
In The Supreme Court of Virginia

RECORD NO: _____

**INTERFAITH ACTION FOR HUMAN RIGHTS, JAMES STUCKEY,
AMBER BROWN, ANGELA WELLS, MILDRED ANN WHEELER,**
Petitioners,

v.

**COMMONWEALTH OF VIRGINIA, RALPH NORTHAM,
BRIAN MORAN, HAROLD CLARKE, VALERIE BOYKIN,
ADRIANNE BENNETT, & ALL VIRGINIA
CIRCUIT AND DISTRICT COURTS,**

Respondents.

PETITION FOR WRIT OF MANDAMUS

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Jennifer Safstrom (VSB No. 93746)
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PETITION FOR WRIT OF MANDAMUS

Petitioners INTERFAITH ACTION FOR HUMAN RIGHTS (“IAHR”), JAMES STUCKEY, AMBER BROWN, ANGELA WELLS, MILDRED ANN WHEELER (“Petitioners”), on behalf of INDIVIDUALS IN CRIMINAL CUSTODY IN THE COMMONWEALTH OF VIRGINIA AT RISK OF CONTRACTING COVID-19, by and through counsel hereby petitions this Honorable Court for an Order granting a Writ of Mandamus, directing the COMMONWEALTH OF VIRGINIA, RALPH NORTHAM, Governor, Commonwealth of Virginia, BRIAN MORAN, Secretary, Public Safety and Homeland Security, HAROLD CLARKE, Director, Virginia Department of Corrections (“VDOC”), VALERIE BOYKIN, Director, Department of Juvenile Justice (“DJJ”), ADRIANNE BENNETT, Chair, Parole Board, and ALL VIRGINIA CIRCUIT & DISTRICT COURTS (collectively “Respondents”), to take immediate steps to significantly reduce the population of correctional facilities, with appropriate considerations for public safety, to prevent the massive loss of life and harm that the spread of COVID-19 will cause in such facilities.

This Petition is made pursuant to Rule 5:7(b) of the Rules of Supreme Court of Virginia, §§ 17.1-309 and 8.01-644 of the Code of Virginia, and Article VI, Section 1 of the Constitution of Virginia, to seek relief of violations of the Eighth and Fourteenth Amendments to the U.S. Constitution and Sections 9 and 11 of Article I of the Virginia

Constitution. This Petition is further supported by the accompanying Memorandum of Law.

The Coronavirus pandemic poses an imminent and grave threat to the thousands of men, women, and youth confined in Virginia's correctional facilities. In this action, Petitioners—a faith-based organization of criminal justice advocates, a detained individual, and family members of incarcerated individuals—seek intervention from the Court to force the Respondents to discharge their statutory and constitutional duties to care for the health of people in their custody. This Petition seeks extraordinary relief for extraordinary circumstances. There is a significant interest in reducing inmate populations to protect those who are incarcerated in or work at these overcrowded facilities. COVID-19 outbreaks within overcrowded facilities, facilities in which appropriate physical distancing is not possible, or institutions that lack sufficient hygiene and sanitary products or procedures, will not only place inmates at risk of serious illness or death, but will also endanger the lives and well-being of staff and service providers who work in the facilities, their families, and members of the community at large. Moreover, outbreaks within these facilities would overwhelm the system and reduce the already-limited resources of community health care providers, including hospital beds, ventilators, and personal protective equipment. Virulent spread within close quarters will also require the utilization of additional resources to provide constitutionally mandated medical care to currently incarcerated persons. To mitigate the harm that the COVID-19 pandemic will inflict upon people incarcerated in prisons

and jails, correctional staff, and people of the Commonwealth of Virginia, Petitioners respectfully request the following relief:

