
In the Supreme Court of the United States

CHRISTOPHER MARLOWE

APPLICANT

VERSUS

STATE OF LOUISIANA THROUGH THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS; JAMES W. LEBLANC, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE LOUISIANA DPSC; DR. RAMAN SINGH, IN HIS OFFICIAL CAPACITY AS THE FORMER MEDICAL AND MENTAL HEALTH DIRECTOR AT THE LOUISIANA DPSC; DR. PAM HEARD, IN HER OFFICIAL CAPACITY AS THE FORMER INTERIM MEDICAL AND MENTAL HEALTH DIRECTOR AT THE LOUISIANA DPSC; DR. JOHN MORRISON, IN HIS OFFICIAL CAPACITY AS THE MEDICAL AND MENTAL HEALTH DIRECTOR AT THE LOUISIANA DPSC; WARDEN TIMOTHY HOOPER, IN HIS OFFICIAL AND PERSONAL CAPACITIES AS THE WARDEN OF ELAYN HUNT CORRECTIONAL CENTER [EHCC], A FACILITY OWNED AND OPERATED BY DPSC; DEPUTY WARDEN STEPHANIE MICHEL, IN HER OFFICIAL AND PERSONAL CAPACITIES AS THE DEPUTY WARDEN OF MEDICAL CARE AT EHCC; ASSISTANT WARDEN MORGAN LEBLANC, IN HIS OFFICIAL AND PERSONAL CAPACITIES AS THE FORMER ASSISTANT WARDEN RESPONSIBLE FOR MENU DEVELOPMENT AND MEAL PLANNING AT EHCC; ASSISTANT WARDEN DARRYL CAMPBELL, IN HIS OFFICIAL AND PERSONAL CAPACITIES AS AN ASSISTANT WARDEN RESPONSIBLE FOR MENU DEVELOPMENT AND MEAL PLANNING AT EHCC; DR. PREETY SINGH, IN HER OFFICIAL AND PERSONAL CAPACITIES AS THE MEDICAL DIRECTOR AT EHCC; GAIL LEVY, IN HER INDIVIDUAL AND OFFICIAL CAPACITIES AS THE FOOD MANAGER AT EHCC; POLLY SMITH, IN HER INDIVIDUAL AND OFFICIAL CAPACITIES AS A FORMER NURSE PRACTITIONER AT EHCC; FALLON STEWART, IN HIS INDIVIDUAL AND OFFICIAL CAPACITIES AS A FORMER EMERGENCY MEDICAL TECHNICIAN AT EHCC; ELIZABETH GAUTHREAUX, IN HER INDIVIDUAL AND OFFICIAL CAPACITIES AS AN EMT AT EHCC; JONATHAN TRAVIS, IN HIS OFFICIAL AND PERSONAL CAPACITIES AS A PHARMACIST AT EHCC; MASTER SGT. ANGEL HORN, IN HER OFFICIAL AND PERSONAL CAPACITIES AS A CORRECTIONAL OFFICER WORKING AT THE PILL CALL WINDOW AT EHCC; MASTER SGT. ROLANDA PALMER, IN HER OFFICIAL AND PERSONAL CAPACITIES AS A CORRECTIONAL OFFICER WORKING AT THE PILL CALL WINDOW AT EHCC; AND SGT CHERMAINE BROWN, IN HER OFFICIAL AND PERSONAL CAPACITIES AS A CORRECTIONAL OFFICER WORKING AT THE PILL CALL WINDOW AT EHCC

RESPONDENTS

On Application to Vacate the Stay of the
United States Court of Appeals for the Fifth Circuit

**RESPONDENTS' OPPOSITION TO APPLICATION TO VACATE
FIFTH CIRCUIT STAY OF PRELIMINARY INJUNCTION**

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TO THE HONORABLE JUSTICE SAMUEL ALITO, AND MAY IT PLEASE THE COURT:

INTRODUCTION

Petitioner has failed to carry his heavy burden of proof demonstrating any of the requirements to undo the stay issued by the Fifth Circuit. That is because the injunction imposed by the District Court is both procedurally and substantively defective. The Fifth Circuit properly stayed the injunction in accordance with applicable law, and the Plaintiff's request to vacate the stay should be denied.

STATEMENT OF THE CASE

Procedural History of Petitioner's Request for an Injunction

Plaintiff's lawsuit, originally filed in 2018, claims the nutritional value of the food he was given at the Elayn Hunt Correctional Center (Hunt) in St. Gabriel, Louisiana, caused him to develop diabetes. He further alleges Hunt medical staff acted with deliberate indifference to his medical condition. Plaintiff's lawsuit has nothing to do with COVID-19 or the conditions of confinement at the Rayburn Correctional Center in Angie, Louisiana, where he is currently housed. The operative superseding Second Amended Complaint was filed May 17, 2019. Resp. Exh. A at 1. The Second Amended Complaint pertains only to Hunt. Applicant was transferred from Hunt to Rayburn in January 2019. Resp. Exh. 1, ¶13.

Nevertheless, Plaintiff—on April 1, 2020, two years after filing his original complaint and nearly a year after filing his Second Amended Complaint—filed a “Motion for Temporary Restraining Order” in which he demanded immediate release from custody due to risks allegedly posed to him by COVID-19. The *only* relief he requested was release from custody. The Defendants opposed the Motion.

The District Court conducted a hearing at which counsel presented arguments regarding the authority, or lack thereof, of the district court to order Plaintiff's release from custody under the circumstances.

Additionally, Plaintiff "admits that he did not exhaust administrative remedies and did not file a request to initiate the Administrative Remedy Procedure (ARP) related to this claim until April 7, 2020, after filing the instant Motion." App. 17a. Plaintiff's ARP was filed the same day Defendants opposed Plaintiff's Motion for release from custody on grounds that included his failure to exhaust administrative remedies. App. 375a. In a post-hearing sur-reply, Plaintiff argued, for the first time, he should be excused from the exhaustion mandate. App. 546a.

In this post-hearing-sur-reply brief he demanded, for the first time, an injunction directing broad changes to the protective measures implemented at Rayburn. App. 548a. And as the Fifth Circuit observed, "[t]he district court latched on to this eleventh-hour request." App. 003a. On April 23, 2020, sixteen (16) days after the evidentiary hearing on the Motion for TRO, the District Court entered the injunction at issue herein. App. 012a.

Identities of the enjoined Defendants

The District Court broadly enjoined "the Defendants." App. at pp. 24a-25a. "The Defendants" are the Louisiana Department of Public Safety and Corrections (DPSC), its Secretary James LeBlanc, DPSC Medical Director John Morrison, two former DPSC Medical directors, and thirteen current and former officers or staff members of the Elayn Hunt Correctional Center (Hunt) in St. Gabriel, Louisiana, where Petitioner does not reside.

DPSC is an arm of the State of Louisiana for purposes of sovereign immunity under the Eleventh Amendment. *See Champagne v. Jefferson Par. Sheriff's Office*, 188 F.3d 312, 314 (5th Cir. 1999). As such, DPSC is not a “person” who can be enjoined by a federal court under 42 U.S.C. §1983. *Washington v. Louisiana*, 425 F. App'x 330, 333 (5th Cir. 2011) (citing *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 63–71 (1989)) (citations omitted). A Motion to Dismiss based, in part, on sovereign immunity, was filed in October 2019, and remains pending before the District Court.

Dr. John Morrison, Dr. Raman Singh, and Dr. Pam Heard, are Defendants who are sued in their official capacities as, respectively, current and former DPSC medical directors. Clearly, as former DPSC employees, Dr. Singh and Dr. Heard are powerless to implement the terms of any injunction. But additionally, as medical directors, they have no authority or ability to execute the injunction because the injunction does not direct medical care. Similarly, Morgan LeBlanc, Polly Smith, and Fallon Stewart are named as Defendants in their respective former official capacities as an Assistant Warden, nurse practitioner, and emergency medical technician. As former DPSC employees, they also are powerless to implement terms of an injunction.

Finally, Defendants Hunt Warden Timothy Hooper; Deputy Warden over Hunt medical care Stephanie Michel; Assistant Warden Darryl Campbell, who is responsible for menu development and meal planning at Hunt; Dr. Preeti Singh, the Medical Director at Hunt; Gail Levy, the food manager at EHCC; Elizabeth

Gauthreaux, an EMT at Hunt; Jonathan Travis, a Pharmacist at Hunt; Master Sgt. Angel Horn, a Correctional Officer working at the pill call window at Hunt; Master Sgt. Rolanda Palmer, a Correctional Officer working at the pill call window at Hunt; and Sgt Chermaine Brown, a Correctional Officer working at the pill call window at Hunt, all lack the authority and ability to implement the injunction imposed against them in any manner would redress *any* problem as to this Plaintiff because Plaintiff is not incarcerated at Hunt anymore. He was transferred to Rayburn in January 2019, before he even filed the Motion for TRO or his procedurally-defective sur-reply memo.

In sum, assuming *arguendo* that any proper request for relief was presented at all over which the district court had jurisdiction, DPSC Secretary LeBlanc is the only Defendant who could possibly be enjoined and mandated to implement administrative and logistical changes to the COVID-19 response at Rayburn. But Plaintiff did not sue Secretary LeBlanc about the COVID-19 response at Rayburn.

The Ruling of the District Court

Although the Plaintiff's Original and subsequent Amended Complaints arose from his diet and medical treatment at Hunt, he named Defendants who were almost all exclusively Hunt officials or former DPSC officials, and he never filed a motion seeking this injunctive relief, the district court nevertheless exercised what he described as "sweeping jurisdictional authority and power," App. 466a:20. The district court granted relief Petitioner was neither requested in his operative Complaint nor his Motion, mandating actions by individuals who have no

connection with the facility where Petitioner is currently housed and by some who do not even work for DPSC any longer.

The District Court then enjoined DPSC, the only named Defendant mentioned in the Order, and all other “Defendants” *in globo*, without regard to their ability to implement its terms. App. 24a-25a. The injunction was purportedly issued under 42 U.S.C. §1983, yet it compels DPSC and other Defendants to follow state law and their own internal policies in violation of the Eleventh Amendment. In violation of the PLRA, the injunction was issued in favor of a prisoner who initiated the administrative grievance process but made no showing that the prison will not or cannot respond to it and belatedly asked that he be excused from completing it.

Finally, unlike the situation Justice Sotomayor described in a statement respecting denial of the application in *Valentine v. Collier*, --- S.Ct ----, No. 19A1034, 2020 WL 2497541 (U.S. May 14, 2020), the district court here found, “[t]he officials at Rayburn have taken numerous steps to implement policies to contain the spread of COVID-19 during these challenging times. While the number of infected inmates has grown, so too have the protective measures implemented at Rayburn by the DOC in response.” App. 019a. Counsel for Petitioner even conceded, “Everyone here is trying their very, very best to make sure that nobody gets sick at Rayburn.” App. 428a:4-6.

The district court, however, was dissatisfied with the “very very best” efforts of non-party officials at Rayburn.

The Fifth Circuit panel—the same panel that issued the stay in *Valentine*—found that this matter was controlled by its legal analysis in that case and issued the Stay. App. 003a. Some two weeks later, with no explanation for the delay, Petitioner filed this application to vacate the stay.

ARGUMENT

DPSC and the prison officials at Rayburn have and continue to dynamically and reasonably respond to the evolving risks and circumstances of COVID-19, “even if the harm ultimately was not averted.” *Farmer v. Brennan*, 511 U.S. 825, 844, 114 S. Ct. 1970, 1982–83, 128 L. Ed. 2d 811 (1994).

The injunction entered by the district court should remain stayed because the Petitioner has failed to meet the “high bar” necessary to undo a stay. *Valentine v. Collier*, No. 19A1034, 2020 WL 2497541, at *1 (U.S. May 14, 2020) (Sotomayor, J. respecting denial of application to vacate stay). First, the Applicant must show his rights “may be seriously and irreparably injured by the stay,” *Coleman v. Paccar, Inc.*, 424 U.S. 1301, 1304 (1976) (Rehnquist, J., in chambers), which Petitioner has failed to demonstrate. Second, he must show the Fifth Circuit was “demonstrably wrong in its application of accepted standards in deciding to issue the stay,” *id.*, which he has also failed to demonstrate. Third, he must show the case “could and very likely would be reviewed here upon final disposition in the court of appeals,” *id.*, which he cannot show.

The Petitioner’s application fails to make any of the required showings. First, the subject matter of the injunction was never properly before the district court and the order is both procedurally and jurisdictionally defective. It was issued without

any hearing and Defendants were not afforded any opportunity to respond when the district court entered a surprise injunction that was requested, for the first time, in a post-hearing sur-reply memorandum that was procedurally improper. Second, the Fifth Circuit's ruling is grounded upon the district court's legal errors and, in any event, Petitioner has not demonstrated the Fifth Circuit's ruling was demonstrably wrong. And third, Petitioner did not demonstrate how he will suffer irreparable harm in the absence of an injunction. Indeed, he cannot do so because this is not a case where the plaintiff submitted "unrebutted" evidence or evidence was adduced of "inexplicable failures," *see Valentine*, No. 19A1034, 2020 WL 2497541, at *1, to follow the facilities own policies. Petitioner concedes prison officials are doing their "very very best."

I. THE SUBJECT MATTER OF THE INJUNCTION WAS NEVER PROPERLY BEFORE THE DISTRICT COURT.

The injunction directs the administrative and logistical response to COVID-19 at the Rayburn Correctional Center (Rayburn) in Angie, Louisiana. But no claims are pleaded in the operative complaint regarding the conditions of confinement at Rayburn amidst the COVID-19 pandemic. *See* Ex. 1. Petitioner did not seek to amend his Complaint; instead, he filed a motion related to Hunt, exclusively seeking his release. Petitioner never filed a motion requesting administrative and logistical changes be made to Rayburn's response to COVID-19. Plaintiff's motion requested one thing—immediate release from custody. The injunction entered by the District Court is therefore procedurally and jurisdictionally defective.

A. Plaintiff's lawsuit is not about COVID-19 or the conditions of confinement at Rayburn amidst the pandemic.

Issuance of a preliminary injunction presupposes “that it may be found and adjudged that the [Plaintiff] has stated a cause of action in its complaint.” *De Beers Consol. Mines v. United States*, 325 U.S. 212, 219 (1945). “Under Federal Rule of Civil Procedure 8(a)(2), a pleading must contain a ‘short and plain statement of the claim showing that the pleader is entitled to relief.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009). Where a plaintiff’s “motion raises issues different from those presented in the complaint, the court has no jurisdiction over the motion.” *Booker v. McDuffie*, 2019 WL 3937225, *2 (N.D. Tex 7/22/2019) (cleaned up).

Plaintiff’s lawsuit alleges *food* at Hunt (caused him to develop diabetes, which condition was allegedly met with deliberate indifference by officers of the Hunt medical department. The Second Amended Complaint, which pertains only to Hunt, was filed May 17, 2019. See Resp. Ex. B, but Petitioner was transferred from Hunt to Rayburn in January 2019. Resp. Ex. B, ¶13. The operative Complaint is primarily brought against staff at Hunt with no authority or ability to implement changes to COVID-19 measures implemented at Rayburn.

No Rayburn administrators or staff have been sued by the Plaintiff. Nevertheless, the district court broadly enjoined all “Defendants,” even though all but one of the Defendants are completely powerless to implement its terms and jurisdiction over DPSC is barred by sovereign immunity. Further evidencing the lack of meaningful attention to either the operative Complaint or the Defendants named in it, the injunction applies to a number of former DPSC

employees sued in their supposed “official capacities” as former employees with no authority or ability to implement terms of the injunction.

The District Court improperly also imposed an injunction that “is not of the same character, and deals with a matter lying wholly outside the issues in the suit.” *Kaimowitz v. Orlando, Fla.*, 122 F.3d 41, 43 (11th Cir. 1997) (citing *DeBeers Consold. Mines*, 325 U.S. at 220). Thus, the subject matter of the injunction was never properly before the District Court.

In addition to being about a completely different prison and different prison officials, the operative Complaint neither addresses the outbreak of COVID-19 nor the conditions of confinement at Rayburn. Resp. Exh. 2. The underlying lawsuit challenges the nutritional value of meals and medical treatment Petitioner received at Hunt. But the injunction does not even pertain to medical care or food at either facility. Thus, the injunction is jurisdictionally and procedurally defective. For these reasons, Petitioner cannot show the stay was clearly wrong and this Court is unlikely to review any final ruling of the Fifth Circuit which vacates the injunction.

