

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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RICHARD NUNES, CARL COE, )  
 JOHN DOE, PETER POE, and RICHARD )  
 ROE, on behalf of themselves and all others )  
 similarly situated, )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 UMASS CORRECTIONAL HEALTH, )  
 MASSACHUSETTS DEPARTMENT OF )  
 CORRECTION, LEONARD MCGUIRE, )  
 WARREN FERGUSON, JUDITH )  
 STEINBERG, THOMAS GROBLEWSKI, )  
 and PETER HEFFERNAN, )  
 Defendants. )

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CIVIL ACTION  
NO: 1:10-CV-12013-RWZ

**DEFENDANTS, UMASS CORRECTIONAL HEALTH,  
LEONARD MCGUIRE, WARREN FERGUSON,  
JUDITH STEINBERG, AND THOMAS GROBLEWSKI'S  
MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure defendants, UMass Correctional Health, Leonard McGuire, Warren Ferguson, Judith Steinberg and Thomas Groblewski (collectively the “UMCH defendants”) hereby move for the entry of summary judgment as to all claims of plaintiffs’ Complaint.

As set forth in the accompanying Consolidated Memorandum of Law and Statement of Undisputed Material Facts,<sup>1</sup> UMCH defendants are entitled to judgment as a matter of law as to plaintiffs’ request for injunctive/declaratory relief seeking to invalidate a certain medication distribution policy.<sup>2</sup> The policy change as to the particular medication distribution within the Massachusetts Department of Corrections from a system of “Keep on Person” (“KOP”) to

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<sup>1</sup> The Memorandum of Law and Statement of Undisputed Material Facts are being filed under seal pursuant to this Court’s Protective Order (April 8, 2011) and the Defendants’ Joint Motion to File Under Seal Summary Judgment Materials which motion was filed with the court on December 14, 2012.

<sup>2</sup> Plaintiffs do not allege or make any claim for monetary damages only injunctive/declaratory relief.

“Directly Observed Therapy” (“DOT”) does not infringe upon any constitutional, statutory or privacy right of plaintiff inmates. Requiring the plaintiff inmates (among others) to obtain their medications on a daily basis in a medication line does not constitute cruel and unusual punishment or otherwise constitute discrimination, an unconstitutional privacy violation, or transgression of the equal protection clause. Defendants are entitled to judgment as a matter of law.

WHEREFORE, defendants, UMass Correctional Health, Leonard McGuire, Warren Ferguson, Judith Steinberg and Thomas Groblewski, respectfully request that their Motion for Summary Judgment be **GRANTED**.

The Defendants,  
UMASS CORRECTIONAL HEALTH,  
LEONARD MCGUIRE,  
WARREN FERGUSON,  
JUDITH STEINBERG, AND  
THOMAS GROBLEWSKI,

By their attorneys,

/s/ Tory A. Weigand

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I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on **December 14, 2012**

/s/ Tory A. Weigand

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Tory A. Weigand