

FILED

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

2020 SEP 11 PM 2:46

SUPERIOR COURT DIVISION

WAKE COUNTY

NO.: 20 CVS 500110

WAKE CO., C.S.C.

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

Plaintiff-Petitioners,)

v.)

**Order Denying Plaintiffs' Motion
to Enforce and Motion to
Order Show Cause**

ROY COOPER, Governor of the State of North)
Carolina, ERIK HOOKS in his official capacity as)
Secretary of the North Carolina Department of)
Public Safety, and BILL FOWLER, ERIC)
MONTGOMERY, ANGELA BRYANT, and)
GRAHAM ATKINSON, in their official)
capacities as Post-Release Supervision and)
Parole Commissioners,)

Defendant-Respondents.)

This matter came before the Undersigned on Plaintiffs' Motion to Enforce, or in the alternative, Motion to Order Defendants to Show Cause. Plaintiffs' claims arise out of Defendants' purported failure to comply with this Court's injunctive orders dated June 16, June 24, and July 10, 2020. Specifically, Plaintiffs allege that (1) Defendants have failed to create and implement an appropriate early release program to prevent the spread of COVID-19 through an overcrowded prison, (2) Defendants subject individuals to punitive conditions in the name of medical isolation based on positive COVID-19 tests or recent transfers, and (3) Defendants have failed to implement the limitations on inter-facility transfer ordered by this Court. To support their allegations,

Plaintiffs submitted reports and affidavits and claimed, in oral argument before this Court, that many individuals were unable or unwilling to come forward with their stories based on a fear of retribution.

This Court is concerned with the rights, health, and wellbeing of all North Carolinians, and as such, has considered these allegations with solemnity. Upon consideration of the record before this Court, specifically the verified and supported data, there is not enough evidence to support an enforcement or show cause order.

Additionally, this Court has noticed and previously addressed, a pattern in this litigation. All parties have, at various times during the litigation, relied upon facts outside the record. The parties have corrected errors in oral argument based on incorrect math, typing errors, and other mistakes. This Court acknowledges the substantial work product associated with this case as well as the tight deadlines related to the ongoing litigation. The Court also understands that everyone (including the litigants) is living in the midst of a pandemic. Counsel is reminded, however, that there is an ongoing obligation correct the record, through amendments and filed updates to errors that come to light in oral argument. An accurate record necessitates that anytime a party notices incorrect information in their filings, that it be corrected with all due haste.

The Court having considered All submissions, matters of record, and prior arguments of counsel rightfully before it, hereby orders the following:

1. Plaintiffs' Motion to Enforce is **denied**.
2. Plaintiffs' Motion to Order Defendants to show cause is **denied**.

SO ORDERED this day 9th of September, 2020.



THE HONORABLE WINSTON ROZIER, JR.
SUPERIOR COURT JUDGE PRESIDING

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on the persons indicated below via e-mail transmission addressed as follows:

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This the 11th day of September 2020.

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