B. The injunction violated notice requirements of Rule 65.

Plaintiff’s Motion requested the District Court, “[e]nter an Order authorizing [Plaintiff’s] temporary supervised release with or without location monitoring until spread of the COVID-19 virus is no longer a threat within the Louisiana Department of Corrections system.” App. at 27a. Insofar as the Plaintiff requested an immediate release from prison, the district court correctly denied the Motion. But not content with denying the only relief Petitioner actually sought, albeit improperly, the district court “granted” a “request,” only submitted by the Plaintiff

in his post-hearing sur-reply memorandum, for an injunction to direct the response to COVID-19 at Rayburn. Defendants were neither offered a hearing nor any opportunity to respond to that new demand.

The injunction, therefore, violated the notice requirements of Rule 65(a) of the Federal Rules of Civil Procedure. Rule 65(a)(1) provides that “[n]o preliminary injunction shall be issued without notice to the adverse party.” The Fifth Circuit has previously interpreted the notice requirement of Rule 65(a)(1) to mean that “where factual disputes are presented, the parties must be given a fair opportunity and a meaningful hearing to present their differing versions of those facts before a preliminary injunction may be granted.” *Kaepa, Inc. v. Achilles Corp.*, 76 F.3d 624, 628 (5th Cir. 1996) (internal citations omitted). If no factual dispute is involved, however, no oral hearing is required; but under such circumstances the parties still need to be afforded “ample opportunity to present their respective views of the legal issues involved.” *Id.* That did not happen. Defendants were denied their right to notice and an opportunity to be heard when the district court entered a surprise injunction that was requested, for the first time, by the Plaintiff in a post-hearing sur-reply memorandum. For this additional reason, the preliminary injunction is procedurally defective, the Fifth Circuit was not demonstrably wrong issuing a stay, and the ruling is unlikely to be reviewed by this Court.

II. THE FIFTH CIRCUIT WAS NOT DEMONSTRABLY WRONG IN DECIDING TO ISSUE THE STAY.

Petitioner also fails to meet his heavy burden of showing the Fifth Circuit was demonstrably wrong because the Fifth Circuit was entirely correct when

staying the injunction. The injunction violates the sovereign immunity of the State of Louisiana. Furthermore, the injunction is substantively deficient because the supposed basis of the injunction is contrary to *Farmer v. Brennan* and violates the principles of comity enshrined in the PLRA.

A. The Fifth Circuit was not demonstrably wrong in finding the injunction violates Louisiana’s Sovereign Immunity.

“The Eleventh Amendment prohibits federal courts from enjoining state [officials] to follow state law.” *Valentine*, 2020 WL 1934431, at *4, (citing *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89, 103-23 (1984)). The district court ordered “Defendants must comply with the Governor’s recommendations and their own internal policies [...]” But Petitioner argues the Fifth Circuit misapplied *Pennhurst* “by reframing the preliminary injunction as enforcement of state law, even though the injunction was grounded in the Eighth Amendment.” App. at 8. The plain language of the injunction requires State officials to comply with State law. The Fifth Circuit committed no error, or at a minimum is not demonstrably wrong, in finding the injunction violates the Eleventh Amendment.

B. The Fifth Circuit was not demonstrably wrong in the standard of review it applied.

Petitioner further argues the Fifth Circuit erred in its application of governing legal standards by failing to grant appropriate deference to the findings of fact of the district court. App. at 8. But that argument misconstrues the Fifth Circuit’s ruling, which stayed the injunction based on legal errors of the district court. Errors of law are reviewed *de novo* on appeal. See *Salve Regina Coll. v. Russell*, 499 U.S. 225, 233 (1991). See also App. at 10-11, citing *Atchafalaya*

Basinkeeper v. United States Army Corps of Engineers, 894 F.3d 692, 696 (5th Cir. 2018).

The Fifth Circuit first found the injunction violates the Eleventh Amendment, which is a legal finding. Second, the Fifth Circuit found the District Court legally erred in analyzing the two elements of deliberate indifference. *Id.*, citing *Farmer v. Brennan*, 511 U.S. 825, 114 S. Ct. 1970, 128 L.Ed.2d 811 (1994). Third, the Fifth Circuit found, “the district court’s exhaustion analysis under the Prison Litigation Reform Act runs counter to Supreme Court precedent.” *Id.*

Regarding exhaustion of administrative remedies, the PLRA mandates prisoners exhaust available administrative remedies prior to filing suit. 42 U.S.C. §1997e(a). Plaintiff filed an Administrative Remedy Procedure grievance a few days after filing his Motion for immediate release from prison. The Fifth Circuit panel unanimously “agree[d] that the Appellants have demonstrated a substantial likelihood of success on their claim that Marlowe failed to exhaust his administrative remedies.” App. 010a (Higginson, J. concurring).

Applicant did not prove, and the District Court did not find, that Louisiana’s Administrative Remedy Procedure is not available. Thus there was no finding of fact by the district court which was owed deference. Instead, the district court made a legal finding that the prisoner should be *excused* from the exhaustion requirement because the requirement is inefficient and would not serve the interests of justice. Pet’r Appx. at 17a-18a. The panel found the district court’s decision to excuse the

Plaintiff from the exhaustion requirement was contrary to precedent of this Court. Pet'r Appx. at 7a.

The Fifth Circuit conducted a similar *de novo* review of the legal conclusions made by the District Court regarding the Eighth Amendment.

C. The Fifth Circuit was not demonstrably wrong in its application of the deliberate indifference analysis.

Notably, the Fifth Circuit found the District Court in this case committed the same legal errors as the District Court in the *Valentine* case. The injunction in *Valentine* was stayed by the same motions panel which stayed the injunction here. The Fifth Circuit in this case determined it was bound by its analysis in *Valentine*, a ruling this Court has declined to vacate. Pet'r Appx. at 3a

The Plaintiff in this case makes essentially the same arguments in favor of emergency review as were made in *Valentine*. See Pet'r App. at p. *iv*. This Court should also deny Plaintiff's application to vacate the stay entered in this case.

Applicant alleges the Fifth Circuit erred by failing to grant proper deference to the findings of fact of the district court regarding deliberate indifference. However, the Fifth Circuit found the district court committed legal errors when conducting the deliberate indifference analysis. Thus, the Fifth Circuit correctly reviewed the District Court's legal analysis and conclusions *de novo*.

With regard to the first element of the deliberate indifference analysis, substantial risk of harm, the Fifth Circuit was not demonstrably wrong when it found the district court committed legal error in its analysis. The Fifth Circuit explained:

[T]he question here is whether the Eighth Amendment requires RCC to do more than it has already done to mitigate the risk of harm. The district court's laconic analysis provides little basis for concluding that RCC's mitigation efforts are insufficient. Indeed, because the district court made few (if any) factual findings, it left no reviewable basis to conclude that the measures implemented by Defendants are constitutionally deficient. Plaintiff cites no precedent supporting a contrary conclusion, and we are aware of none.

Pet'r Appx at 6a (footnote omitted). Assuming, *arguendo*, that anything involving Rayburn was properly before the district court at all, the Plaintiff has still cited no precedent to support the conclusion that the numerous measures implemented at Rayburn "are constitutionally deficient."

Rayburn Warden Robert Tanner, who is not a party to this lawsuit, testified at the preliminary injunction proceeding and additionally submitted an affidavit in connection with the post-hearing memorandum filed by the Defendants. Warden Tanner explained the steps that were being taken at the time the affidavit was signed, as well as steps being taken for the future, to protect offenders from contracting COVID-19. App. 535a-539a. Based on the Warden's testimony and affidavit, the district court found:

The officials at Rayburn have taken numerous steps to implement policies to contain the spread of COVID-19 during these challenging times. While the number of infected inmates has grown, so too have the protective measures implemented at Rayburn by the DOC in response. Indeed, the demands made upon corrections officials in their effort to contain the spread of this pandemic within their facilities is unprecedented.

Pet'r Appx. at 019a. The district court then found, in his view, specific deficiencies in protective measures but, no Eighth Amendment precedent was cited to support

the conclusion that the supposed deficiencies are tantamount to cruel and unusual punishment. .

Furthermore, the District Court wholly bypassed the subjective component of the deliberate indifference analysis. The Fifth Circuit found “the District Court cited no evidence establishing that Defendants subjectively believed that the measures they were (and continue) taking were inadequate.” Pet’r Appx at 6a-7a.

The Fifth Circuit explained:

The district court’s analysis resembles the analysis we condemned in *Valentine*, where the district court had treated inadequate measures as dispositive of the defendants’ mental state. “Such an approach,” we explained, “resembles the standard for civil negligence, which *Farmer* explicitly rejected.” *Valentine*, 2020 WL 1934431, at *4.

The Fifth Circuit was not demonstrably wrong by condemning application of a civil negligence standard to a purported Eighth Amendment claim. Thus, Petitioner’s Application to vacate the stay should be denied.

III. APPLICANT FAILS TO MEET HIS BURDEN OF SHOWING A LIKELIHOOD HE WILL SUFFER IRREPARABLE HARM UNLESS THE STAY IS IMMEDIATELY LIFTED.

In addition to failing to show the Fifth Circuit was demonstrably wrong, Petitioner fails to demonstrate the stay will cause him serious or irreparable injury. *Coleman v. Paccar, Inc.*, 424 U.S. 1301, 1304 (1976). The Applicant argues he will suffer serious or irreparable injury if he contracts COVID-19. But he does not argue, let alone prove, he will contract the virus unless the stay is lifted. Furthermore, the urgency of the Application is belied by the Applicant’s litigation conduct.

The likelihood of irreparable harm must be judged “in light of” preventative measures already in place. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22-23 (2008). That is, the Applicant must show he will suffer irreparable harm “in the absence of an injunction.” *Id.* The Applicant does not explain why, considering the numerous measures that have been and continue to be implemented at Rayburn, he is more likely to contract the virus, than if the stay is lifted and the Defendants are required to fulfill the vague terms of the injunction imposed by the district court.

Furthermore, the Applicant sought no expedited relief in the Fifth Circuit and waited over two full weeks (from April 27, 2020, the date the Fifth Circuit stayed the injunction, until May 13, 2020, the date the Application was filed) to seek supposedly-emergency relief from this Court. Applicant fails to explain the reason for his excessive delay in seeking relief from this Court. Indeed, the timing and substance of Petitioner’s arguments, which are virtually identical to those submitted to this Court in Valentine’s application for a stay, appear to simply opportunistically be seeking to take advantage of whatever relief Valentine might have obtained. It cannot be concluded that Plaintiff faces a true emergency that only this Court can resolve on an expedited basis. *Cf. Trump v. Int’l Refugee Assistance Project*, 137 S. Ct. 2080, 2085 (2017) (per curiam) (noting emergency cert petition and requests for stay and expedited relief were filed one day after adverse decision below) and *California v. Texas*, No. 19-840 (U.S.) (Jan. 21, 2020) (denying motion for expedited consideration after petitioners waited 16 days after adverse decision to seek Supreme Court relief). Applicant fails to meet his burden of

showing irreparable harm and the injunction should remain stayed. Finally, it must be noted that Louisiana's efforts to protect the prison population and DPSC staff have been aggressive, dynamic, and ongoing. Indeed, additional steps have been taken at Rayburn to protect the health and safety of the Plaintiff, the other 1300+ offenders housed there, and the staff. No offenders at Rayburn have died from COVID related illnesses. And, Plaintiff's hyperbole about Rayburn being a "hot spot" is misleading at best. Only 35 of over 1,300 offenders have tested positive and, of those, only 19 offenders are *currently* positive. Fifteen offenders are being treated in a step-down unit and 13 have recovered. <https://doc.louisiana.gov/doc-covid-19-testing/> (updated 5/19/2020 at 11:00 AM CST). Considering the number of offenders in recovery or who have recovered exceeds the number of current positives, Rayburn seems to be past its peak of infections. That statistic shows the officials at Rayburn have responded reasonably to the risks of COVID-19. *Farmer*, 511 U.S. at 845.

CONCLUSION

Considering the foregoing, the Petitioner has failed to carry his heavy burden of proof to vacate the Fifth Circuit stay and this Court need not intervene in this matter. The stay of the injunction should remain in place.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that, on May 20, 2020, this document was electronically filed with the clerk of the Court and served, by electronic mail on all counsel of record in this case.

s/Elizabeth Murrill
ELIZABETH MURRILL
SOLICITOR GENERAL

EXHIBIT A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHRISTOPHER MARLOWE¹

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VS.

SECRETARY JAMES LEBLANC,
DR. RAMAN SINGH, DR. PAM
HEARD, DR. JOHN MORRISON,
TIMOTHY HOOPER, STEPHANIE
STEPHANIE MICHEL, MORGAN
LEBLANC, DARRYL CAMPBELL,
DR. PREETY SINGH, GAIL
LEVY, POLLY SMITH, FALLON
STEWART, ELIZABETH
GAUTHREAUX, JONATHAN TRAVIS,
MASTER SGT. ANGEL HORN,
MASTER SGT. ROLANDA PALMER,
SGT SHERMAINE BROWN
SGT CHAMEKA JOHNSON

CIVIL ACTION NO:
18-63

JUDGE:
BRIAN A. JACKSON

MAGISTRATE JUDGE:
ERIN WILDER-DOOMES

DEMAND FOR JURY

FILED: _____

DEPUTY CLERK

SECOND AMENDED COMPLAINT

NOW INTO COURT, through undersigned counsel, comes Plaintiff, Christopher Marlowe, who files the following Second Amended Complaint based on a series of constitutional and statutory violations perpetuated by the named Defendants against the Plaintiff while incarcerated in the custody of the Louisiana Department of Corrections (DOC). Mr. Marlowe files this Second Amended Complaint pursuant to the Scheduling Order issued by this Court on April 11, 2019. *See* Doc. 60.

NATURE OF THE CASE

1.

¹ Mr. Marlowe is entered into the Louisiana Department of Corrections system as “Christopher Marlowe,” DOC # 558-725.

While incarcerated at the Elayn Hunt Correctional Center (“EHCC”), Mr. Christopher Marlowe began experiencing multiple symptoms indicative of diabetes – including but not limited to tingling, pain and numbness in his feet, cracking skin on his feet, blurred vision, shakiness, frequent urination, significant weight loss, and extreme thirst and fatigue.

2.

Mr. Marlowe made several visits to EHCC’s sick call station between September 2016 and November 2016. However, the emergency medical technicians (“EMTs”) staffing the sick call station misdiagnosed Mr. Marlowe and prevented him from seeing appropriate medical personnel who could assess his condition. Mr. Marlowe’s condition continued to decline. He was eventually rushed to University Hospital in New Orleans to receive emergency medical treatment because his glucose had risen to a life-threatening level of nearly 900 mg/dl. EHCC medical staff knew of Mr. Marlowe’s potentially fatal glucose levels for at least four days before transporting him to University Hospital, where the hospital doctors diagnosed him with diabetes.

3.

Since Mr. Marlowe’s diagnosis of this chronic, debilitating disease, EHCC’s medical system and food services program have failed to accommodate his disability and provide appropriate care to which he is constitutionally entitled.

4.

Mr. Marlowe now files this complaint against the defendants based on:

- (1) their collective establishment of, and deliberate indifference toward policies, patterns, and practices that

- (a) maintain a deficient health care system that denies access to appropriate medical care to Christopher Marlowe and other Department of Corrections (“DOC”) inmates housed at EHCC and;
 - (b) maintain a constitutionally deficient food/meal service which led to Christopher Marlowe developing diabetes and continues to exacerbate his symptoms associated with his diabetes;
- (2) constitutional and civil rights deprivations he has experienced due to the deliberately indifferent actions and omissions of the individual defendants who were medical and food service staff at EHCC;
- (3) constitutional and civil rights deprivations he has experienced due to the deliberately indifferent actions and omissions of the individual defendants who failed to supervise and train medical and food service staff at EHCC;
- (4) violations of his rights protected by the Americans with Disabilities Act, the Americans with Disabilities Act Amendment, and the Rehabilitation Act; and
- (5) the Defendants medical malpractice and tortious action that has resulted in physical, emotional, and mental pain and suffering.

5.

By this Complaint, Mr. Marlowe seeks declaratory, injunctive, compensatory, and punitive relief, costs and attorney’s fees, and any other relief to which he may by law or equity be entitled.

JURISDICTION AND VENUE

6.