1. Order the Governor and all relevant state agencies to exercise their existing authority and discretion to review and release, with or without conditions, the following categories of individuals:
 - Individuals whose sentences would be completed within the next year (365 days or fewer of incarceration);
 - Individuals whose sentences would end in the next two years and who also are at increased risk of serious illness from COVID-19, including but not limited to individuals who meet the U.S. Centers for Disease Control & Prevention (“CDC”) high risk criteria or who are pregnant;
 - Individuals who are incarcerated as a result of a technical violation of parole;
 - Individuals who are currently eligible for discretionary or geriatric parole;
 - Any other individual for whom release is appropriate.
2. Order the Governor and all relevant state agencies to undertake specific measures to reduce the number of juveniles detained in state custody.
3. Order the Governor and all relevant state agencies to adhere to the CDC’s *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*.
4. Order the Governor and all relevant state agencies to submit for the Court’s review a plan for each detainment facility to provide adequate measures for the prevention of the spread of the SARS-COV-2 virus; adequate screening and treatment of people showing symptoms of COVID-19 in accordance with contemporary standards of care; adequate medical personnel and equipment for the provision of care, including oxygen assistance equipment and ventilators for incarcerated persons in the event of an outbreak; and compliance with health officials’ recommendations for all those who are detained, employed, or visiting.
5. Order all courts to immediately take all actions within their power to reduce the populations of the jails and prisons, including but not limited to, releasing as many people as possible who are the highest risk, as defined by the guidance from the CDC, including individuals who are above the age of 60, or those with chronic illnesses or disabilities, or who are pregnant, unless their continued

confinement is necessary to prevent an imminent and serious threat to public safety.

6. Order all courts to expedite individualized determinations of suitability for release consistent with public health and public safety, and to consider the serious health risks posed by detention to the defendant, other incarcerated individuals, and the community in probation detention hearings, bail determination and reconsideration hearings, and dangerousness hearings.
7. Order all courts to cease new admissions to the system unless necessary to address an imminent and serious threat to public safety, including vacating all bench warrants and ceasing to issue new bench warrants for failures to appear or failures to pay outstanding fees and fines.
8. Order courts to suspend all probation, parole, or pretrial conditions whose adherence would require the individual to violate the CDC's social distancing or self-quarantine instructions.
9. Appoint an expert or Special Master to make recommendations to this Court, the Governor, and the lower courts regarding how many and which individuals to order released so as to ensure that the number of individuals remaining in custody can be housed consistently with CDC Guidance on best practices to prevent the spread of COVID-19, including the requirement that prisoners be able to maintain six feet of space between them.

This Order would prevent the loss of life and harm that the spread of the COVID-19 pandemic would cause inside and outside of correctional facilities. Extraordinary relief is an appropriate remedy in this situation where the dangerous spread of COVID-19 throughout Virginia's correctional facilities is nearly inevitable without immediate action from Respondents, and no other legal remedy would provide a plain, speedy, or adequate response needed to avert a medical crisis in Virginia's correctional facilities.

Petitioners do not believe that the taking of additional evidence is necessary for the proper disposition of this Petition.

CONCLUSION

Petitioners respectfully requests that this Court grant the instant Petition and issue a Writ of Mandamus ordering Respondents to take immediate steps to significantly reduce the population of its correctional facilities, and any and all other relief the Court deems appropriate, to prevent the extraordinary loss of life and harm that the spread of COVID-19 would cause in such facilities.

Respectfully Submitted,

/s/ Eden B. Heilman

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies on this 22 day of April, 2020, that the foregoing brief complies with Rule 5:7 and that four paper copies have been delivered to the Clerk's Office of the Supreme Court of Virginia. This same day a copy of the foregoing brief has been delivered via email to the following:

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Respectfully Submitted,

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VERIFICATION

Pursuant to Va. Code § 8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

04/22/2022
DATE


Amber Brown

VERIFICATION

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04/22/2022
DATE



Angela Wells

VERIFICATION

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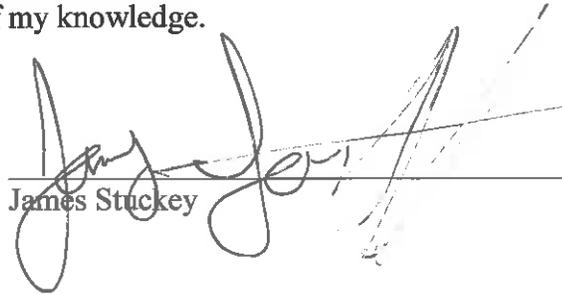
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Mildred Ann Wheeler

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James Stuckey