

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:20-HC-2088-FL

CHARLES HALLINAN, JOSEAN)
KINARD, ARNOLD J. HILL,)
BENJAMIN D. McRAE, JOHN DAILEY,)
LEE M. AYERS, GEORGE B. RIDDICK,)
JORGE LUIS MALDONADO, ANTWAN)
HARRIS, ANTHONY BUTLER, and)
TROY A. TITUS, on behalf of themselves)
and similarly situated individuals,)

Petitioners/Plaintiffs,)

v.)

THOMAS SCARANTINO, Complex)
Warden, Federal Correctional Complex)
Butner; MICHAEL CARVAJAL, Federal)
Bureau of Prisons Director; and JEFFERY)
ALLEN, Federal Bureau of Prisons)
Medical Director, in their official)
capacities,)

Respondents/Defendants.)

RESPONDENTS' PRELIMINARY
RESPONSE TO PETITIONERS' MOTION
FOR TEMPORARY RESTRAINING
ORDER

Respondents, by and through the United States Attorney for the Eastern District of North Carolina, hereby submit this Preliminary Response to Petitioners' Motion for Temporary Restraining Order ("TRO") (D.E. 24), and respectfully request that the Court allow Respondents a reasonable amount of time, up to and including June 3, 2020, to respond to both the underlying Petition (D.E. 1) and the Motion for a TRO.

On May 26, 2020, Petitioners, through counsel, filed a voluminous petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking injunctive and

declaratory relief for alleged unconstitutional conditions of confinement. Specifically, Petitioners allege Respondents have violated their Eighth Amendment rights by failing to control the spread of the novel coronavirus (“COVID-19”) at the Federal Correctional Complex in Butner, North Carolina (“FCC Butner”), and by failing to provide proper medical care for those inmates infected with the virus. (D.E. 1). On May 27, 2020, the Court conducted an initial review and allowed the case to proceed. (D.E. 15). The Court also directed Respondents to file a response to the petition on or before June 3, 2020.

At almost 6:00 PM on May 28, 2020, two days after filing the petition, Petitioners filed a Motion for a TRO raising the same issues as they raised in the petition. Respondents’ counsel contacted Petitioners’ counsel, seeking consent for a request that Respondents be permitted to respond to both the petition and the Motion for a TRO by the Court’s June 3, 2020, response date. Petitioners’ counsel stated that they oppose Respondents’ request.¹

In both their petition and Motion for a TRO, Petitioners have requested sweeping relief including the unprecedented release of prisoners en masse from federal prison. (D.E. 1, 24). As such, if the Court is inclined to either immediately grant Petitioners’ Motion for a TRO or to deny Respondents’ request to respond to

¹ In its May 27, 2020 Order, the Court recognized that although Petitioners may have requested a TRO or preliminary injunction in their petition, they did not properly file such a motion as required by both federal and local rules of civil procedure. [D.E. 15, at 2]. Through the filing of the instant Motion for TRO, Petitioners appear to attempt to remedy their failure, yet now seek to hold Respondents to an unreasonably shorter response time.

both the petition and TRO by June 3, 2020, Respondents respectfully request the opportunity to be heard via oral argument before the Court rules on the motion.

Respectfully submitted, this 29th day of May, 2020.

ROBERT J. HIGDON JR.
United States Attorney

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CERTIFICATE OF SERVICE

This is to certify that I have this 29th day of May, 2020, served a copy of the foregoing upon Petitioners' counsel of record by electronically filing the same with the Clerk of Court via the CM/ECF Document Filing System.

/s/ Michael Bredenberg
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