This action for injunctive, declaratory, and monetary relief is brought pursuant to 42 U.S.C. § 1983, pursuant to the First, Eighth and Fourteenth Amendment rights of the

United States Constitution, and pursuant to the Americans with Disabilities Act, the Americans with Disabilities Act Amendment, and the Rehabilitation Act. Jurisdiction lies under 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and 2201. Mr. Marlowe asserts state law claims, and thus invokes supplemental jurisdiction of all state law claims under 28 U.S.C. § 1367.

7.

Venue for this action is proper in this Court under 28 U.S.C. § 1391(b)(1)-(2) because all the Defendants reside in Louisiana and a substantial part of the events and omissions giving rise to the claims occurred in the Middle District of Louisiana.

PARTIES

8.

Plaintiff:

Mr. Christopher Marlowe is a person of the full age of majority who is currently incarcerated at Elayn Hunt Correctional Center in St. Gabriel, Louisiana.

9.

Defendants:

STATE OF LOUISIANA through the **DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS** (hereinafter "**DOC**"), a political subdivision and/or agency of the State of Louisiana, legislatively created and capable of suing and being sued;

JAMES W. LEBLANC (hereinafter "**SECRETARY LEBLANC**"), a person of the full age of majority and a resident of the State of Louisiana, in his official capacity as Secretary of the Louisiana **DOC**;

DR. RAMAN SINGH (hereinafter "**DR. RAMAN SINGH**"), a person of the full age of majority and a resident of the State of Louisiana, in his official capacity as the former medical and mental health director at the Louisiana **DOC**;

DR. PAM HEARD (hereinafter "**DR. HEARD**"), a person of the full age of majority and a resident of the State of Louisiana, in her official capacity as the former interim medical and mental health director at the Louisiana **DOC**;

DR. JOHN MORRISON (hereinafter “**DR. MORRISON**”), a person of the full age of majority and a resident of the State of Louisiana, in his official capacity as the medical and mental health director at the Louisiana **DOC**;

WARDEN TIMOTHY HOOPER (hereinafter “**HOOPER**”), a person of the full age of majority and a resident of the State of Louisiana, in his official and personal capacities as the Warden of Elayn Hunt Correctional Center, a facility owned and operated by the State of Louisiana through the Department of Public Safety and Corrections;

DEPUTY WARDEN STEPHANIE MICHEL (hereinafter “**MICHEL**”), a person of the full age of majority and a resident of the State of Louisiana, in her official and personal capacities as the deputy warden of medical care at EHCC, a facility owned and operated by the State of Louisiana through the Department of Public Safety and Corrections;

ASSISTANT WARDEN MORGAN LEBLANC (“hereinafter “**MORGAN LEBLANC**”), a person of the full age of majority and a resident of the State of Louisiana, in his official and personal capacities as the former assistant warden responsible for menu development and meal planning at EHCC;

ASSISTANT WARDEN DARRYL CAMPBELL (hereinafter “**CAMPBELL**”), a person of the full age of majority and a resident of the State of Louisiana, in his official and personal capacities as an assistant warden responsible for menu development and meal planning at EHCC;

DR. PREETY SINGH (hereinafter “**DR. PREETY SINGH**”), a person of the full age of majority and a resident of the State of Louisiana, in her official and personal capacities as the medical director at EHCC;

GAIL LEVY (hereinafter “**LEVY**”), a person of the full age of majority and a resident of the State of Louisiana, in her individual and official capacities as the food manager at EHCC;

POLLY SMITH (hereinafter “**SMITH**”), a person of the full age of majority and a resident of the State of Louisiana, in her individual and official capacities as a former nurse practitioner at EHCC;

FALLON STEWART (hereinafter “**STEWART**”), a person of the full age of majority and a resident of the State of Louisiana, in his individual and official capacities as a former emergency medical technician (“**EMT**”) at EHCC;

ELIZABETH GAUTHREAUX (hereinafter “**GAUTHREAUX**”), a person of the full age of majority and a resident of the State of Louisiana, in her individual and official capacities as an EMT at EHCC;

JONATHAN TRAVIS (hereinafter “**TRAVIS**”), a person of the full age of majority and a resident of the State of Louisiana, in his official and personal capacities as a pharmacist at EHCC;

MASTER SGT. ANGEL HORN (hereinafter “**HORN**”), a person of the full age of majority and a resident of the State of Louisiana, in her official and personal capacities as a correctional officer working at the Pill Call window at EHCC;

MASTER SGT. ROLANDA PALMER (hereinafter “**PALMER**”), a person of the full age of majority and a resident of the State of Louisiana, in her official and personal capacities as a correctional officer working at the Pill Call window at EHCC;

SGT CHERMAINE BROWN (hereinafter “**BROWN**”), a person of the full age of majority and a resident of the State of Louisiana, in her official and personal capacities as a correctional officer working at the Pill Call window at EHCC;

10.

The above-named defendants are liable unto petitioner jointly, severally, and in solido in an amount in excess of the statutory amount required for trial by jury for the following reasons.

FACTUAL ALLEGATIONS

11.

Mr. Marlowe – an armed services veteran – is currently incarcerated at EHCC and is in the custody of the Louisiana DOC pursuant to a 20-year sentence at hard labor.

12.

Mr. Marlowe entered into the custody of the DOC on or about September 24, 2009 in good health. He was not experiencing any symptoms of diabetes and has no known family history with the illness.

13.

Until January of 2019, the DOC housed Mr. Marlowe at EHCC. Then, in January of 2019, the DOC relocated Mr. Marlowe to Rayburn Correctional Center (RCC), in Angie, Louisiana.

14.

The DOC is responsible for ensuring that Mr. Marlowe and other similarly situated inmates have access to well-balanced meals that contain sufficient nutrients to preserve their health.

15.

As demonstrated below, the meals provided to inmates at EHCC and RCC are deficient in nutrients with an unhealthy and disproportionate amount of refined sugar and high glycemic index carbohydrates – such as canned fruit, white rice, bread, cookies, cake, pancakes, grits, biscuits, bread pudding, rolls, cornbread, sheet cake, and pasta. Refined sugar is also added to the recipes for beans and leafy greens. Upon information and belief, with the exception of rice, most food served to inmates is cooked in shortening or lard – an oil with high contents of saturated fat.

DEPARTMENT OF CORRECTIONS		
CYCLE MENU - FISCAL YR 15-16		
CYCLE 1		
<small>R 06/04/2015</small>		
MONDAY		
BREAKFAST	LUNCH	SUPPER
Eggs - Fried/Scrambled/Boiled Grits Biscuits Butter Sugar x 2 Milk & Coffee	Roast (Beef or Pork/ends & pieces) Rice/Mashed Potatoes w/Gravy Farm Vegetable Rolls Bread Pudding Iced Beverage Salisbury Patty Non-Pork (if pork roast served)	Chili Mac Farm Vegetable Rolls Jello Iced Beverage
TUESDAY		
BREAKFAST	LUNCH	SUPPER
Pancakes Breakfast Sausage Patty Syrup Sugar x 2 Juice & Coffee	Seasoned Red Beans w/ Meat Rice Farm Vegetable Cornbread Sheet Cake Iced Beverage	Franks w/Spaghetti Farm Vegetable Rolls Cookies Iced Beverage
WEDNESDAY		
BREAKFAST	LUNCH	SUPPER
Creamed Beef Grits Biscuits Butter Sugar x 2 Milk & Coffee	Chicken Pot Pie w/ Vegetables Rice Farm Vegetable Rolls Cookies Iced Beverage	Cold Cuts w/Sliced Bread Farm Vegetable French Fries Mayo/Mustard/Catsup Sheet Cake w/Icing Iced Beverage

16.

The “juice” listed on these menus is not actually juice, but rather an orange powdered drink.

17.

Specific lifestyle and diet choices can increase an individual’s risk factor in developing diabetes. Diets that contain high levels of refined sugars, saturated fat, and high glycemic index carbohydrates – similar to those at EHCC and RCC – can lead to weight issues and obesity. Being overweight and obese are two of the greatest risk factors in developing several chronic illnesses, including diabetes.

18.

The “canteen” is a store at EHCC and RCC that allows inmates to purchase additional food with personal money in their commissary. At all pertinent times to this complaint, the canteen did not offer heart-healthy foods for inmates to purchase. Specifically, there were no vegetables, fruits, or unsalted nuts for purchase. In addition, the canned meat available for purchase is high in sodium, and the fish is not affordable for inmates like Mr. Marlowe, who does not earn enough money through his prison job to make the purchase.

19.

During all pertinent times to this complaint when Mr. Marlowe was housed at EHCC, the only place where Mr. Marlowe could obtain fresh vegetables and grilled meat was (and remains) the Who Dat Café. There, a grilled chicken salad costs approximately \$7.50 and a grilled filet of fish costs approximately \$4. The costs of these meals have continuously increased during the time of Mr. Marlowe’s confinement. If Mr. Marlowe eats two meals a day at the Who Dat Café, he will spend between \$240 and \$450 a month

on food. Mr. Marlowe only earns around \$0.04/hour, making these healthy options financially inaccessible. Even if Mr. Marlowe eats just one meal a day from this menu, it would cost between \$120-\$220/month – a figure that is more than double Mr. Marlowe’s full-time salary.

20.

The meal plan and canteen at Rayburn Correctional Center (RCC) is virtually the same as that at EHCC. However, there is no “Who Dat Café” equivalent at RCC. Consequently, his diet option has not changed since his transfer.

21.

Put simply, Mr. Marlowe has no choice but to eat the food provided to him by EHCC. Deficient and negligent meal planning by Defendants **SECRETARY LEBLANC, HOOPER, MICHEL, MORGAN LEBLANC, CAMPBELL, LEVY** and other EHCC and RCC staff has resulted in a food service system at EHCC and RCC that lacks nutrients which sufficiently maintain inmate health and prevent chronic illnesses like diabetes.

22.

Beginning around August 2016, Mr. Marlowe began experiencing tingling, pain and numbness in his feet, cracking skin on his feet, blurred vision, shakiness, frequent urination, and extreme thirst and fatigue. Mr. Marlowe also began experiencing rapid weight loss, losing approximately sixty pounds in a three-month period. According to the American Diabetes Association, these are all typical symptoms of diabetes.

23.

On multiple occasions, Mr. Marlowe visited the EMTs handling the sick call station at EHCC to address these symptoms.

24.

Despite not being trained or qualified to make any kind of medical diagnosis, these EMTs assess the medical conditions of inmates who visit the sick call station, per custom and routine practice of EHCC. Often, they provide over-the-counter medication to the inmate so that the inmate can withdraw their “sick call form” and not be charged for seeking medical services.

25.

Mr. Marlowe visited sick call at least four times between August 2016 and November 2016. Each time, Defendants **STEWART, GAUTHREAUX**, and/or other **UNKNOWN EMTs** staffed the sick call station.

26.

At each encounter, Defendants **STEWART, GAUTHREAUX**, and/or other **UNKNOWN EMTs** told Mr. Marlowe that either anxiety, having the wrong shoes, athlete’s foot, and/or dehydration caused his symptoms.

27.

On each occasion, Defendants **STEWART, GAUTHREAUX**, and/or other **UNKNOWN EMTs** provided Mr. Marlowe with over-the-counter medication like foot cream, Neosporin, and Ibuprofen, and they also encouraged him not to fill out a sick call form to see a doctor.

28.

Defendants **STEWART, GAUTHREAUX**, and/or other **UNKNOWN EMTs’** incorrect “diagnosis” of Mr. Marlowe was unprofessional, outside the scope of their position and training, and below the applicable standard of care they each owed him. Defendants **STEWART, GAUTHREAUX**, and/or other **UNKNOWN EMTs’** are aware that they did not have the qualifications to diagnosis Mr. Marlowe, and by doing so, they

acted with deliberate indifference toward Mr. Marlowe's clear and unambiguous medical needs.

29.

As a direct result of Defendants **STEWART**, **GAUTHREAUX**, and/or other **UNKNOWN EMTs'** violation of Mr. Marlowe's constitutional and statutory rights, he then 1) missed the opportunity to be screened for prediabetes and 2) endured significant pain and suffering as his symptoms continued to worsen.

30.

Had Mr. Marlowe been examined by a nurse practitioner or doctor instead of being told, for example, that he "had the wrong shoes," he could have been screened for the condition of prediabetes upon the onset of his symptoms and could have potentially avoided his eventual diagnosis of diabetes.

31.

Mr. Marlowe's symptoms continued and worsened. Eventually, Mr. Marlowe refused to discard his sick call form and was seen by Defendant nurse practitioner **SMITH** in early November. He had complained to **SMITH** about frequent urination, extreme thirst, numb feet and a change in vision. With deliberate indifference to Mr. Marlowe's health and well-being, Defendant **SMITH** completely disregarded the obvious diabetic symptoms he displayed and dismissed his discomfort with a diagnosis of being "dehydrated" and "wearing the wrong shoes."

32.

Mr. Marlowe's symptoms did not improve, and on or about November 10, 2016, medical staff at EHCC drew Mr. Marlowe's blood. The test results indicated that his glucose had risen to a life-threatening level of nearly 900 mg/dl.

33.

Upon information and belief, the medical staff instructed Defendant **STEWART** on November 11, 2016 to bring Mr. Marlowe to the acute treatment unit to undergo immediate treatment. With deliberate indifference to Mr. Marlowe's health and well-being, Defendant **STEWART** ignored these commands and left Mr. Marlowe untreated and unaware of his potentially fatal condition.

34.

Neither Defendant **STEWART** nor EHCC medical staff addressed Mr. Marlowe's emergency and life-threatening glucose levels for another four days, when the facility finally transported him via ambulance to University Hospital in New Orleans to receive emergency treatment and to prevent him from slipping into a diabetic coma.

35.

University doctors diagnosed Mr. Marlowe with diabetes and told him he should have been dead in light of his extremely high glucose and A1C levels.

36.

While admitted at University Hospital, Mr. Marlowe's treating doctors educated him on appropriate lifestyle changes – including diet – that he should make in order to best manage his chronic illness. The doctors also went over his medication regimen, recommended that he have glucerna, and spoke about the need to schedule regular appointments concerning future eye, feet, physical therapy, and dental care.

37.

Upon information and belief, both Defendants **STEWART** and **SMITH** ceased working at EHCC shortly after they committed medical malpractice and constitutional violations against Mr. Marlowe.

38.

Defendant **SMITH**'s deliberate disregard of Mr. Marlowe's obvious medical needs amounts to a violation of his constitutional rights. She ignored his ongoing complaints of diabetic symptoms, and her actions and omissions directly contributed to his delayed diabetes diagnosis and unnecessary pain and suffering.

39.

Defendant **STEWART**'s deliberate disregard of Mr. Marlowe's constitutional and statutory rights, health, and well-being directly resulted in Mr. Marlowe experiencing unnecessary and wanton pain and suffering, as he was left for over four days without essential medical treatment to bring his glucose levels under control.

40.

Defendants **HOOPER, MICHEL, and DR. PREETY SINGH** failed to properly supervise and train Defendants **SMITH** and **STEWART**'s for treatment of Mr. Marlowe. Defendants **HOOPER, MICHEL, and DR. PREETY SINGH**'s actions and inactions represent a constitutionally deficient medical system at EHCC.

41.

As experienced by Mr. Marlowe, the systemic and constitutional failures in EHCC's delivery of medical care begin with the facility's intake procedure and extend through the medical department's consistent failure to diagnose and/or properly treat illnesses, including severe, chronic, and even terminal illnesses.

42.

Defendants **LEBLANC, HOOPER, MICHEL and DR. PREETY SINGH**'s medical system at EHCC completely failed to screen and monitor Mr. Marlowe for prediabetes. The medical system should have been monitoring Mr. Marlowe (and all

EHCC inmates) because the meal plans created by Defendants **MICHEL, LEVY** and other EHCC staff put him at greater risk of developing diabetes. Had EHCC's medical system been appropriately screening and monitoring Mr. Marlowe (and all EHCC inmates) for prediabetes, he would likely have been able to avoid the eventual progression to diabetes through lifestyle changes.

43.

Under Defendants **DOC, SECRETARY LEBLANC, DR. RAMAN SINGH, HOOPER, MICHEL** and **DR. PREETY SINGH's** medical system, it is EMTs who are delegated the responsibility and authority to determine whether a prisoner will be scheduled for an appointment with a doctor, and what, if any, treatment short of a doctor's appointment an ailing prisoner will receive. These EMTs lack the medical training and experience of physicians, certified physicians' assistants, or registered nurses.

44.

