSE in Opposition re 40 MOTION <i>for Leave to Take Limited, Expedited Discovery</i> , filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Woods, Shelese) (Entered: 12/09/2020)
12/10/2020	44	***PLEASE DISREGARD - VACATED AT 45 *** Order Directing Plaintiffs to Respond to Motion to Stay Discovery - On December 9, 2020, the plaintiffs filed a motion for expedited discovery. Dkt. 40 . Also on December 9, the defendants responded and filed a motion to stay discovery. Dkt. 42 ; dkt. 43 . The plaintiffs shall have until 11:59 p.m. on December 10, 2020, to respond to the defendants' motion to stay discovery. Signed by Magistrate Judge Doris L. Pryor on 12/10/2020 (Entered: 12/10/2020)
12/10/2020	45	Order Granting Motion for Expedited Discovery and Denying Motion to Stay Discovery - The plaintiffs' motion for leave to take

		<p>limited expedited discovery, dkt. 40 , is granted to the extent that the defendants' shall have through December 15, 2020, to respond to the plaintiffs' discovery requests. Given the time-sensitive nature of the plaintiffs' claims and the possibility that the plaintiffs will file another motion for preliminary injunction in the near future, there is good cause for expedited discovery. The</p> <p>defendants' motion to stay discovery, dkt. 42 , is denied. The order directing the plaintiffs to respond to the defendants' motion to stay discovery, dkt. 44 , is vacated. Signed by Magistrate Judge Doris L. Pryor on 12/10/2020. (RSF) (Entered: 12/10/2020)</p>
12/23/2020	46	<p>MINUTE ORDER for proceedings held before Magistrate Judge Doris L. Pryor: The parties appeared by telephone for a conference on December 22, 2020. John Maley and Robert Burgoyne appeared for the plaintiffs. Assistant United States Attorney Shelese Woods appeared for the defendants. The parties discussed discovery disputes. The defendants shall provide supplemental unredacted discovery responses as discussed during the conference. The call was held and concluded. Signed by Magistrate Judge Doris L. Pryor. (CAG) (Entered: 12/23/2020)</p>
12/28/2020	47	<p>Second MOTION for Preliminary Injunction , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # 1 Appendix Index of Exhibits, # 2 Exhibit 1 - Fefferman Declaration, # 3 Exhibit 1-A - Fefferman CV, # 4 Exhibit 1-B - BOP declarations, # 5 Exhibit 1-C - Contact tracing records, # 6 Exhibit 2 - Formosa Declaration, # 7 Exhibit 3 - Mew Declaration, # 8 Exhibit 3-A - Responses to Doc. Reqs., # 9 Exhibit 3-B - Responses to Interrogatories, # 10 Exhibit 3-C - Dec. 22 ltr. and Supp. Response to Doc. Req. 1)(Burgoyne, Robert) (Entered: 12/28/2020)</p>
12/28/2020	48	<p>BRIEF/MEMORANDUM in Support re 47 Second MOTION for Preliminary Injunction , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Burgoyne, Robert) (Entered: 12/28/2020)</p>

12/28/2020	49	MOTION <i>for Expedited Briefing on Second Motion for Preliminary Injunction</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # 1 Text of Proposed Order)(Burgoyne, Robert) (Entered: 12/28/2020)
12/29/2020	50	ORDER granting 49 Motion for expedited briefing on their second motion for preliminary injunction. Defendants shall file their opposition to Plaintiffs' second motion for preliminary injunction on or before January 4, 2021. Plaintiffs' shall file their reply brief on or before January 6, 2021. The Court will notify the parties whether it will hold a hearing on the motion. Signed by Judge Jane Magnus-Stinson on 12/29/2020. (RSF) (Entered: 12/29/2020)
01/04/2021	51	RESPONSE in Opposition re 47 Second MOTION for Preliminary Injunction , filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Attachments: # 1 Exhibit 1 - Third Declaration of TJ Watson, # 2 Exhibit 2 - Second Declaration of Rick Winter, # 3 Exhibit 3 - Excerpt of Hearing Transcript)(Von Bokern, Jordan) (Entered: 01/04/2021)
01/05/2021	52	Order Directing Plaintiffs to Address 18 U.S.C. § 3626(a)(2) - The plaintiffs are directed to address in their reply whether the relief they request satisfies the requirements of 18 U.S.C. § 3626(a)(2) and, if not, to propose relief that does satisfy them. (See Order.) Signed by Judge Jane Magnus-Stinson on 1/5/2021.(RSF) (Entered: 01/05/2021)
01/05/2021	53	***PLEASE DISREGARD - DUPLICATE ENTRY OF 52 *** Order Directing Plaintiffs to Address 18 U.S.C. § 3626(a)(2) - The plaintiffs are directed to address in their reply whether the relief they request satisfies the requirements of 18 U.S.C. § 3626(a)(2) and, if not, to propose relief that does satisfy them. SEE ORDER. Signed by Judge Jane Magnus-Stinson on 1/5/2021.(JRB) Modified on 1/5/2021 (RSF). (Entered: 01/05/2021)
01/06/2021	54	REPLY in Support of Motion re 47 Second MOTION for Preliminary Injunction , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Burgoyne, Robert) (Entered: 01/06/2021)

