

No. _____

SUPREME COURT OF NORTH CAROLINA

NORTH CAROLINA STATE
CONFERENCE OF THE NAACP,
DISABILITY RIGHTS NORTH
CAROLINA, AMERICAN CIVIL
LIBERTIES UNION OF NORTH
CAROLINA LEGAL FOUNDATION,
ALBERTA ELAINE WHITE, KIM T.
CALDWELL, JOHN E. STURDIVANT,
SANDARA KAY DOWELL, and
CHRISTINA RHODES,

Petitioners,

v.

ROY COOPER, *in his official capacity
as Governor of North Carolina*; and
ERIK A. HOOKS, *in his official
capacity as Secretary of the North
Carolina Department of Public Safety*,

Respondents.

MOTION FOR EXPEDITED BRIEFING

Petitioners have filed an emergency petition for a writ of mandamus (the Petition) seeking relief for people incarcerated in DPS custody who face grave risk of harm from the COVID-19 pandemic. Petitioners ask this Court to compel Governor Roy Cooper and Secretary of the Department of Public Safety Erik Hooks to execute their constitutional and statutory duties to provide humane prisons and save lives by reducing the state prison population.

A party normally has ten days to respond to a mandamus petition, although a court “for good cause shown may shorten the time for filing a response.” N.C. R. App. P. 22(c). Given the extraordinary circumstances of this case, the statewide public health and safety implications, and the rapidly increasing risk of harm faced by North Carolina’s incarcerated population, Petitioners respectfully ask for an expedited briefing schedule.

As detailed in the Petition, COVID-19 has spread across the globe at an exponential rate. Incarcerated people—particularly those who are elderly or have chronic health conditions—face heightened risks of harm given their close quarters, inability to observe proper social distancing, and lack of access to proper medical care. And incarcerated people are not the only ones at risk—prison staff and the communities they return to daily will suffer if COVID-19 runs rampant throughout the prison system.

As further detailed in the Petition, North Carolina’s prisons are woefully unequipped to contain the spread of COVID-19 or provide adequate medical care to those who fall ill. The system faced considerable strain due to underfunding and

understaffing even before this crisis began. Today, state prisons have no ventilators, and efforts to keep the virus out have already failed, as there are confirmed cases of COVID-19 in at least six DPS facilities.

Despite these circumstances, Respondents have failed to adopt the only measure with a meaningful chance to prevent mass suffering and death throughout the state prison system: releasing the most vulnerable and reducing the overall population to limit the virus's spread.

Time is of the essence. Every day that passes brings the prison system that much closer to disaster. In light of these circumstances, other courts have ordered expedited briefing on requests for relief on behalf of incarcerated people at heightened risk from COVID-19. *See, e.g., Comm. for Pub. Counsel Servs v. Chief Justice of the Trial Court*, No. SJ-2020-0115, Reservation and Report (Mass. March 25, 2020), *available at* <https://www.mass.gov/doc/sjc-12926-reservation-and-report/download>; *Parsons v. Ryan*, No. 2:12-cv-00601-ROS, Order, ECF No. 3525 (D. Ariz. March 16, 2020), *available at* <https://prisonlaw.com/wp-content/uploads/2020/03/20.03.16-Doc-3525-Order-Re-Expedited-Briefing-on-COVID-19.pdf>.

Petitioners have notified counsel for Respondents via email that they will be filing the Petition. Petitioners will provide counsel for Respondents with emailed copies of this Motion and Petition, with accompanying exhibits, promptly upon filing.

Accordingly, Petitioners respectfully ask that this Court order Respondents' to respond to the Petition on or before 10 April 2020, and permit any reply to be filed on or before 12 April 2020.

This the 8th day of April, 2020.

/s/



I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing was this day filed electronically with the North Carolina Supreme Court, and a copy of the foregoing has this day been served by e-mail upon:

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This is the 8th day of April 2020.

/s/



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