In Mr. Marlowe's case, untrained EMTs (Defendants **STEWART, GAUTHREAUX**, and/or other **UNKNOWN EMTs**) acted as gatekeepers to the medical care he needed. They incorrectly diagnosed him and prevented him from receiving the appropriate care that he needed.

45.

Defendants **DOC, SECRETARY LEBLANC, HOOPER, DR. JOHN MORRISON, DR. PAM HEARN** and **DR. RAMAN SINGH** must have known, or should have known, of the risk of not correcting the systemic failures in providing medical care to EHCC due to current federal and state litigation against the **DOC** and/or EHCC employees concerning these very issues. For example, Defendant **DOC's** alleged unconstitutional pattern and practice of failing to provide its inmates constitutionally

adequate medical care is the subject of another pending action, *Lewis et al. v. Cain et al.*, no. 3:15-cv-318 (M.D. La. 2015). That complaint identifies the historical pattern and practice of denying or delaying DOC inmates – like Mr. Marlowe – constitutionally sufficient medical care, especially for inmates that require specialty care.

46.

Defendants **LEBLANC, HOOPER, MICHEL, DR. JOHN MORRISON, DR. RAMAN SINGH, DR. PAM HEARD** and **DR. PREETY SINGH** are aware of the deficiencies in the delivery of medical services because of the multiple pending lawsuits in state and federal court against the DOC and EHCC that make the same claims as Mr. Marlowe. In particular, Defendants **LEBLANC, HOOPER, MICHEL, DR. JOHN MORRISON, DR. RAMAN SINGH, DR. PAM HEARD** and **DR. PREETY SINGH** are aware and have been on notice that DOC pattern, practice and/or custom of having EMTs screen the inmate sick call process is unconstitutional due to the litigation in *Lewis et al. v. Cain et al.*, no. 3:15-cv-318.

47.

Defendants **LEBLANC, HOOPER, MICHEL, DR. RAMAN SINGH, DR. PAM HEARD, DR. JOHN MORRISON** and **DR. PREETY SINGH** have been on notice of the constitutionally deficient medical care system at EHCC because they are recipients of inmate grievances, including those from Mr. Marlowe, that raise issues with EHCC's deficient medical system. These Defendants all received Mr. Marlowe's grievances concerning the constitutional and violations addressed herein. Upon information and belief, other EHCC inmates have filed grievances to **LEBLANC, HOOPER, MICHEL, DR. RAMAN SINGH, DR. PAM HEARD, DR. JOHN MORRISON** and **DR. PREETY**

SINGH about the sick call process at EHCC and the deficient medical care provided to diabetic inmates.

48.

The diabetic care Mr. Marlowe has received at EHCC following his diagnosis continues to violate the federal and Louisiana Constitutions as well as the Americans with Disabilities Act, the Americans with Disabilities Act Amendment, and the Rehabilitation Act.

49.

As a diabetes patient, Mr. Marlowe now has a disability recognized and protected under Title II of the Americans with Disabilities Act and § 504 of the Rehabilitation Act.

50.

Unless persons with diabetes receive adequate care, they face the risk of serious, long-term complications including blindness, amputations of the lower extremities, kidney failure that may require dialysis or transplantation, nerve damage which causes numbness, pain and other nervous system problems, pneumonia, strokes, heart attacks, and death. Daily management of diabetes requires close attention to medication, dietary intake, and activity, with frequent monitoring of blood sugar. Patient education is essential to effective management, particularly regarding dietary requirements and how to meet them. The acute complications that result from too little or too much insulin in relation to activity and food intake must be recognized and treated promptly. In a correctional setting, comprehensive, coordinated care of diabetics requires an organized system of care directed by competent physicians who are well informed regarding the current standards of care for diabetes.

51.

The medical system administered by Defendants **HOOPER, MICHEL** and **DR. PREETY SINGH** took more than a year to provide Mr. Marlowe with any educational information about his diabetes diagnosis and appropriate lifestyle choices he could make to help manage his condition.

52.

Menu planning is an integral part of diabetes management in correctional facilities, and the Americans with Diabetes Association recommends that diabetic inmates have access to a heart-healthy diet. Without access to an appropriate diet, consumption of certain food can actually worsen a diabetes diagnosis. Some recommendations for diabetics seeking a heart-healthy diet are to:

- Eating a balanced diet with plenty of high-fiber foods, such as fruits, vegetables, legumes, whole grains, and nuts;
- Reducing consumption of high-calorie, nutrient-poor foods and beverages;
- Eating fish, especially oily fish (such as salmon, trout, and mackerel), at least twice a week;
- Getting at least 5-10% of daily calories from omega-6 fatty acids;
- Choosing fat-free or low-fat dairy products;
- Limiting daily consumption of foods high in saturated fats and cholesterol, such as red meat, whole-fat dairy products, shellfish, and egg yolks;
- Limiting consumption of trans fatty acids (found in fast foods and commercially baked products) to less than 1% of total daily calories;
- Replacing saturated and trans fats with unsaturated fats from plant and fish oils;
- Restricting sodium (salt) intake to less than 1,500 milligrams per day; and
- Choosing nutrient-rich fruits instead of beverages and processed foods that contain added sugars.

53.

Defendants **DOC, SECRETARY LEBLANC, HOOPER, MICHEL, CAMPBELL, LEVY** and other EHCC and RCC staff serve meals to Mr. Marlowe (and presumably other diabetics) that do not reflect the above referenced recommendations. Rather, the “diet” meals he is given remain high in starch, saturated fat, simple carbohydrates, and high glycemic index carbohydrates. In addition, Mr. Marlowe’s meals do not include fresh fruit, vegetables, nuts, or oily fish. Instead, his fruit is canned and/or saturated in syrup. Vegetables are never raw, but rather smothered with high saturated fats and are overcooked, diminishing their nutritional value. The only vegetables provided to inmates are boiled squash and smothered mustard greens. Nearly everything, except rice, is cooked in lard. The “diet meals” provided to Mr. Marlowe at EHCC and RCC are identical to the regular meals, with the exception that the “diet meal” contains less salt.

54.

The lack of a heart-healthy diet necessary for inmates like Mr. Marlowe is a direct result of Defendants **DOC’s, SECRETARY LEBLANC’s, HOOPER’s, MICHEL’s, CAMPBELL’s and LEVY’s** violation of Mr. Marlowe’s constitutional and statutory rights.

55.

The current food service system at EHCC and RCC is not just inaccessible and discriminatory to Mr. Marlowe because of his disability, but is also a danger to his health because consuming the food as presently served to him will worsen his diabetes condition.

56.

Defendants **DOC, SECRETARY LEBLANC, HOOPER, DR. PREETY SINGH, MICHEL**, and EHCC medical staff also provided unconstitutional and discriminatory medical services to Mr. Marlowe based on his disability.

57.

Prevention and management of low blood sugar and ketoacidosis are necessary components of diabetes care. Prevention, recognition and management of these acute complications of diabetes are grossly inadequate at EHCC, as experienced by Mr. Marlowe.

58.

EHCC staff is also responsible for distributing prescription medications to prisoners through the pill call process. Security staff rather than nurses perform medication distribution and management. During pill call, inmates are regularly forced to stand in line for extended periods of time, including outdoors and under harsh conditions. Just recently, Mr. Marlowe waited for over an hour in twelve-degree weather for his medication, and his insulin shot was administered outside. Pill calls do not occur at regular hours and prisoners are thus unable to adhere to regular medication regimens.

59.

In Mr. Marlowe's case, pill call was managed by Defendants **HORN, JOHNSON, BROWN, and PALMER**.

60.

Although Mr. Marlowe is not in possession of his prescriptions, he is expected to track his own need for prescription refills and request refills several days before the prescription runs out. Defendants **HORN, JOHNSON, BROWN, PALMER, TRAVIS, PREETY SINGH** do not assist inmates in tracking this information, which causes lapses in prisoners' expected use of prescription medication.

61.

On at least six different occasions, Mr. Marlowe's insulin or metformin prescriptions were not refilled by Defendant **TRAVIS**, causing him to both go without his required prescription and take expired medication.

62.

For instance, around February and March of 2018, Mr. Marlowe's insulin prescription expired and he went for a period of approximately two weeks of being forced to use expired insulin.

63.

Mr. Marlowe's insulin prescription expires 28 days after it is opened. It is Defendants **TRAVIS's** and **PREETY SINGH's** responsibility to insure that Mr. Marlowe has access to insulin medication that has not expired. After this 28-day period, Mr. Marlowe's insulin has degraded and lost its effectiveness, making it difficult for him to regulate his blood sugar levels.

64.

Mr. Marlowe has repeatedly complained to Defendants **HORN, BROWN, PALMER** and **JOHNSON** about his expired insulin. These Defendants willfully ignored Mr. Marlowe's medical need and did nothing to get him insulin that had not expired. Instead they told him that at EHCC inmates must use the bottle until it is empty because it is too expensive to replace them after the 28-day window has lapsed.

65.

On another occasion, Defendants **HORN, BROWN, PALMER** and **JOHNSON** handling pill call refused to give him insulin.

66.

On several other occasions, Defendants **HORN, BROWN, PALMER** and **JOHNSON** distributing medication gave Mr. Marlowe the wrong medication.

67.

Defendants **DOC, SECRETARY LEBLANC, HOOPER, MICHEL, DR. JOHN MORRISON, DR. PAM HEARN, DR. RAMAN SINGH, and DR. PREETY SINGH** violated Mr. Marlowe's constitutional and statutory rights because they failed to properly supervise and train Defendants **TRAVIS, HORN, BROWN, PALMER and JOHNSON**. Defendants **DOC, SECRETARY LEBLANC, HOOPER, MICHEL, DR. JOHN MORRISON, DR. PAM HEARN, DR. RAMAN SINGH, and DR. PREETY SINGH** knew, or should have known, of the risk of violating Mr. Marlowe (and other similarly situated inmate's) constitutional rights due to their policy, practice and/or custom of having correctional officers distribute medication at pill call to inmates. Defendants **DOC, SECRETARY LEBLANC, HOOPER, MICHEL, DR. JOHN MORRISON, DR. PAM HEARN, DR. RAMAN SINGH, and DR. PREETY SINGH** knew, or should have known, about this unconstitutional policy because it is the subject of other litigation, including *Lewis et al. v. Cain et al.*, no. 3:15-cv-318.

68.

Since his diagnosis, Mr. Marlowe's blood glucose levels have not been monitored at night or in between meals. Despite best practices, Mr. Marlowe is not provided with the equipment to monitor his blood sugar levels on his own.

69.

Defendants **DOC, HOOPER, MICHEL, DR. PREETY SINGH**, and other EHCC medical staff do not provide Mr. Marlowe with glucerna, a simple over-the-counter supplement that would help Mr. Marlowe manage and minimize blood sugar spikes in between pill call when he is provided with his insulin prescription.

70.

Patients with diabetes have special primary care needs that must be attended to routinely in order to maintain proper health and prevent disease. For example, diabetics are prone to gum disease and need preventative dental care over and above that required by normal, healthy adults. Research suggests that treating gum disease can help improve blood sugar control in patients living with diabetes, decreasing the progression of the disease.

71.

Defendants **DOC, HOOPER, MICHEL, DR. PREETY SINGH**, and other EHCC medical staff also did not provide Mr. Marlowe with access to an oral hygienist to clean his teeth. Mr. Marlowe has never had his teeth cleaned by a dentist or oral hygienist while housed at EHCC.

72.

Prevention and management of chronic complications with eyes, feet, kidneys, nerves, and blood vessels are necessary components of diabetes care. Care for chronic diabetic complications is grossly inadequate at EHCC due to the failure to provide timely and effective treatment to prevent disabling damage to eyes, feet, and kidneys. Mr. Marlowe was not regularly seen by a doctor at EHCC to evaluate him for chronic care issues related to diabetes.

73.

While at EHCC, a medical professional would see Mr. Marlowe, it was by a rotating intern who evaluates him for less than ten minutes. He rarely saw the same individual more than once. Just like Mr. Marlowe's doctors at University Hospital, these interns recommended that he eat a heart healthy diet that is high in protein and includes vegetables.

They also recommended that he receive glucerna and regular optometrist, dental, podiatrist, and physical therapy appointments.

74.

Following Mr. Marlowe's diagnosis, Defendant **DR. PREETY SINGH** consistently overrode these recommendations. Her disregard of these doctors' recommendations contradicts best practices in chronic care management of diabetes. Her actions ignore the clear and obvious medical needs of Mr. Marlowe and violate his constitutional and statutory rights.

75.

The care and treatment provided to Mr. Marlowe at EHCC was grossly inadequate in light of his chronic illness. Defendants **DOC, HOOPER, MICHEL, and DR. PREETY SINGH** each know, but are deliberately indifferent to, the fact that this inadequate care and treatment has resulted in serious and substantial harm to Mr. Marlowe and continues to create a serious risk that he will suffer from chronic complication due to his diabetes diagnosis.

76.

Mr. Marlowe has exhausted all administrative remedies available to him through the administrative remedy process at EHCC. This process includes putting Defendant **HOOPER** and **LeBLANC** on notice of the constitutional and statutory violations experienced by Mr. Marlowe prior to filing suit.

DAMAGES

77.

CHRISTOPHER MARLOWE, is entitled to reasonable damages for the following:

- A. Past, Present, and Future Medical Expenses;
- B. Past, Present, and Future Physical Pain and Suffering;

- C. Past, Present, and Future Mental Anguish;
- D. Past, Present, and Future Emotional Distress;
- E. Permanent Disability and Loss of Function;
- F. Loss of Enjoyment of Life;
- G. Past, Present, and Future Loss of Wages and Diminished Economic Horizons;
- H. Damages related to the civil rights violations he has endured as protected by federal law, and the federal and Louisiana Constitutions;
- I. Any other general or specific damages to which Mr. Marlowe is entitled to under the laws of the United States and Louisiana.

CAUSES OF ACTION

78.

COUNT 1: *Monell* Violation § 1983 Based on the Establishment of Policies, Patterns or Practices Pursuant to which Mr. Marlowe and Other Inmates are Denied Access to Appropriate Medical Care.

Mr. Marlowe repeats and re-alleges each and every allegation of this complaint.

79.

The Defendants named in this Count, **SECRETARY LEBLANC, HOOPER, DR. MORRISON, DR. HEARN, DR. RAMAN SINGH, MICHEL, and DR. PREETY SINGH**, in their official capacities with the **DOC**, acting under color of law, violated Mr. Marlowe's right to be free from cruel and unusual punishment and his right to due process and equal protection of the laws as guaranteed by the Eighth and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983. They did so by establishing and maintaining policies, patterns, or practices that they knew would result in Mr. Marlowe and other inmates with diabetes being denied access to appropriate medical care. Furthermore, these named Defendants, individually and collectively, had the duty and ability to intervene to prevent the violations of Mr. Marlowe's rights, as described herein, but failed to do so.

80.

Mr. Marlowe was and continues to be individually harmed by these policies, patterns, or practices because they resulted in 1) a permanent physical disability; 2) the

delayed diagnosis of diabetes; and 3) the ongoing constitutionally deficient chronic care in the management of his diabetes. These deprivations are the direct cause of significant pain and suffering experienced by Mr. Marlowe.

81.

At all pertinent times, the Defendants named in this Count, individually and collectively, acted unreasonably, recklessly, and with deliberate indifference and disregard for the safety and constitutional and civil rights of the plaintiff by establishing the above-described policies, patterns, or practices.

82.

The above-named defendants are therefore liable to the plaintiff for the violation of the constitutional rights described above pursuant to *Monell v. Dept. of Soc. Servs.*, 436 U.S. 658 (1978).

83.

COUNT 2: *Monell* Violation § 1983 Based on the Establishment of Policies, Patterns or Practices Pursuant to which Mr. Marlowe and Other Inmates are Denied Access to Food with Sufficient Nutrients to Preserve their Health.

Mr. Marlowe repeats and re-alleges each and every allegation of this complaint.

84.

The Defendants named in this Count, **SECRETARY LEBLANC, HOOPER, MORGAN LEBLANC, MICHEL, CAMPBELL and LEVY**, in their official capacities, acting under color of law, violated Mr. Marlowe's right to be free from cruel and unusual punishment and the right to due process and equal protection of the laws as protected by the Eighth and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983. They did so by establishing and maintaining policies, patterns, or practices that they knew would result in a constitutionally deficient food/meal service lacking in sufficient

nutrients to preserve health that led to Mr. Marlowe's development of diabetes. Furthermore, these named Defendants, individually and collectively, had the duty and ability to intervene to prevent the violations of the rights of Mr. Marlowe, as described herein, but failed to do so.