01/07/2021	55	Order Granting in Part and Denying in Part Plaintiffs' Second Motion for Preliminary Injunction - The plaintiffs here--two inmates at FCI Terre Haute--have made a strong showing that they face an unconstitutional health risk if the defendants carry out scheduled executions without significant modifications to their COVID-19 prevention measures. The plaintiffs' second motion for preliminary injunction, dkt. 47 , is granted in part and denied in part. A separate order for preliminary injunction shall issue. (See Order.) Signed by Judge Jane Magnus-Stinson on 1/7/2021. (RSF) (Entered: 01/07/2021)
01/07/2021	56	Order Granting Preliminary Injunction - The Court concluded in an order issued on this date that plaintiffs Patrick R. Smith and Brandon S. Holm have demonstrated that they are entitled to a preliminary injunction. The defendants are enjoined from carrying out any future executions in the next 60 days without implementing the following policies: SEE ORDER. Signed by Judge Jane Magnus-Stinson on 1/7/2021.(RSF) (Entered: 01/07/2021)
01/10/2021	57	Emergency MOTION <i>for Pre- and Post-Execution Compliance Reports</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # 1 Text of Proposed Order)(Burgoyne, Robert) (Entered: 01/10/2021)
01/10/2021	58	MARGINAL ENTRY - Defendants shall file any response to the Plaintiffs' motion 57 by noon January 11, 2021. No reply is necessary. Signed by Judge Jane Magnus-Stinson on 1/10/2021.(RSF) (Entered: 01/10/2021)
01/11/2021	59	RESPONSE in Opposition re 57 Emergency MOTION <i>for Pre- and Post-Execution Compliance Reports</i> , filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Von Bokern, Jordan) (Entered: 01/11/2021)
01/11/2021	60	Order Granting in Part and Denying in Part Plaintiffs' Emergency Motion for Pre- and Post-Execution Compliance Reports - the plaintiffs' motion, dkt. 57 , is granted in part and denied in part. Within 15 days of each execution carried out at FCC Terre Haute, the defendants shall each file with the Court a sworn affidavit or declaration under penalty of perjury attesting that they have complied with the Court's preliminary injunction. Any other requested relief is denied. Nothing in this entry prevents the Court from taking additional enforcement action, should it learn its

		injunction is not being followed. (See Order.) Signed by Judge Jane Magnus-Stinson on 1/11/2021. (RSF) (Entered: 01/11/2021)
01/15/2021	61	Emergency MOTION <i>Requiring Defendants to Show Cause Why They Should Not Be Held in Contempt</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Attachments: # 1 Exhibit 1 - Davis Declaration, # 2 Exhibit Attachment to Davis Decl. - G. Hale Twitter, # 3 Exhibit 2 - Breeden Declaration, # 4 Text of Proposed Order)(Burgoyne, Robert) (Entered: 01/15/2021)
01/15/2021	62	Order Directing Defendants Michael Carvajal and T.J. Watson to Show Cause - The plaintiffs' motion, dkt. 61 , is granted to the extent that defendants T.J. Watson and Michael Carvajal shall have until 7:00 p.m. Eastern on January 15, 2021, to show cause why they should not be held in contempt for violating the injunction. The response must be personally verified by each of these defendants. (See Order.) Signed by Judge Jane Magnus-Stinson on 1/15/2021.(RSF) (Entered: 01/15/2021)
01/15/2021	63	RESPONSE in Opposition re 61 Emergency MOTION <i>Requiring Defendants to Show Cause Why They Should Not Be Held in Contempt</i> , filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Attachments: # 1 Exhibit A - Winter declaration, # 2 Exhibit B - Watson declaration, # 3 Exhibit C - Carvajal declaration)(Von Bokern, Jordan) (Entered: 01/15/2021)
01/15/2021	64	REPLY in Support of Motion re 61 Emergency MOTION <i>Requiring Defendants to Show Cause Why They Should Not Be Held in Contempt</i> , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Burgoyne, Robert) (Entered: 01/15/2021)
01/15/2021	65	Order Denying in Part Plaintiffs' Motion for Finding of Contempt - The plaintiffs' motion, dkt. 61 , is denied in part. The Court shall not stay executions pending a ruling on the motion to show cause. Nor shall the Court prohibit the officials who removed their

