

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No.: 1:20-cv-21457

ANTHONY SWAIN et al.,
Plaintiffs,

v.

DANIEL JUNIOR et al.,
Defendants.

**[PROPOSED] ORDER GRANTING PLAINTIFFS' EMERGENCY MOTION FOR A
TEMPORARY RESTRAINING ORDER**

The Plaintiffs' Motion for Temporary Restraining Order is GRANTED:

1. It is ORDERED that within six hours of this order (by _____ [a.m./p.m.] today), Defendants shall provide the Plaintiffs and this Court with a list of all individuals who are currently detained at Metro West Detention Facility awaiting trial and who meet any of the following criteria:

- Are 50 years of age or older;
- Have lung disease, including asthma, chronic obstructive pulmonary disease (e.g. bronchitis or emphysema), or other chronic conditions associated with impaired lung function;
- Have heart disease, such as congenital heart disease, congestive heart failure, or coronary artery disease;
- Have chronic liver or kidney disease (including hepatitis and dialysis patients);
- Have diabetes or other endocrine disorders;
- Have epilepsy;
- Experience hypertension;
- Have a compromised immune systems (such as from cancer, HIV, receipt of an

organ or bone marrow transplant, as a side effect of medication, or other autoimmune disease);

- Have a blood disorder (including sickle cell disease);
- Have an inherited metabolic disorders;
- Have a history of stroke;
- Have a developmental disability;
- Are or have been pregnant within the last two weeks; and/or
- Have any other condition identified either now or in the future as being a particular risk for severe illness and/or death caused by COVID-19.

Within 6 hours after that list has been submitted (by _____ [a.m./p.m.] today), Defendants shall notify the Plaintiffs and this Court whether they object to the temporary release of any individuals on the list of medically vulnerable people and the basis for that objection. The Court will schedule a hearing at _____ [a.m./p.m.] on _____, 2020 to resolve any disputes about whether certain listed individuals are entitled to release.

2. It is further ORDERED that Defendants **must**:

- Effectively communicate to all people incarcerated at Metro West Detention Center, including low-literacy and non-English-speaking people, sufficient information about COVID-19, measures taken to reduce the risk of transmission, and any changes in policies or practices to reasonably ensure that individuals are able to take precautions to prevent infection;
- Provide adequate spacing of six feet or more between people incarcerated at Metro West Detention Center, to the maximum extent possible at Metro West Detention

Center's current population level, so that social distancing can be accomplished;

- Ensure that each incarcerated person receives, free of charge: (1) an individual supply of liquid hand soap and paper towels sufficient to allow frequent hand washing and drying each day, and (2) an adequate supply of disinfectant hand wipes or disinfectant products effective against the virus that causes COVID-19 for daily cleanings;
- Ensure that all incarcerated people have access to hand sanitizer containing at least 60% alcohol;
- Provide access to daily showers and daily access to clean laundry, including clean personal towels and washrags after each shower;
- Require that all MDCR staff wear personal protective equipment, including masks, when interacting with any person or when touching surfaces in cells or common areas;
- Require that all MDCR staff wash their hands with soap and water or use hand sanitizer containing at least 60% alcohol both before and after touching any person or any surface in cells or common areas;
- Take each incarcerated person's temperature daily (with a functioning and properly operated thermometer) to identify potential COVID-19 infections;
- Assess (through questioning) each incarcerated person daily to identify potential COVID-19 infections;
- Conduct immediate testing for anyone displaying known symptoms of COVID-19;
- Ensure that individuals identified as having COVID-19 or having been exposed to COVID-19 receive adequate medical care and are properly quarantined in a non-

punitive setting, with continued access to showers, recreation, mental health services, reading materials, phone and video calling with loved ones, communications with counsel, and personal property;

- Respond to all emergency (as defined by the medical community) requests for medical attention within an hour;
- Provide sufficient disinfecting supplies, free of charge, so incarcerated people can clean high-touch areas or items (including, but not limited to, phones and headphones) between each use;
- Waive all medical co-pays for those experiencing COVID-19-related symptoms; and
- Waive all charges for medical grievances during this health crisis.

3. Nothing in paragraph 2 above should be construed to require Defendants to release any person currently incarcerated at Metro West Detention Center. Defendants remain free to voluntarily release any person or group of people currently incarcerated at Metro West Detention Center to the extent allowed by law.

4. This Temporary Order is valid for a limited period of 14 days or until further order of this Court, and the Court's ruling is subject to change based on a more fully developed record at preliminary injunction proceedings.

DONE AND ORDERED in Chambers at Miami, Florida, this ____ day of April 2020.

United States District Judge

Copies furnished to: All Counsel of Record