85.

Mr. Marlowe was individually harmed by these policies, patterns, or practices because they resulted in him developing diabetes. These deprivations are the direct cause of Mr. Marlowe's permanent physical disability and the significant pain and suffering he currently experiences. Collectively, these Defendants acted unreasonably, recklessly, maliciously, and/or with deliberate indifference and disregard for the constitutional and civil rights and serious medical needs of Mr. Marlowe. Furthermore, these named Defendants, individually and collectively, had the duty and ability to intervene to prevent the violations of Mr. Marlowe's rights, as described herein, but failed to do so.

86.

At all pertinent times, the defendants named in this Count, individually and collectively, acted unreasonably, recklessly, and with deliberate indifference and disregard for Mr. Marlowe's safety and constitutional and civil rights by establishing the above-described policies, patterns, or practices.

87.

The above-named defendants are therefore liable to the plaintiff for the violation of constitutional rights described above pursuant to *Monell v. Dept. of Soc. Servs.*, 436 U.S. 658 (1978).

88.

**COUNT 3: Constitutional Violation Based on Deliberate Indifference to
Mr. Marlowe's Constitutional Right to Appropriate Medical
Care**

Mr. Marlowe repeats and re-alleges each and every allegation of this complaint.

89.

The Defendants named in this Count, **SMITH, GAUTHREAUX, FALLON, TRAVIS, HORN, BROWN, JOHNSON, PALMER** and **DR. PREETY SINGH**, in their personal capacities, acting under color of law, violated Mr. Marlowe's right to be free from cruel and unusual punishment and the right to due process and equal protection of the laws as protected by the Eighth and Fourteenth Amendments of the United States Constitution; 42 U.S.C. § 1983; and Art. I §§ 2 and 20 of the Louisiana Constitution of 1974.

90.

The named Defendants collectively and individually, acted unreasonably, recklessly, maliciously, and/or with deliberate indifference and disregard for the constitutional and civil rights and serious medical needs of Mr. Marlowe.

91.

Mr. Marlowe further alleges that such acts as alleged herein are the proximate cause and cause in fact of the injuries sustained and the ongoing harm Mr. Marlowe continues to suffer due to the actions and omissions of the Defendants.

80.

**COUNT 4: Violation Based on Failure to Supervise and Train Other
Defendants to Ensure Inmates Received Appropriate Care for
Serious Medical Needs**

Mr. Marlowe repeats and re-alleges each and every allegation of the petition.

92.

The Defendants named in this Count, **LEBLANC, DR. JOHN MORRISON, DR. RAMAN SINGH, DR. PREETY SINGH, HOOPER** and **MICHEL**, in their personal

capacities, acting under color of law, violated Mr. Marlowe's right to be free from cruel and unusual punishment and the right to due process and equal protection of the laws as protected by the Eighth and Fourteenth Amendments of the United States Constitution; 42 U.S.C. § 1983; and Art. I §§ 2 and 20 of the Louisiana Constitution of 1974.

93.

Defendants **LEBLANC, DR. JOHN MORRISON, DR. PAM HEARD, DR. RAMAN SINGH, DR. PREETY SINGH, HOOPER** and **MICHEL** failed to supervise and train their subordinates, namely Defendants **SMITH, TRAVIS, FALLON, GAUTHREAUX, HORN, JOHNSON, PALMER,** and **BROWN** and other medical personnel, to ensure that these subordinates

- properly refer inmates to get medical care when they make requests at sick call;
- timely fill all inmates' prescriptions; and
- properly distribute medication.

94.

At all pertinent times herein, Defendants **LEBLANC, DR. JOHN MORRISON, DR. PAM HEARD, DR. RAMAN SINGH, DR. PREETY SINGH, HOOPER** and **MICHEL**, were aware of the need to supervise and train their subordinates in order to ensure that they did not violate prisoners' rights. Despite notice and knowledge from past and current ARPs and litigation, these Defendants knew that their failure to train and supervise Defendants **SMITH, TRAVIS, FALLON, GAUTHREAUX, HORN, JOHNSON, PALMER,** and **BROWN** would result in injury and unconstitutional medical care for Mr. Marlowe and other inmates at EHCC.

95.

Mr. Marlowe further alleges that such acts as alleged herein were the proximate cause and cause in fact of the injuries sustained and the ongoing harm Mr. Marlowe has suffered due to the actions and omissions by the Defendants.

96.

The Defendants named in this count acted recklessly, willfully, wantonly, and/or maliciously.

97.

Mr. Marlowe brings his federal constitutional claims through 42 U.S.C. § 1983; and his state constitutional claims through La. R.S. 13:5101 *et. seq.*

COUNT 5: Americans with Disabilities Act, Americans with Disabilities Amendment Act, and Rehabilitation Act

The Americans with Disabilities Act (hereinafter “ADA”) prohibits public entities, including Defendant **DOC**, from denying “a qualified individual with a disability . . . the benefits of the services, programs, or activities of the public entity” because of the individual’s disability. 42 U.S. C. § 12132.

81.

Mr. Marlowe repeats and re-alleges each and every allegation of this complaint.

82.

Defendant **DOC** is named in this count and responsible for all violations of the ADA committed by its hired and contracted staff at EHCC.

83.

The ADA defines “a qualified individual with a disability” as a person who suffers from a “physical or mental impairment that substantially limits one or more major life activities,” including but not limited to, “caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing,

learning, reading, concentrating, thinking, communicating, and working.” 42 U.S.C. § 12102(1)(A), (2)(A).

84.

The programs, services, and activities that Defendant **DOC** provides to prisoners include, but are not limited to, sleeping; eating; showering; toileting; exercising; safety and security; Angola’s administrative, disciplinary, and classification proceedings; medical, mental health, and dental services; the library; educational, vocational, substance abuse, and other classes; and discharge services. Defendant **DOC**’s programs, services, and activities are covered by the ADA.

85.

Under the ADA, Defendant **DOC** must provide prisoners with disabilities reasonable accommodations and modifications so that they can avail themselves of and participate in all programs and activities offered by Defendants.

86.

Defendant **DOC**’s food services program and health care system at EHCC continue to discriminate against and fail to accommodate Mr. Marlowe and his disability as described herein.

87.

As a result of Defendant **DOC**’s discrimination against and failure to provide reasonable accommodations for Mr. Marlowe, he does not have equal access to prison activities, programs, and services for which he is otherwise qualified.

88.

At all times relevant to this action, Defendant **DOC** was the recipient of federal funding within the meaning of the Rehabilitation Act. As a recipient of federal funds, it is

required to reasonably accommodate prisoners with disabilities in its facilities, programs, activities, and services, and to provide a grievance procedure.

89.

Mr. Marlowe is a qualified individual with disabilities as defined in the ADA, ADA Amendment Act, and Rehabilitation Act.

90.

By their policy and practice of discriminating against and failing to reasonably accommodate Mr. Marlowe's dietary and medical needs, Defendant **DOC** continues to violate Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.

91.

COUNT 6: Medical Malpractice

Mr. Marlowe repeats and re-alleges each and every allegation of this complaint.

92.

The above-described actions and inactions of Defendants **DR. PREETY SINGH, TRAVIS, SMITH, FALLON, GAUTHREAUX**, and other **UNKNOWN EMTs**, who were healthcare professionals charged with the care of Mr. Marlowe, fell beneath the applicable standard of care for such professionals and resulted in: 1) a missed opportunity to screen Mr. Marlowe for prediabetes; 2) the unreasonably delayed diagnosis of his diabetes; and 3) the ongoing disregard of best practices for the management of his chronic illness. These defendants are therefore liable to the plaintiff for their intentional, reckless, and/or negligent actions.

93.

COUNT 7: Negligent and/or Intentional Conduct Resulting in Injury

Mr. Marlowe repeats and re-alleges each and every allegation of this complaint.

94.

Defendants **DR. PREETY SINGH, SMITH, FALLON, GAUTHREAUX, TRAVIS, HORN, BROWN, JOHNSON, PALMER** and other **UNKNOWN EMTs**, acting individually and collectively, and under color of law, engaged in a course of conduct that caused injury and harm to Mr. Marlowe. At all times pertinent herein, these defendants, individually and collectively, acted intentionally, maliciously, recklessly, and/or negligently towards Mr. Marlowe. Furthermore, these defendants, individually and collectively, had the duty and ability to intervene to prevent the tortious conduct of co-defendants toward Mr. Marlowe, as described herein, but failed to do so. They are therefore liable to Mr. Marlowe for damages, as described herein.

95.

COUNT 8: Negligent Supervision

Mr. Marlowe repeats and re-alleges each and every allegation of this complaint.

96.

Defendants **DR. RAMAN SINGH, DR. PAMELA HEARN, DR. JOHN MORRISON, HOOPER, MICHEL, and DR. PREETY SINGH**, acting individually and collectively, and under color of law, engaged in a course of conduct and negligent supervision of those charged to care for Mr. Marlowe. The conduct, as described in Count 5, by Defendants **DR. PREETY SINGH, SMITH, FALLON, GAUTHREAUX**, and other **UNKNOWN EMTs**, caused injury and harm to Mr. Marlowe. At all times pertinent herein, these defendants, individually and collectively, acted intentionally, maliciously, recklessly, and/or negligently towards Mr. Marlowe. Furthermore, these defendants, individually and collectively, had the duty and ability to intervene to prevent the tortious

conduct of other co-defendants toward Mr. Marlowe, as described herein, but failed to do so. They are therefore liable to Mr. Marlowe for damages, as described herein.

JURY DEMAND

The United States demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

RELIEF REQUESTED

WHEREFORE, Mr. Marlowe prays that this Honorable Court grant the following relief:

1. Declare the Defendants' conduct unlawful;
2. Enjoin the Defendants from taking adverse and/or retaliatory actions against Mr. Marlowe;
3. Issue an injunction that restrains, enjoins, and prohibits the Defendants from serving food that does not meet the medical needs of diabetic inmates like Mr. Marlowe;
4. Issue an injunction that restrains, enjoins, and prohibits the Defendants from denying Mr. Marlowe access to appropriate medical care, including timely distribution of his medication, access to equipment to monitor his glucose levels, and timely dental, eye, and podiatrist appointments;
5. Award compensatory, punitive, and all damages as prayed for herein;
6. Award reasonable attorney's fees and costs;
7. Trial by jury; and
8. All other general and equitable relief that this Honorable Court deems appropriate under the circumstances.

Respectfully Submitted,
/s/ Emily H. Posner

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Attorney for Christopher Marlowe

CERTIFICATE OF SERVICE

I hereby certify that on the day of filing, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be served upon all parties through the CM/ECF system.

/s/ Emily H. Posner
Emily H. Posner

EXHIBIT B

**U.S. District Court
Middle District of Louisiana (Baton Rouge)
CIVIL DOCKET FOR CASE #: 3:18-cv-00063-BAJ-EWD**

Marlowe v. LeBlanc et al
Assigned to: Judge Brian A. Jackson
Referred to: Magistrate Judge Erin Wilder-Doomes
Case in other court: 5th Circuit, 20-30276
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 01/25/2018
Jury Demand: Both
Nature of Suit: 555 Prisoner Conditions
Jurisdiction: Federal Question

Plaintiff

Chris Marlowe
TERMINATED: 03/23/2018

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Unknown Campbell
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Defendant

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Defendant

Unknown Horn

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Unknown Brown

Sgt

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State Of Louisiana

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Other
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Defendant

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ATTORNEY TO BE NOTICED

Jeffery A Wheeler , II
(See above for address)
TERMINATED: 06/27/2019
ATTORNEY TO BE NOTICED

Phyllis Esther Glazer
(See above for address)

ATTORNEY TO BE NOTICED

Defendant

Rolanda Palmer
Master Sgt.

represented by **Christopher Neal Walters**
(See above for address)
TERMINATED: 10/02/2019
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Suzanne Quinlan Mooney
(See above for address)
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TERMINATED: 06/27/2019
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Phyllis Esther Glazer
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Defendant

Chermaine Brown
Sgt.

represented by **Christopher Neal Walters**
(See above for address)
TERMINATED: 10/02/2019
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TERMINATED: 06/27/2019
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Phyllis Esther Glazer
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Date Filed	#	Docket Text
01/25/2018	<u>1 (p.30)</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 053N-1705878.), filed by Chris Marlowe. (Attachments: # <u>1 (p.30)</u> Attachment Civil Cover Sheet, # <u>2 (p.77)</u> Attachment Summons, # <u>3 (p.97)</u> Attachment Summons, # <u>4 (p.107)</u> Attachment Summons, # <u>5 (p.109)</u>)

		Attachment Summons, # <u>6 (p.111)</u> Attachment Summons, # <u>7 (p.113)</u> Attachment Summons, # <u>8 (p.119)</u> Attachment Summons, # <u>9 (p.122)</u> Attachment Summons, # <u>10 (p.124)</u> Attachment Summons)(Posner, Emily) (Attachment 1 through 10 replaced on 1/29/2018) (ELW). Modified on 1/29/2018 to flatten documents (ELW). (Entered: 01/25/2018)
01/30/2018	<u>2 (p.77)</u>	Summons Issued as to Unknown Campbell, Elizabeth Gauthreaux, Pam Hearn, Timothy Hooper, James M LeBlanc, Morgan LeBlanc, Gail Levy, Stephanie Michel, Preety Singh. (NOTICE: Counsel shall print and serve both the summons and all attachments in accordance with Federal Rule of Civil Procedure 4.) (ELW) (Entered: 01/30/2018)
02/06/2018	<u>3 (p.97)</u>	SCHEDULING CONFERENCE ORDER: Scheduling Conference set for 3/22/2018 at 09:30 AM in chambers before Magistrate Judge Erin Wilder-Doomes. Status Report due by 3/8/2018. Signed by Magistrate Judge Erin Wilder-Doomes on 2/6/2018. (SGO) (Entered: 02/06/2018)
02/28/2018	<u>4 (p.107)</u>	Summons Submitted (Posner, Emily) (ELW). (Entered: 02/28/2018)
02/28/2018	<u>5 (p.109)</u>	Summons Submitted (Posner, Emily) (Main Document 5 replaced on 2/28/2018) (ELW). Modified on 2/28/2018 to flatten document (ELW). (Entered: 02/28/2018)
02/28/2018	<u>6 (p.111)</u>	Summons Submitted (Posner, Emily) (Main Document 6 replaced on 2/28/2018) (ELW). Modified on 2/28/2018 to flatten document (ELW). (Entered: 02/28/2018)
02/28/2018	<u>7 (p.113)</u>	Summons Issued as to Raman Singh, Polly Smith, Fallon Stewart. (NOTICE: Counsel shall print and serve both the summons and all attachments in accordance with Federal Rule of Civil Procedure 4.) (ELW) (Entered: 02/28/2018)
03/05/2018	<u>8 (p.119)</u>	Ex Parte MOTION for Deadline Extension by Chris Marlowe. (Posner, Emily) Modified to edit text on 3/5/2018 (SGO). (Entered: 03/05/2018)
03/05/2018		MOTION(S) REFERRED: <u>8 (p.119)</u> Ex Parte MOTION for Deadline Extension. This motion is now pending before the USMJ. (SGO) (Entered: 03/05/2018)
03/12/2018	<u>9 (p.122)</u>	Summons Submitted (Posner, Emily) (Main Document 9 replaced on 3/12/2018) (EDC). Modified on 3/12/2018 to flatten document. (EDC). (Entered: 03/12/2018)
03/12/2018	<u>10 (p.124)</u>	Summons Submitted (Posner, Emily) (Main Document 10 replaced on 3/12/2018) (EDC). Modified on 3/12/2018 to flatten document. (EDC). (Entered: 03/12/2018)
03/12/2018	<u>11 (p.126)</u>	Summons Issued as to Polly Smith, Fallon Stewart. (NOTICE: Counsel shall print and serve both the summons and all attachments in accordance with Federal Rule of Civil Procedure 4.) (Attachments: # <u>1 (p.30)</u> summons)(EDC)