		<p>masks during the execution on January 14, 2021, from participating in the execution on January 15, 2021. However, the defendants shall ensure that these two officials shall not have close contact with any FCC Terre Haute personnel, beginning immediately and for the remainder of the officials' time at FCC Terre Haute in January 2021. "Close contact" shall be defined as "being within 6 feet of a person for a cumulative total of 15 minutes or more over a 24-hour period." The defendants shall certify compliance with this requirement in accordance with the terms in the Court's order dated January 11, 2021. The Court may set a hearing for additional factfinding in a future order. (See Order.) Signed by Judge Jane Magnus-Stinson on 1/15/2021.(RSF) (Entered: 01/15/2021)</p>
01/21/2021	66	<p>NOTICE of Parties' First Extension of Time re Filing a response to pleading defined by Fed. R. Civ. P. 7(a), filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Woods, Shelese) (Entered: 01/21/2021)</p>
01/27/2021	67	<p>NOTICE of Compliance, filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON, re 56 Preliminary Injunction, 65 Entry, 60 Order on Motion. (Attachments: # 1 Exhibit 1, Watson Decl., # 2 Exhibit 2, Carvajal Decl.) (Woods, Shelese) (Entered: 01/27/2021)</p>
01/29/2021	68	<p>NOTICE of Compliance, filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON, re 56 Preliminary Injunction, 65 Entry, 60 Order on Motion. (Attachments: # 1 Exhibit 1, Carvajal Decl., # 2 Exhibit 2, Watson Decl.) (Woods, Shelese) (Entered: 01/29/2021)</p>
01/29/2021	69	<p>NOTICE of Compliance, filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON, re 56 Preliminary Injunction, 65 Entry, 60 Order on Motion. (Attachments: # 1 Exhibit 1, Carvajal Decl., # 2 Exhibit 2, Watson Decl.) (Woods, Shelese) (Entered: 01/29/2021)</p>
02/02/2021	70	<p>SCHEDULING ORDER: A Status Conference is set for 2/5/2021 at 3:00 PM (Eastern Time) by Telephone before Magistrate Judge Doris L. Pryor. The purpose of the conference is to discuss case</p>

		status. Counsel shall attend the conference by calling the designated phone number, to be provided by the Court via email generated by the Court's ECF system. Signed by Magistrate Judge Doris L. Pryor on 2/2/2021(KAA) (Entered: 02/02/2021)
02/09/2021	72	MINUTE ORDER for proceedings held before Magistrate Judge Doris L. Pryor: The parties appeared by telephone for a conference on February 5, 2021. Robert Burgoyne appeared for the plaintiffs. Assistant United States Attorney Shelese Woods appeared for the defendants. On or before February 12, 2021, the plaintiffs will notify the Court whether they seek a hearing on their emergency motion requiring defendants to show cause, dkt. 61 . The matter is set for a telephone status conference on February 16, 2021 at 8:30 a.m. (Eastern). The purpose of the conference is to discuss case status. Counsel shall attend the conference by calling the designated phone number, to be provided by the Court via email generated by the Court's ECF system. Signed by Magistrate Judge Doris L. Pryor. (CAG) (Entered: 02/09/2021)
02/12/2021	74	RESPONSE to <i>Defendants' Reports Regarding Compliance</i> , re 68 Notice (Other), 69 Notice (Other), 67 Notice (Other), filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Burgoyne, Robert) (Entered: 02/12/2021)
02/17/2021	75	MINUTE ORDER for proceedings held before Magistrate Judge Doris L. Pryor: The parties appeared by telephone for a conference on February 16, 2021. Robert Burgoyne appeared for the plaintiffs. Assistant United States Attorney Shelese Woods appeared for the defendants. The parties discussed the plaintiffs' recent filing, dkt. 74 . The matter is set for a telephone status conference on February 19, 2021, at 11:00 a.m. (Eastern). The purpose of the conference is to discuss case status. Counsel shall attend the conference by calling the designated phone number, to be provided by the Court via email generated by the Court's ECF system. Signed by Magistrate Judge Doris L. Pryor. (CAG) (Entered: 02/17/2021)
02/18/2021	77	RESPONSE re 74 Response , filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Woods, Shelese) (Entered: 02/18/2021)
02/19/2021	78	Order Denying Without Prejudice Plaintiffs' Motion to Require Supplemental Report:The plaintiffs filed this civil rights action alleging that the defendants, by conducting executions during a pandemic, showed deliberate indifference to their health and safety.

