

The Honorable James L. Robart
The Honorable Michelle L. Peterson

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

WILFREDO FAVELA AVENDAÑO,
J.A.M, and NAEEM KHAN,

Petitioners-Plaintiffs,

v.

NATHALIE ASHER, Director of the
Seattle Field Office of U.S. Immigration
and Customs Enforcement; TAE D.
JOHNSON, Acting Director of the U.S.
Immigrations and Customs Enforcement;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT; STEPHEN
LANGFORD, Warden, Tacoma
Northwest Detention Center,

Respondents-Defendants.

Case No.: 2:20-cv-700-JLR-MLP

NWIPC FACILITY
ADMINISTRATOR’S
RESPONSE TO PETIONERS’
MOTION FOR TEMPORARY
RESTRAINING ORDER

NWIPC Facility Administrator Bruce Scott responds in opposition to petitioners’ motion for temporary restraining order as follows:

1. NWIPC Facility Administrator Bruce Scott renews prior objections to plaintiffs’ automatic substitution of him as a Respondent-Defendant pursuant to Fed. R. Civ. P. 25(d). FA Scott is not now nor has he ever been a “public officer”. In addition to the procedural error that limits this court’s personal jurisdiction over him because he has not been made a proper party via

1 amendment and service of plaintiffs' complaint, plaintiffs' motion for temporary restraining
2 order requests relief outside his control. FA Scott has no ability to either test nor vaccinate
3 detainees before or after their arrival to NWIPC. FA Scott does require staff use personal
4 protective gear at NWIPC and during transport. Plaintiffs' allegations that drivers are at times
5 without a mask is sufficiently non-specific that it is impossible to connect the allegation with any
6 actual policy violation. However, FA Scott continues to encourage staff compliance with face
7 mask and other PPE mandates.
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1 2. With respect to petitioners' criticisms of the air circulation at NWIPC and their reliance
0 upon the Declaration of Joseph Clair, his opinions lack necessary foundation and are purely
1 speculative. NWIPC has not experienced facility wide transmission of COVID, indicating the
1 HVAC systems are functioning effectively. From an evidence perspective, Mr. Clair's
2 speculative opinions and those founded on hearsay and without personal knowledge should be
1 disregarded as inadmissible. Mr. Clair's Exhibit F and corresponding testimony set forth in his
3 paragraph 24 bears no relationship to the actual airflow at NWIPC and is pure supposition
4 neither relevant nor probative of any material fact. Plaintiffs first made the 44 page declaration
1 available midday July 29, 2021. FA Scott has not been able to secure the services of his HVAC
5 engineer to consult and respond to the declaration from his engineer's perspective. FA Scott
1 offers however the Declaration of Richard Kent Long from GEO's Project Development
6 Division to provide the Court transparency and assurances that NWIPC complies with air flow
1 standards. Mr. Long provides facts showing NWIPC's air flow is not exacerbating COVID risk,
7 but rather appropriate mitigations have been implemented. Mr. Clair's suppositions are without
1 merit and should not form the basis for any restraining order.
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9

1 In advance of the Court entertaining an order specific to HVAC standards, the Court
2 should set a fact-finding hearing where both sides may admit their evidence in accordance with
3 the rules of evidence, and where the Court may properly assess the credibility and qualifications
4 of the experts.
5

6 3. FA Scott joins in the Federal Respondent's objections and opposition to petitioners'
7 motion for temporary restraining order.
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9 Respectfully submitted this 4th day of August, 2021 at Fircrest, WA.

1 III Branches Law, PLLC
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1 Joan K. Mell, WSBA #21319
1 Attorney for NWIPC Facility Administrator
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CERTIFICATE OF SERVICE

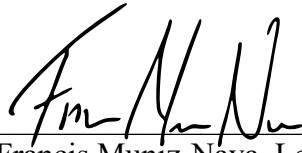
I, Francis Muniz-Nava, certify as follows:

I am over the age of 18, a resident of Pierce County, and not a party to the above action.

On August 4th, 2021, I electronically filed the above Facility Administrator’s Response to TRO with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record who receives CM/ECF notification.

I certify under penalty of perjury under the laws of the State of Washington that the above information is true and correct.

DATED this 4th day of August, 2021 at Fircrest, Washington.


Francis Muniz-Nava, Legal Assistant

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