		(Entered: 03/12/2018)
03/16/2018	12	ORDER granting 8 (p.119) Ex-Parte Motion for Deadline Extension. Scheduling Conference reset for 6/7/2018 at 01:30 PM in chambers before Magistrate Judge Erin Wilder-Doomes. Status Report due by 5/24/2018. Signed by Magistrate Judge Erin Wilder-Doomes on 3/16/2018. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) Modified to edit text on 3/16/2018 (BLR). (Entered: 03/16/2018)
03/22/2018	13 (p.130)	AMENDED COMPLAINT against All Defendants, filed by Chris Marlowe.(Posner, Emily) (Entered: 03/22/2018)
03/22/2018	14 (p.162)	Summons Submitted (Attachments: # 1 (p.30) Summons, # 2 (p.77) Summons, # 3 (p.97) Summons, # 4 (p.107) Summons)(Posner, Emily) Modified to flatten documents on 3/23/2018 (SGO). (Entered: 03/22/2018)
03/23/2018	15 (p.172)	Summons Issued as to Unknown Horn, Unknown Johnson, Unknown Palmer, Jonathan Travis. (NOTICE: Counsel shall print and serve both the summons and all attachments in accordance with Federal Rule of Civil Procedure 4.) (SGO) (Entered: 03/23/2018)
03/26/2018	16 (p.182)	SUMMONS Returned Executed by Christopher Marlowe. Darryl Campbell served on 3/12/2018, answer due 4/2/2018; Unknown Campbell served on 3/7/2018, answer due 3/28/2018; Elizabeth Gauthreaux served on 3/7/2018, answer due 3/28/2018; Timothy Hooper served on 3/7/2018, answer due 3/28/2018; Morgan LeBlanc served on 3/7/2018, answer due 3/28/2018; James W. Leblanc served on 3/12/2018, answer due 4/2/2018; Gail Levy served on 3/7/2018, answer due 3/28/2018; Stephanie Michel served on 3/7/2018, answer due 3/28/2018; Preety Singh served on 3/7/2018, answer due 3/28/2018; Raman Singh served on 3/12/2018, answer due 4/2/2018; State Of Louisiana served on 3/12/2018, answer due 4/2/2018. (Attachments: # 1 (p.30) Summons)(Posner, Emily) (Entered: 03/26/2018)
03/27/2018	17 (p.204)	Summons Submitted (Attachments: # 1 (p.30) amended complaint summons, # 2 (p.77) amended complaint summons, # 3 (p.97) amended complaint summons, # 4 (p.107) amended complaint summons, # 5 (p.109) amended complaint summons, # 6 (p.111) amended complaint summons, # 7 (p.113) amended complaint summons, # 8 (p.119) amended complaint summons)(Posner, Emily) Modified to flatten documents on 3/27/2018 (SGO). (Entered: 03/27/2018)
03/27/2018	18 (p.222)	Summons Issued as to Elizabeth Gauthreaux, Timothy Hooper, Morgan LeBlanc, James W. Leblanc, Gail Levy, Stephanie Michel, Preety Singh, Raman Singh, State Of Louisiana. (NOTICE: Counsel shall print and serve both the summons and all attachments in accordance with Federal Rule of Civil Procedure 4.) (SGO) (Entered: 03/27/2018)

04/04/2018	<u>19 (p.240)</u>	SUMMONS Returned Executed by Christopher Marlowe. Raman Singh served on 4/3/2018, answer due 4/24/2018; Polly Smith served on 4/3/2018, answer due 4/24/2018; Fallon Stewart served on 4/3/2018, answer due 4/24/2018. (Attachments: # <u>1 (p.30)</u> Attachment, # <u>2 (p.77)</u> Attachment)(Posner, Emily) (Entered: 04/04/2018)
05/18/2018	<u>20 (p.246)</u>	ANSWER to <u>13 (p.130)</u> Plaintiff's Complaint by Darryl Campbell, Elizabeth Gauthreaux, Timothy Hooper, James LeBlanc, Morgan LeBlanc, Gail Levy, Stephanie Michel, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart.(Wheeler, Jeffery) Modified on 5/18/2018 to edit text (SGO). (Entered: 05/18/2018)
05/23/2018	<u>21 (p.266)</u>	Consent MOTION for Deadline Extension by All Plaintiffs. (Posner, Emily) Modified to edit text on 5/23/2018 (SGO). (Entered: 05/23/2018)
05/23/2018		MOTION(S) REFERRED: <u>21 (p.266)</u> Consent MOTION for Deadline Extension. This motion is now pending before the USMJ. (SGO) (Entered: 05/23/2018)
05/24/2018	22	ORDER granting <u>21 (p.266)</u> Consent MOTION for Deadline Extension for good cause shown. Status Report due by 5/31/2018. Signed by Magistrate Judge Erin Wilder-Doomes on 5/24/2018. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) (Entered: 05/24/2018)
05/31/2018	<u>23 (p.269)</u>	STATUS REPORT by All Plaintiffs. (Posner, Emily) Modified to edit text on 6/1/2018 (SGO). (Entered: 05/31/2018)
06/06/2018	24	Notice to Counsel: In light of all newly added defendants having not made an appearance, the Scheduling Conference is CONTINUED to 8/9/2018 at 01:30 PM in chambers before Magistrate Judge Erin Wilder-Doomes. Status Report due by 7/26/2018.(This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) (Entered: 06/06/2018)
08/03/2018	25	ORDER TO SHOW CAUSE: Plaintiff shall show cause as to why claims against defendants, Jonathan Travis, Unknown Horn, Unknown Palmer, Unknown Brown, Unknown Bron, Unknown Johnson, Pam Heard and Unknown EMTs, should not be dismissed pursuant to Local Civil Rule 41(b)(1)(A). Jonathan Travis, Unknown Horn, Unknown Palmer, Unknown Brown, Unknown Bron, Unknown Johnson, Pam Heard and Unknown EMTs have not made appearances nor does the record contain any service information. Show Cause Hearing set for 8/17/2018 at 10:00 AM in Courtroom 5 before Magistrate Judge Erin Wilder-Doomes. Show Cause Response due by 8/10/2018. The Scheduling Conference set for 8/9/2018 is CANCELED. No Status Report is due at this time. The Signed by Magistrate Judge Erin Wilder-Doomes on 8/3/2018.

		(This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.)(BLR) (Entered: 08/03/2018)
08/03/2018	<u>26 (p.279)</u>	SUMMONS Returned Executed by Christopher Marlowe. Unknown Horn served on 3/28/2018, answer due 4/18/2018; Jonathan Travis served on 6/12/2018, answer due 7/3/2018. (Posner, Emily) (Entered: 08/03/2018)
08/09/2018	<u>27 (p.283)</u>	SUMMONS Returned Executed by Christopher Marlowe. Pam Hearn served on 3/28/2018, answer due 4/18/2018. (Posner, Emily) (Entered: 08/09/2018)
08/09/2018	<u>28 (p.285)</u>	Summons Returned Unexecuted by Christopher Marlowe as to Unknown Brown, Unknown Johnson, Unknown Palmer. (Posner, Emily) (Entered: 08/09/2018)
08/09/2018	<u>29 (p.292)</u>	RESPONSE TO ORDER TO SHOW CAUSE and Motion to Extend the Deadline for Service of Process. (Posner, Emily) Modified on 8/10/2018 to edit text (ELW). Modified to add motion for extension on 8/14/2018 (BLR). (Entered: 08/09/2018)
08/14/2018		MOTION(S) REFERRED: <u>29 (p.292)</u> MOTION for Extension of Time. This motion is now pending before the USMJ. (BLR) (Entered: 08/14/2018)
08/15/2018	<u>30 (p.297)</u>	ANSWER to <u>13 (p.130)</u> Amended Complaint by Pam Hearn, Unknown Horn, Jonathan Travis.(Wheeler, Jeffery) (Entered: 08/15/2018)
08/17/2018	<u>31 (p.317)</u>	Minute Entry/Show Cause and Order for proceedings held before Magistrate Judge Erin Wilder-Doomes Show Cause Hearing held on 8/17/2018. The parties presented arguments with regard to the Show Cause Response and Motion to Extend Deadline for Service of Process, related to Unknown Palmer, Unknown Brown, Unknown Johnson and Unknown EMTs. <u>29 (p.292)</u> MOTION for Extension of Time is GRANTED. The court will issue a separate scheduling conference order. (ELW) (Entered: 08/17/2018)
08/17/2018	33	ORAL ORDER granting <u>29 (p.292)</u> MOTION to Extend Deadline for Service of Process. Signed by Magistrate Judge Erin Wilder-Doomes on 08/17/2018. (NLT) (Entered: 08/21/2018)
08/20/2018	<u>32 (p.318)</u>	SCHEDULING CONFERENCE ORDER: Scheduling Conference set for 11/29/2018 at 10:30 AM in chambers before Magistrate Judge Erin Wilder-Doomes. Status Report due by 11/15/2018. Signed by Magistrate Judge Erin Wilder-Doomes on 8/20/2018. (SGO) (Entered: 08/20/2018)
10/01/2018	<u>34 (p.328)</u>	Unopposed MOTION and Incorporated Memorandum to Extend the Deadline for Service of Process by Christopher Marlowe. (Attachments: # <u>1 (p.30)</u> Exhibit, # <u>2 (p.77)</u> Proposed Order)(Posner, Emily) Modified on 10/2/2018 to

		edit text. (EDC). (Additional attachment added on 10/5/2018: # 3 (p.97) Memorandum in Support) (NLT). Modified on 10/5/2018 to replace and add documents in accordance with record document 36 (NLT). (Entered: 10/01/2018)
10/02/2018		MOTION(S) REFERRED: 34 (p.328) Unopposed MOTION for Extension of Time Deadline for Service of Process. This motion is now pending before the USMJ. (EDC) (Entered: 10/02/2018)
10/02/2018	35 (p.344)	MOTION to Substitute Doc. 34 by Chris Marlowe. (Attachments: # 1 (p.30) Exhibit Exhibit A (Motion), # 2 (p.77) Exhibit Exhibit B (Memorandum in Support), # 3 (p.97) Exhibit Exhibit A for Memorandum in Support)(Posner, Emily) (Entered: 10/02/2018)
10/02/2018		MOTION(S) REFERRED: 35 (p.344) MOTION to Substitute Doc. 34 . This motion is now pending before the USMJ. (SGO) (Entered: 10/02/2018)
10/03/2018	36	ORDER granting 35 (p.344) Motion for Leave to Substitute Document. The clerk is directed to replace R. Doc. 34 with 35-1 and add 35-2 as an additional attachment (memo in support). Signed by Magistrate Judge Erin Wilder-Doomes on 10/3/2018. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) (Entered: 10/03/2018)
10/03/2018	37	ORDER granting 34 (p.328) Unopposed Motion to Extend the Deadline for Service of Process. Plaintiffs deadline to serve Defendants Unknown Palmer, Unknown Brown, Unknown Johnson and Unknown EMTs is extended to November 5, 2018. Signed by Magistrate Judge Erin Wilder-Doomes on 10/3/2018. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) (Entered: 10/03/2018)
11/05/2018	38 (p.361)	SUMMONS Returned Executed by Christopher Marlowe. Unknown Palmer served on 11/5/2018, answer due 11/26/2018. (Posner, Emily) (Entered: 11/05/2018)
11/05/2018	39 (p.363)	SUMMONS Returned Executed by Christopher Marlowe. Unknown Johnson served on 11/5/2018, answer due 11/26/2018. (Posner, Emily) (Entered: 11/05/2018)
11/05/2018	40 (p.365)	MOTION to Extend the Deadline for Service of Process by Christopher Marlowe. (Attachments: # 1 (p.30) Memorandum in Support, # 2 (p.77) Exhibit, # 3 (p.97) Exhibit)(Posner, Emily) Modified on 11/6/2018 to edit the text and remove blank page (SWE). (Entered: 11/05/2018)
11/06/2018		MOTION(S) REFERRED: 40 (p.365) MOTION for Extension of Time Service of Process. This motion is now pending before the USMJ. (SWE) (Entered: 11/06/2018)
11/13/2018	41	

		ORDER granting 40 (p.365) Motion to Extend the Deadline for Service of Process to 12/13/2018. Signed by Magistrate Judge Erin Wilder-Doomes on 11/13/2018. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) (Entered: 11/13/2018)
11/16/2018	42	Notice to Counsel: In light of the Order (R. Doc. 41) Service of Process, good cause is shown to CONTINUE the Scheduling Conference to 1/24/2019 at 01:30 PM in chambers before Magistrate Judge Erin Wilder-Doomes. Status Report due by 1/10/2019. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) (Entered: 11/16/2018)
11/28/2018	43 (p.383)	ANSWER to 13 (p.130) Amended Complaint by Unknown Johnson, Unknown Palmer.(Wheeler, Jeffery) (Entered: 11/28/2018)
01/10/2019	44 (p.403)	STATUS REPORT by Christopher Marlowe. (Posner, Emily) (Entered: 01/10/2019)
01/15/2019	46 (p.413)	ORDER: The Louisiana Department of Corrections provided to the Court the last known address of the defendant Shermaine Brown. The Clerk of Court shall file the response under SEAL and issue summons to Shermaine Brown under SEAL at the address contained therein for plaintiff's counsel to complete service. Counsel for the plaintiff is on notice that Shermaine Brown's address is for use only as ordered by this Court. Counsel for plaintiff shall not file any document containing that address into any public or court record. Counsel for plaintiff shall submit any return of service directly to the Clerks Office. Signed by Magistrate Judge Erin Wilder-Doomes on 1/15/2019. (SGO) (Entered: 01/15/2019)
01/15/2019	47	SEALED Letter from LA DOC re: Shermaine Brown Address (SGO) (Entered: 01/15/2019)
01/15/2019	48 (p.414)	Summons Issued as to Unknown Brown. (NOTICE: Counsel shall print and serve both the summons and all attachments in accordance with Federal Rule of Civil Procedure 4.) (SGO) (Entered: 01/15/2019)
01/22/2019	49	Notice to Counsel: In light of all defendant having not made an appearance in this matter, good cause is shown to CONTINUE the scheduling conference. Scheduling Conference reset for 3/21/2019 at 10:30 AM in chambers before Magistrate Judge Erin Wilder-Doomes. Status Report due by 3/7/2019. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.)(BLR) (Entered: 01/22/2019)
02/28/2019	50 (p.416)	SUMMONS Returned Executed by Christopher Marlowe. Unknown Brown served on 2/22/2019, answer due 3/15/2019. (Posner, Emily) (Entered: 02/28/2019)
03/14/2019	51 (p.418)	

		ANSWER to <u>13 (p.130)</u> Amended Complaint by Unknown Brown.(Wheeler, Jeffery) (Entered: 03/14/2019)
03/18/2019	52	NOTICE of TELEPHONE CONFERENCE: The scheduling conference set for 3/21/2019 has been CONVERTED to a Telephone Conference set for 3/21/2019 at 10:30 AM before Magistrate Judge Erin Wilder-Doomes. Counsel participating in the Conference shall call 877-336-1839 using access code 9565780 five minutes prior to conference. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.)(BLR) (Entered: 03/18/2019)
03/21/2019	<u>53 (p.438)</u>	STATUS REPORT by Christopher Marlowe. (Posner, Emily) (Entered: 03/21/2019)
03/21/2019	<u>54 (p.447)</u>	Notice to Counsel: At the request of counsel, the Telephone Conference is reset for 3/26/2019 at 11:00 AM before Magistrate Judge Erin Wilder-Doomes. Counsel participating in the Conference shall call 877-336-1839 using access code 9565780 five minutes prior to conference.(This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.)(BLR) (Entered: 03/21/2019)
03/26/2019	55	ORDER TO SHOW CAUSE: The parties shall show cause for failure to comply with the <u>54 (p.447)</u> Notice to Counsel. Show Cause Hearing set for 4/1/2019 at 10:00 AM in Courtroom 5 before Magistrate Judge Erin Wilder-Doomes. Signed by Magistrate Judge Erin Wilder-Doomes on 3/26/2019. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.)(BLR) (Entered: 03/26/2019)
03/29/2019	<u>56 (p.448)</u>	Letter dated 3/29/2019 from Posner to Judge Wilder-Doomes Re: request to convert 4/1/2019 show cause hearing to a telephone conference. (BLR) (Entered: 03/29/2019)
03/29/2019	57	Notice to Counsel: The request to convert the 4/1/2019 Show Cause Hearing to a Telephone Conference is DENIED. The Show Cause Hearing is reset for 4/3/2019 at 02:30 PM in Courtroom 5 before Magistrate Judge Erin Wilder-Doomes. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.)(BLR) (Entered: 03/29/2019)
04/03/2019	<u>58 (p.449)</u>	Show Cause Report and Order/Minute Entry for proceedings held before Magistrate Judge Erin Wilder-Doomes. Show Cause Hearing held on 4/3/2019. Counsel for Plaintiff will file a notice with the court advising of the typographical error so Pam Heard can be removed from the docket. The court will issue a separate scheduling order based on the deadlines provided in the parties Status Report. Plaintiff shall file brief due by 4/12/2019. (ELW) (Entered: 04/05/2019)
04/10/2019	<u>59 (p.451)</u>	NOTICE of Correction by Christopher Marlowe (Posner, Emily) (Entered: 04/10/2019)