		<p>On January 7, 2021, the Court granted in part the plaintiffs' motion for preliminary injunction and prohibited the defendants from carrying out executions without taking certain precautions. Dkts. 55 and 56. On January 11, 2021, the Court directed the defendants to file sworn affidavits or declarations following each execution attesting to their compliance with the preliminary injunction. Dkt. 60. The defendants filed declarations on January 27 and January 29, 2021. Dkts. 6769. The plaintiffs filed a purported response to those declarations, dkt. 74, asking for a Court order directing the defendants to file a supplemental report documenting their compliance with the preliminary injunction. The Court construes this response as a motion for the Court to order a supplemental report, and that motion, dkt. 74, is denied without prejudice. The plaintiffs have not shown that the discovery process is inadequate for them to obtain the information they seek. If, after discovery, the plaintiffs wish to challenge the defendants' declarations as inadequate, this Order does not prevent them from doing so. Signed by Judge Jane Magnus-Stinson on 2/19/2021.(NLR) (Entered: 02/19/2021)</p>
02/22/2021	79	<p>MOTION to Dismiss for Lack of Jurisdiction , filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Woods, Shelese) (Entered: 02/22/2021)</p>
02/22/2021	80	<p>BRIEF/MEMORANDUM in Support re 79 MOTION to Dismiss for Lack of Jurisdiction , filed by Defendants WILLIAM P. BARR, MICHAEL CARVAJAL, T.J. WATSON. (Woods, Shelese) (Entered: 02/22/2021)</p>
02/22/2021	81	<p>MINUTE ORDER for proceedings held before Magistrate Judge Doris L. Pryor: The parties appeared by telephone for a conference on February 16, 2021. Robert Burgoyne appeared for the plaintiffs. Assistant United States Attorney Shelese Woods appeared for the defendants. The parties discussed discovery. The defendants will produce responses to the plaintiffs' discovery requests by March 5, 2021. The matter is set for a telephone status conference on March 18, 2021, at 9:45 a.m. (Eastern). The purpose of the conference is to discuss case status. Counsel shall attend the conference by calling the designated phone number to be provided by the Court via email generated by the Court's ECF system. Signed by Magistrate Judge Doris L. Pryor. (CAG) (Entered: 02/22/2021)</p>
03/15/2021	83	<p>RESPONSE to Motion re 79 MOTION to Dismiss for Lack of Jurisdiction , filed by Plaintiffs BRANDON S. HOLM, PATRICK R. SMITH. (Burgoyne, Robert) (Entered: 03/15/2021)</p>

03/15/2021	86	MOTION to Appoint Counsel, filed by Plaintiff PATRICK R. SMITH. (Attachments: # 1 Exhibit, # 2 Envelope)(AAS) (Entered: 03/17/2021)
03/16/2021	84	Order Dismissing Action as Moot - The defendant's motion to dismiss, dkt. 79 , is granted. This action is dismissed for lack of jurisdiction. The plaintiffs' pending motion for an order requiring the defendants to show cause, dkt. 61 , is denied as moot. Final judgment shall now enter. Signed by Judge Jane Magnus-Stinson on 3/16/2021. (KAA) (Entered: 03/16/2021)
03/16/2021	85	FINAL JUDGMENT - The Court now enters final judgment. This action is dismissed for lack of jurisdiction. Signed by Judge Jane Magnus-Stinson on 3/16/2021.(KAA) (Entered: 03/16/2021)
03/18/2021	87	Order Denying Motion to Appoint Counsel - Mr. Smith has submitted a letter to the Court asking for counsel to investigate his unrelated claim that prison medical staff are denying him adequate care. Dkt. 86. The Court construes this letter as a motion for counsel, and the motion, dkt. 86 , is denied. The clerk is directed to include a blank prisoner complaint form with Mr. Smith's copy of this Order. SEE ORDER. Copy to Plaintiff via US Mail. Signed by Judge Jane Magnus-Stinson on 3/18/2021. (Attachments: # 1 Prisoner Complaint Form) (KAA) (Entered: 03/18/2021)

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