04/11/2019	<u>60 (p.453)</u>	SCHEDULING ORDER: In accordance with FRCP 16(b), the following discovery deadlines are established. Amended Pleadings due by 5/17/2019. Discovery due by 10/18/2019. Plaintiff's Expert Witness List due by 11/22/2019. Defendant's Expert Witness List due by 12/20/2019. Plaintiff's Expert Reports due by 12/20/2019. Defendant's Expert Reports due by 1/17/2020. Discovery from Experts due by 1/17/2020. Motions shall be filed by 3/31/2020. Proposed Pretrial Order due by 7/21/2020. Pretrial Conference set for 8/13/2020 at 01:30 PM in chambers before Judge Brian A. Jackson. Motions In Limine shall be filed by 8/18/2020. Affidavit of Settlement Efforts due by 9/1/2020. Joint jury instructions, voir dire, verdict forms, and trial briefs due by 10/5/2020. Jury Trial set for 10/19/2020 - 10/23/2020 at 09:00 AM in Courtroom 2 before Judge Brian A. Jackson. Signed by Magistrate Judge Erin Wilder-Doomes on 4/11/2019. (KAH) (Entered: 04/11/2019)
04/11/2019	<u>61 (p.456)</u>	SETTLEMENT CONFERENCE ORDER: Settlement Conference set for 11/13/2019 at 01:30 PM in chambers before Magistrate Judge Erin Wilder-Doomes. Signed by Magistrate Judge Erin Wilder-Doomes on 4/11/2019. (KAH) (Entered: 04/11/2019)
04/11/2019	<u>62 (p.460)</u>	NOTICE of Voluntary Dismissal by Christopher Marlowe (Posner, Emily) Modified on 4/12/2019 to correct event type. (EDC). (Entered: 04/11/2019)
04/15/2019	<u>63 (p.462)</u>	ORDER: Plaintiff's claims against the "Unknown EMTs" are DISMISSED without prejudice. The Clerk of Court shall terminate the motion pending at docket entry 62. Signed by Judge Brian A. Jackson on 4/15/2019. (KAH) (Entered: 04/15/2019)
05/17/2019	<u>64 (p.463)</u>	Second AMENDED COMPLAINT against All Defendants, filed by Christopher Marlowe.(Posner, Emily) Modified on 5/20/2019 (LT). (Entered: 05/17/2019)
06/20/2019	<u>65 (p.497)</u>	ANSWER to <u>64 (p.463)</u> Amended Complaint by John Morrison.(Wheeler, Jeffery) (Entered: 06/20/2019)
06/26/2019	<u>66 (p.517)</u>	MOTION to Substitute Christopher N. Walters in place of Jeffery A. Wheeler, II as Attorney by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, Morgan LeBlanc, James W. Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Unknown Palmer, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Attachments: # <u>1 (p.30)</u> Proposed Pleading;)(Wheeler, Jeffery) (Entered: 06/26/2019)
06/26/2019		MOTION(S) REFERRED: <u>66 (p.517)</u> MOTION to Substitute Christopher N. Walters in place of Jeffery A. Wheeler, II as Attorney . This motion is now pending before the USMJ. (LT) (Entered: 06/26/2019)

06/27/2019	67	ORDER granting 66 (p.517) Motion to Substitute and Enroll Counsel. Christopher Neal Walter is replacing Jeffery A. "Beau" Wheeler, II as counsel for the defendants, the State of Louisiana through the Department of Public Safety & Corrections, Secretary James LeBlanc, Dr. RamanSingh, Dr. Pam Heard, Dr. John Morrison, Warden Timothy Hooper, Dep. Warden Stephanie Michel, Asst. Warden Morgan LeBlanc, Asst. Warden Darryl Campbell, Dr. Preety Singh, Gail Levy, Polly Smith, Fallon Stewart, Elizabeth Gauthreaux, Jonathon Travis, MSgt. Angel Horn, MSgt. Rolanda Palmer, and Sgt. Chermaine Brown. Signed by Magistrate Judge Erin Wilder-Doomes on 6/27/2019. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) (Entered: 06/27/2019)
09/06/2019	68 (p.521)	Joint MOTION to Amend 60 (p.453) Scheduling Order by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, Morgan LeBlanc, James W. Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Attachments: # 1 (p.30) Proposed Amended Scheduling Order)(Walters, Christopher) Modified on 9/6/2019 to edit the text (KAH). (Entered: 09/06/2019)
09/06/2019		MOTION(S) REFERRED: 68 (p.521) Joint MOTION to Amend 60 (p.453) Scheduling Order. This motion is now pending before the USMJ. (KAH) (Entered: 09/06/2019)
09/09/2019	69 (p.527)	ORDER granting 68 (p.521) Joint MOTION to Amend 60 (p.453) Scheduling Order. Discovery due by 1/17/2020. Plaintiff's Expert Witness List due by 1/17/2020. Defendant's Expert Witness List due by 2/14/2020. Plaintiff's Expert Reports due by 2/14/2020. Defendant's Expert Reports due by 3/13/2020. Discovery from Experts due by 3/27/2020. Motions shall be filed by 4/17/2020. Signed by Magistrate Judge Erin Wilder-Doomes on 9/9/2019. (EDC) (Entered: 09/09/2019)
09/26/2019	70 (p.530)	MOTION to Compel Discovery Responses by Christopher Marlowe. (Attachments: # 1 (p.30) Memorandum in Support, # 2 (p.77) Exhibit, # 3 (p.97) Exhibit, # 4 (p.107) Exhibit, # 5 (p.109) Exhibit, # 6 (p.111) Exhibit)(Posner, Emily) Modified on 9/27/2019 to edit the docket text (KMW). (Entered: 09/26/2019)
09/27/2019	71	NOTICE of TELEPHONE CONFERENCE: Telephone Conference set for 10/2/2019 at 11:00 AM before Magistrate Judge Erin Wilder-Doomes to discuss 70 (p.530) Motion to Compel. The purpose of the conference is to discuss the pending Motion to Compel prior to the deadline to file an opposition memorandum, therefore, it is not necessary to provide an opposition memorandum before the telephone conference. If the conference does not resolve the issues raised in the motion, an opposition memorandum may still be filed

		within the deadlines imposed by Local Civil Rules. Counsel participating in the Conference shall call 877-336-1839 using access code 9565780 five minutes prior to conference. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.)(BLR) (Entered: 09/27/2019)
09/27/2019		MOTION(S) REFERRED: <u>70 (p.530)</u> MOTION to Compel Discovery Responses . This motion is now pending before the USMJ. (KMW) (Entered: 09/27/2019)
09/30/2019	<u>72 (p.615)</u>	MOTION for Leave of Court to File Memorandum in Excess of the Page Limitations Imposed by Local Rule 7(b) by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, Morgan LeBlanc, James W. Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Attachments: # <u>1 (p.30)</u> Memorandum in Support, # <u>2 (p.77)</u> Proposed Order, # <u>3 (p.97)</u> Proposed Motion to Dismiss, # <u>4 (p.107)</u> Proposed Memorandum in Support of Motion to Dismiss)(Walters, Christopher) Modified on 10/1/2019 to edit the docket text(SWE). (Entered: 09/30/2019)
09/30/2019	<u>73 (p.647)</u>	MOTION to Stay Discovery and Reset Deadlines by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, Morgan LeBlanc, James W. Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Attachments: # <u>1 (p.30)</u> Memorandum in Support, # <u>2 (p.77)</u> Proposed Order)(Walters, Christopher). Added MOTION for Extension of Discovery Deadlines on 10/1/2019 (SWE). Modified on 10/1/2019 to edit the docket text (SWE). (Entered: 09/30/2019)
10/01/2019		MOTION(S) REFERRED: <u>73 (p.647)</u> MOTION to Stay Discovery MOTION to Reset Deadlines. This motion is now pending before the USMJ. (SWE) (Entered: 10/01/2019)
10/01/2019	<u>74 (p.654)</u>	MOTION to Substitute Suzanne Q. Mooney in place of Christopher N. Walters as Attorney by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, Morgan LeBlanc, James W. Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Attachments: # <u>1 (p.30)</u> Proposed Order)(Walters, Christopher) (Entered: 10/01/2019)
10/01/2019	<u>75 (p.658)</u>	MOTION to Enroll Alexander Bollag as Additional Attorney by Christopher Marlowe. (Posner, Emily) (Entered: 10/01/2019)
10/02/2019		MOTION(S) REFERRED: <u>74 (p.654)</u> MOTION to Substitute Suzanne Q. Mooney in place of Christopher N. Walters as

		Attorney . This motion is now pending before the USMJ. (LT) (Entered: 10/02/2019)
10/02/2019		MOTION(S) REFERRED: <u>75 (p.658)</u> MOTION to Enroll Alexander Bollag as Additional Attorney . This motion is now pending before the USMJ. (LT) (Entered: 10/02/2019)
10/02/2019	76	ORDER granting <u>75 (p.658)</u> Motion to Enroll Additional Attorney. Added attorney Alexander Hewe Bollag for Christopher Marlowe. Signed by Magistrate Judge Erin Wilder-Doomes on 10/2/2019. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) (Entered: 10/02/2019)
10/02/2019	<u>77 (p.660)</u>	ORDER granting <u>74 (p.654)</u> Motion to Substitute Attorney. Suzanne Quinlan Mooney for Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, Morgan LeBlanc, James W. Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis replacing Christopher N. Walters. Signed by Magistrate Judge Erin Wilder-Doomes on 10/2/2019. (EDC) (Entered: 10/02/2019)
10/02/2019	<u>78 (p.661)</u>	Minute Entry/Telephone Conference Report and Order for proceedings held before Magistrate Judge Erin Wilder-Doomes Telephone Conference held on 10/2/2019. ORDERED that Plaintiffs request for sanctions is DENIED at this time. <u>70 (p.530)</u> MOTION to Compel is DENIED. ORDERED that Defendants are to provide responses to the written discovery propounded on or before 10/11/2019. Plaintiff shall file, on or before Monday, 10/7/2019 a Notice stating whether Plaintiff opposes the Motion to Stay Discovery and Reset Deadlines. (ELW) (Entered: 10/03/2019)
10/02/2019	83	ORAL ORDER: as to <u>70 (p.530)</u> MOTION to Compel is DENIED at this time. Signed by Magistrate Judge Erin Wilder-Doomes on 10/02/2019. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.)(ELW) Modified on 10/10/2019 to edit the file date (NLT). (Entered: 10/10/2019)
10/07/2019	<u>79 (p.664)</u>	NOTICE of No Opposition by Christopher Marlowe (Posner, Emily) (Entered: 10/07/2019)
10/08/2019	80	ORDER: IT IS HEREBY ORDERED that the <u>73 (p.647)</u> Motion to Stay Discovery and Reset Deadlines is GRANTED. Defendants seek to stay all discovery in this matter until the issue of qualified immunity as raised in their Motion to Dismiss (see, R. Doc. 73) is resolved. Plaintiff has filed a Notice of No Opposition (R. Doc. 79) to the Motion to Stay Discovery and "Fifth Circuit jurisprudence is clear that when a defendant asserts the defense of qualified immunity, a stay of discovery pending resolution of the defense is appropriate." Imani v. City of Baton Rouge, Civil Action No. 17-439, 2018

		WL 2208221, at * 3 (M.D. La. May 14, 2018). Accordingly, IT IS HEREBY ORDERED that discovery in this suit is STAYED pending resolution of the issues in Defendants Motion to Dismiss. IT IS FURTHER ORDERED that upon resolution of the issues raised in Defendants' Motion to Dismiss by the District Judge, the parties shall jointly move for entry of an Amended Scheduling Order and provide the Court with proposed amended dates, if necessary. Signed by Magistrate Judge Erin Wilder-Doomes on 10/8/2019. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) (Entered: 10/08/2019)
10/08/2019	81	NOTICE: In keeping with the October 2, 2019 Telephone Conference Report and Order, IT IS HEREBY ORDERED that the <u>70 (p.530)</u> Motion to Compel Discovery Responses is GRANTED IN PART and DENIED IN PART. Defendants are ORDERED to provide responses to written discovery on or before October 11, 2019. Plaintiffs request for sanctions is DENIED. Signed by Magistrate Judge Erin Wilder-Doomes on 10/8/2019. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) (Entered: 10/08/2019)
10/09/2019	<u>82 (p.666)</u>	ORDER granting <u>72 (p.615)</u> Motion for Leave to File Excess Pages. The Clerk of Court shall file Defendants' Proposed Motion to Dismiss and Memorandum in Support of Motion to Dismiss into the record. Signed by Judge Brian A. Jackson on 10/8/2019. (SWE) (Main Document 82 replaced on 10/10/2019 and edited the docket text) (SWE). (Entered: 10/09/2019)
10/10/2019	<u>84 (p.667)</u>	MOTION to Dismiss Pursuant to F.R.C.P. Rule 12(b)(1) & 12(c) by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, Morgan LeBlanc, James W. Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preeti Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Attachments: # <u>1 (p.30)</u> Memorandum in Support)(SWE) (Entered: 10/10/2019)
10/24/2019	<u>85 (p.694)</u>	Unopposed MOTION to Extend Deadline to <i>File Response to 84 (p.667) MOTION to Dismiss</i> by Christopher Marlowe. (Posner, Emily) Modified on 10/24/2019 to edit the docket text (SWE). (Entered: 10/24/2019)
10/31/2019	<u>86 (p.697)</u>	ORDER: The <u>85 (p.694)</u> Motion for Extension of Time to File Response to <u>84 (p.667)</u> MOTION to Dismiss is GRANTED IN PART AND DENIED IN PART. Opposition due by 11/12/2019. Signed by Judge Brian A. Jackson on 10/31/2019. (LLH) (Entered: 10/31/2019)
11/12/2019	<u>87 (p.698)</u>	MOTION for Leave of Court to File Opposition Memorandum in Excess of the Page Limitations Imposed by Local Rule 7(g) by All Plaintiffs. (Attachments: # <u>1 (p.30)</u> Proposed Pleading;,,

		<p># 2 (p.77) Exhibit, # 3 (p.97) Exhibit, # 4 (p.107) Exhibit, # 5 (p.109) Exhibit, # 6 (p.111) Exhibit, # 7 (p.113) Exhibit, # 8 (p.119) Exhibit, # 9 (p.122) Exhibit, # 10 (p.124) Exhibit, # 11 (p.126) Exhibit, # 12 Exhibit)(Bollag, Alexander) (Attachment 2 replaced on 11/13/2019 to edit page orientation) (LT). Modified on 11/13/2019 to edit text (LT). Modified on 11/14/2019 in accordance with record document 89. (EDC). (Entered: 11/12/2019)</p>
11/13/2019	88	<p>Notice to Counsel: Settlement Conference set for 11/13/2019 at 01:30 PM is CANCELED as no position papers were received from the parties. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (BLR) (Entered: 11/13/2019)</p>
11/14/2019	89 (p.700)	<p>ORDER denying 87 (p.698) Motion for Leave to File Excess Pages. Signed by Judge Brian A. Jackson on 11/13/2019. (EDC) (Entered: 11/14/2019)</p>
11/14/2019	90 (p.701)	<p>MOTION for Leave to File Out-of-Time Memorandum by Chris Marlowe. (Attachments: # 1 (p.30) Memorandum in Support, # 2 (p.77) Proposed Pleading;, # 3 (p.97) Exhibit, # 4 (p.107) Exhibit, # 5 (p.109) Exhibit, # 6 (p.111) Exhibit, # 7 (p.113) Exhibit, # 8 (p.119) Exhibit, # 9 (p.122) Exhibit, # 10 (p.124) Exhibit, # 11 (p.126) Exhibit, # 12 Exhibit, # 13 (p.130) Exhibit, # 14 (p.162) proposed order)(Posner, Emily) Modified on 11/15/2019 to edit text. (EDC). (Entered: 11/14/2019)</p>
11/25/2019	91 (p.1068)	<p>ORDER granting 90 (p.701) MOTION for Leave to File Opposition Memorandum filed by Chris Marlowe. Signed by Judge Brian A. Jackson on 11/25/2019. (ELW) (Entered: 11/25/2019)</p>
11/25/2019	92 (p.1069)	<p>MEMORANDUM in Opposition to 84 (p.667) Defendant's MOTION to Dismiss 12(c) and 12 (b)(1) filed by Christopher Marlowe. (Attachments: # 1 (p.30) Exhibit, # 2 (p.77) Exhibit, # 3 (p.97) Exhibit, # 4 (p.107) Exhibit, # 5 (p.109) Exhibit, # 6 (p.111) Exhibit, # 7 (p.113) Exhibit, # 8 (p.119) Exhibit, # 9 (p.122) Exhibit, # 10 (p.124) Exhibit, # 11 (p.126) Exhibit)(ELW) (Entered: 11/25/2019)</p>
04/01/2020	93 (p.1431)	<p>MOTION for Temporary Restraining Order and/or Emergency Motion for Temporary Release by Christopher Marlowe. (Attachments: # 1 (p.30) Memorandum in Support, # 2 (p.77) Exhibit, # 3 (p.97) Exhibit, # 4 (p.107) Exhibit, # 5 (p.109) Exhibit, # 6 (p.111) Exhibit, # 7 (p.113) Exhibit, # 8 (p.119) Exhibit)(Posner, Emily). Added Emergency MOTION for Temporary Release on 4/2/2020 (SWE). (Attachment 7 and 8 replaced on 4/2/2020 to correct page orientation) (SWE). (Entered: 04/01/2020)</p>
04/02/2020	94	<p>Notice to Counsel: Considering the Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release filed by the Plaintiff on 4/1/2020 (Doc. 93);</p>

		<p>Telephone Conference is set for 4/3/2020 at 02:00 PM before Judge Brian A. Jackson. Counsel shall participate in telephone conference call by dialing 888-808-6929; Enter Access Code: 1214325; Enter Security Code: 040320.</p> <p>Evidence, in electronic format, shall be provided in accordance with Local Rule 79 and Administrative Procedures.</p> <p>(This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (PJH) (Entered: 04/02/2020)</p>
04/03/2020	95	<p>Minute Entry for proceedings held before Judge Brian A. Jackson: Telephone Conference held on 4/3/2020. Plaintiff's MOTION for Temporary Restraining Order and/or Emergency Motion for Temporary Release (doc. 93) is discussed. Matter discussed. Counsel for the Defendants shall file a Response to Plaintiff's Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release by noon on 4/7/2020. Evidentiary Hearing is set for 4/7/2020 at 03:00 PM via telephone conference before Judge Brian A. Jackson. Counsel shall dial 888-808-6929; Enter Access Code: 1214325; and Enter Security Code: 040720, 5 minutes prior to the Evidentiary Hearing scheduled at 3:00 p.m. on 4/7/2020. Counsel shall confer in an effort to resolve this matter. If matter is resolved prior to scheduled Hearing, Counsel for the Plaintiff shall immediately notify the Court by calling Chambers at 225-389-3692. (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (PJH) Modified on 4/6/2020 to edit text (PJH). (Entered: 04/06/2020)</p>
04/06/2020	<u>96 (p.1754)</u>	<p>Unopposed MOTION for Leave to Amend and Supplement Memorandum in Support of <u>93 (p.1431)</u> Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release by Christopher Marlowe. (Attachments: # <u>1 (p.30)</u> Proposed Pleading; Amended and Supplemental Memorandum, # <u>2 (p.77)</u> Proposed Pleading; Exhibit A, # <u>3 (p.97)</u> Proposed Pleading; Exhibit B, # <u>4 (p.107)</u> Proposed Pleading; Exhibit C, # <u>5 (p.109)</u> Proposed Pleading; Exhibit D, # <u>6 (p.111)</u> Proposed Pleading; Exhibit E, # <u>7 (p.113)</u> Proposed Pleading; Exhibit F, # <u>8 (p.119)</u> Proposed Pleading; Exhibit G, # <u>9 (p.122)</u> Proposed Pleading; Exhibit H, # <u>10 (p.124)</u> Proposed Pleading; Exhibit I, # <u>11 (p.126)</u> Proposed Pleading; Exhibit J, # <u>12</u> Proposed Pleading; Exhibit K)(Posner, Emily) Modified on 4/6/2020 to link the entries and edit the docket text (KMW). (Attachments 8 & 12 replaced on 4/6/2020 to correct page orientation) (KMW). (Entered: 04/06/2020)</p>
04/06/2020	<u>97 (p.2095)</u>	<p>MOTION Call Witnesses at Evidentiary Hearing by Chris Marlowe. (Posner, Emily) (Entered: 04/06/2020)</p>

04/06/2020	<u>98 (p.2097)</u>	ORDER granting <u>97 (p.2095)</u> Motion to Call Witnesses at Evidentiary Hearing. The Louisiana DOC shall make Plaintiff and Warden Robert Tanner available to participate in the telephone conference on 4/7/2020 at 3:00 P.M. Signed by Judge Brian A. Jackson on 4/6/2020. (EDC) (Entered: 04/06/2020)
04/06/2020	<u>99 (p.2098)</u>	ORDER granting <u>96 (p.1754)</u> Unopposed MOTION for Leave to File Amended and Supplemental Memorandum filed by Christopher Marlowe. Signed by Judge Brian A. Jackson on 4/6/2020. (SWE) (Entered: 04/06/2020)
04/06/2020	<u>100 (p.2099)</u>	AMENDED MEMORANDUM in Support of <u>93 (p.1431)</u> MOTION for Temporary Restraining Order Emergency MOTION for Temporary Release filed by All Plaintiffs. (Attachments: # <u>1 (p.30)</u> Exhibit A, # <u>2 (p.77)</u> Exhibit B, # <u>3 (p.97)</u> Exhibit C, # <u>4 (p.107)</u> Exhibit D, # <u>5 (p.109)</u> Exhibit E, # <u>6 (p.111)</u> Exhibit F, # <u>7 (p.113)</u> Exhibit G, # <u>8 (p.119)</u> Exhibit H, # <u>9 (p.122)</u> Exhibit I, # <u>10 (p.124)</u> Exhibit J, # <u>11 (p.126)</u> Exhibit K)(SWE) (Entered: 04/06/2020)
04/07/2020	<u>101 (p.2438)</u>	MEMORANDUM in Opposition to <u>93 (p.1431)</u> MOTION for Temporary Restraining Order Emergency MOTION for Temporary Release filed by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, James W. Leblanc, Morgan Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Attachments: # <u>1 (p.30)</u> Exhibit COOP - RCC, # <u>2 (p.77)</u> Exhibit high risk list)(Mooney, Suzanne) (Entered: 04/07/2020)
04/07/2020	<u>102 (p.2476)</u>	RESPONSE in Opposition to <u>93 (p.1431)</u> MOTION for Temporary Restraining Order and/or Emergency MOTION for Temporary Release filed by Chris Marlowe. (Attachments: # <u>1 (p.30)</u> Exhibit A, # <u>2 (p.77)</u> Exhibit B)(Posner, Emily) Modified on 4/7/2020 to edit text (LT). (Entered: 04/07/2020)
04/07/2020	109	Minute Entry for proceedings held before Judge Brian A. Jackson: Evidentiary Hearing on Plaintiff's Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release (doc. 93) held on 4/7/2020. All Parties agree to conduct the Evidentiary Hearing via telephone conferencing. Counsel present oral argument to the Court. Warden Robert Tanner is sworn and testifies on behalf of Defendants. Chris Marlow is sworn and testifies on behalf of the Plaintiff. As instructed by the Court, Counsel for the Defendants shall file a Post-Hearing Brief by the close of business on Friday, April 10, 2020. Counsel for Plaintiff shall file a Response to Defendants' Post-Hearing Brief shall be filed by the close of business on Monday, April 13, 2020. Brief due by 4/13/2020. (Court Reporter N. Breaux.) (This is a TEXT ENTRY ONLY. There is no hyperlink or PDF document associated with this entry.) (PJH) (Entered: 04/07/2020)

		04/13/2020)
04/08/2020	<u>103 (p.2487)</u>	Return on <u>98 (p.2097)</u> Order (US Marshal,) Modified on 4/9/2020 to edit the text (NLT). (Entered: 04/08/2020)
04/08/2020	<u>104 (p.2489)</u>	TRANSCRIPT REQUEST by Christopher Marlowe for proceedings held on 04/07/2020 before Judge Brian A. Jackson.. (Posner, Emily) (Entered: 04/08/2020)
04/08/2020	<u>105 (p.2491)</u>	MOTION to Enroll Phyllis E. Glazer as Additional Attorney by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, James W. Leblanc, Morgan Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Mooney, Suzanne) (Entered: 04/08/2020)
04/09/2020		MOTION(S) REFERRED: <u>105 (p.2491)</u> MOTION to Enroll Phyllis E. Glazer as Additional Attorney . This motion is now pending before the USMJ. (ELW) (Entered: 04/09/2020)
04/09/2020	<u>106 (p.2752)</u>	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings Telephonic Evidentiary hearing before Judge Brian A. Jackson held on 04/07/2020. Court Reporter: Natalie W. Breaux, RPR, CRR. Phone Number: 225-389-3565.</p> <p>NOTICE RE: REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be made remotely electronically available to the public without redaction after 90 calendar days. The policy is located on our website at www.lamd.uscourts.gov.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 4/30/2020. Redacted Transcript Deadline set for 5/11/2020. Release of Transcript Restriction set for 7/8/2020. (Breaux, Natalie) (Entered: 04/09/2020)</p>
04/09/2020	<u>107 (p.2494)</u>	ORDER granting <u>105 (p.2491)</u> Motion to Enroll Additional Attorney. Added attorney Phyllis Esther Glazer for Defendants. Signed by Magistrate Judge Erin Wilder-Doomes on 04/09/2020. (ELW) (Entered: 04/09/2020)
04/10/2020	<u>108 (p.2495)</u>	Sur-Reply Memorandum in Opposition to <u>93 (p.1431)</u> Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release and Post-Hearing Memorandum Regarding Updated Covid-19 Procedures Related to Incarcerated Prisoners filed by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, James W. Leblanc, Morgan Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer,

		<p>Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Attachments: # 1 (p.30) Exhibit covid, # 2 (p.77) Exhibit ARP, # 3 (p.97) Exhibit TEST, # 4 (p.107) Exhibit AFFIDAVIT)(Mooney, Suzanne) Modified on 4/10/2020 to edit the docket text (KMW). (Entered: 04/10/2020)</p>
04/13/2020	110 (p.2542)	<p>REPLY to The Defendant's Post Hearing Brief filed by Chris Marlowe. (Attachments: # 1 (p.30) Exhibit, # 2 (p.77) Exhibit, # 3 (p.97) Exhibit, # 4 (p.107) Exhibit, # 5 (p.109) Exhibit)(Posner, Emily) Modified on 4/15/2020 to edit text(ELW). (Attachment 5 replaced on 4/22/2020 in accordance with RD 114) (SWE). (Entered: 04/13/2020)</p>
04/13/2020	111 (p.2665)	<p>Unopposed MOTION for Leave to File Substitute Document 110-5 by Chris Marlowe. (Attachments: # 1 (p.30) Proposed Pleading; Exhibit E)(Posner, Emily) (Entered: 04/13/2020)</p>
04/13/2020	112 (p.2670)	<p>NOTICE of Update the Court by Christopher Marlowe re 110 (p.2542) Response (Posner, Emily) (Entered: 04/13/2020)</p>
04/20/2020	113 (p.2672)	<p>NOTICE to Update the Court by Christopher Marlowe re 110 (p.2542) Response (Posner, Emily) Modified on 4/20/2020 to edit text (LT). (Entered: 04/20/2020)</p>
04/22/2020	114 (p.2675)	<p>ORDER granting 111 (p.2665) Unopposed MOTION for Leave to File Substitute Document 110-5 filed by Chris Marlowe. Signed by Judge Brian A. Jackson on 4/22/2020. (SWE) (Entered: 04/22/2020)</p>
04/23/2020	115 (p.2676)	<p>RULING AND ORDER granting in part and denying in part 93 (p.1431) Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release. IT IS FURTHER ORDERED that Defendants shall submit to the Court a Plan to ensure the implementation of proper hygiene practices in the dormitory in which Plaintiff is assigned, and to implement social distancing practices to limit the spread of COVID-19, as recommended by the Center For Disease Control and other public health authorities, in Plaintiff's immediate living area, for the protection of the Plaintiff. Defendants shall also submit a Plan to minimize Plaintiff's exposure to possible infected persons while visiting the infirmary and cafeteria areas of the prison. IT IS FURTHER ORDERED that Defendants shall submit the Plan herein ordered within 5 days of the date of this Order.IT IS FURTHER ORDERED that Plaintiff's request for an Order authorizing his immediate supervised released is DENIED.The Parties are advised that the Court may impose additional substantive precautionary measures following its review and evaluation of the Plan. Signed by Judge Brian A. Jackson on 4/23/2020. (PJH) (Entered: 04/23/2020)</p>
04/24/2020	116 (p.2690)	<p>NOTICE OF APPEAL to the USCA for the 5th Circuit of 115 (p.2676) Order on Motion for Temporary Restraining Order,,,,, Order on Motion for Miscellaneous Relief,,,,, by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard,</p>

		Timothy Hooper, Angel Horn, James W. Leblanc, Morgan Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. Filing fee \$ 505, receipt number ALAMDC-2105321. The transcript request form for appeal cases is located at www.lamd.uscourts.gov/local-forms/all-local-forms . (Glazer, Phyllis) (Entered: 04/24/2020)
04/24/2020	<u>117 (p.2693)</u>	Emergency MOTION to Stay Enforcement of the TRO (Rec. Doc. 115) Pending Appeal; Expedited Consideration Requested by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, James W. Leblanc, Morgan Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Attachments: # <u>1 (p.30)</u> Memorandum in Support)(Glazer, Phyllis) Modified on 4/27/2020 to edit text. (EDC). Added MOTION for Expedited Hearing on 4/27/2020 (EDC). (Entered: 04/24/2020)
04/24/2020	<u>118 (p.2715)</u>	Emergency MOTION for Expedited Consideration of <u>117 (p.2693)</u> Emergency MOTION to Stay Enforcement of the Temporary Restraining Order (Rec. Doc. 115) by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, James W. Leblanc, Morgan Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Attachments: # <u>1 (p.30)</u> Proposed Order)(Glazer, Phyllis) Modified on 4/27/2020 to edit text. (EDC). (Entered: 04/24/2020)
04/25/2020	<u>119 (p.2720)</u>	MEMORANDUM in Opposition to <u>117 (p.2693)</u> Emergency MOTION to Stay <i>Enforcement of the Injunction (Rec. Doc. 115)</i> filed by Christopher Marlowe. (Attachments: # <u>1 (p.30)</u> Exhibit, # <u>2 (p.77)</u> Exhibit, # <u>3 (p.97)</u> Exhibit)(Posner, Emily) (Entered: 04/25/2020)
04/26/2020	<u>120 (p.2737)</u>	MOTION for Leave to Substitute Document by Christopher Marlowe. (Attachments: # <u>1 (p.30)</u> Memorandum in Support, # <u>2 (p.77)</u> Exhibit)(Posner, Emily) Modified on 4/27/2020 to edit text. (EDC). (Entered: 04/26/2020)
04/26/2020	<u>121 (p.2742)</u>	REPLY Memorandum in Support of <u>117 (p.2693)</u> Emergency MOTION to Stay Enforcement of the Injunction (Rec. Doc. 115) Pending Appeal; Expedited Consideration Requested filed by Chermaine Brown, Darryl Campbell, Elizabeth Gauthreaux, Pam Heard, Timothy Hooper, Angel Horn, James W. Leblanc, Morgan Leblanc, Gail Levy, Stephanie Michel, John Morrison, Rolanda Palmer, Preety Singh, Raman Singh, Polly Smith, State Of Louisiana, Fallon Stewart, Jonathan Travis. (Glazer, Phyllis) Modified on 4/27/2020 to edit text. (EDC). (Entered: 04/26/2020)

04/27/2020	122	USCA Case Number 20-30276 for <u>116 (p.2690)</u> Notice of Appeal to the USCA for the 5th Circuit, filed by Elizabeth Gauthreaux, State Of Louisiana, Darryl Campbell, Raman Singh, Pam Heard, Morgan Leblanc, Polly Smith, Preety Singh, Jonathan Travis, John Morrison, Angel Horn, Stephanie Michel, Fallon Stewart, Rolanda Palmer, Gail Levy, Timothy Hooper, James W. Leblanc, Chermaine Brown. (SWE) (Entered: 04/27/2020)
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