

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DAVID DIXON, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:19-CV-0112 AGF
)	
CITY OF ST. LOUIS, et al.,)	
)	
Defendants.)	

**PLAINTIFFS’ MOTION FOR LEAVE TO FILE RENEWED MOTION FOR
PRELIMINARY INJUNCTION, TO FILE OVERLENGTH BRIEF, AND FOR
EXPEDITED BRIEFING**

Plaintiffs hereby request that this Honorable Court grant them leave to file a Renewed Motion for Preliminary Injunction in light of Defendants’ continued unconstitutional practices and the COVID-19 pandemic, as summarized below and explained more fully in the attached Renewed Motion. Plaintiffs also seek leave to exceed the default 15-page limit under the Local Rules for the Memorandum in Support of the Renewed Motion. The Renewed Motion is attached as Exhibit 1 to this Motion, and the Memorandum is attached as Exhibit 2. Finally, because of the imminence of the threat to class members, Plaintiffs request that this Court order expedited briefing and direct Defendants to file any response by April 3, 2020, and Plaintiffs to file any reply by April 6, 2020.

In support of this request, Plaintiffs state as follows:

1. On June 11, 2019, this Court issued a preliminary injunction enjoining Defendant Commissioner of Corrections Dale Glass from detaining any individual on monetary release conditions unless the order imposing such conditions was accompanied by a finding, made after an opportunity for the individual to be heard, that such detention was necessary. *See* ECF No. 95 at 33-34; *see also* ECF No. 112 (modifying temporal terms of the preliminary injunction). In the same order, the Court certified a class of “all arrestees who are or will be detained in [St. Louis City’s jails] . . . post-

arrest because they are unable to afford to pay a monetary release condition.” ECF No. 95 at 33.

2. Defendants appealed the preliminary injunction to the Eighth Circuit on June 13, 2019, and the Eighth Circuit granted Defendants’ motion for a stay pending appeal.

3. During the nine days that the preliminary injunction was in force, however, 119 people—who were being detained solely because they could not afford the monetary conditions of their bail—were released from jail in St. Louis City because of the requirements of this Court’s injunction.

4. On February 28, 2020, the Eighth Circuit issued an opinion vacating this Court’s preliminary injunction. The Eighth Circuit instructed this Court to consider principles of comity when evaluating whether the public interest supported an injunction. *See Dixon v. City of St. Louis*, 950 F.3d 1052, 1056 (8th Cir. 2020). The mandate for this ruling issued on March 23, 2020.

5. Plaintiffs now seek leave to file a Renewed Motion for Preliminary Injunction in light of Defendants’ continued practice of detaining recently arrested individuals on unaffordable money bail, the current global pandemic surrounding COVID-19, and the deleterious impact that the virus is expected to have on jail populations.

6. As explained further in the attached Renewed Motion, since this Court’s preliminary injunction and the effective date of amendments to the Missouri Supreme Court’s Rules, Defendants constitutional violations have persisted. The result is that scores of individuals languish in jail each month for no reason other than that they are poor.

7. In addition to all the harms attendant to detention that this Court has previously catalogued, individuals detained behind bars are now at heightened risk of exposure to COVID-19. When the virus enters St. Louis’s jail facilities, it will “spread like wildfire”¹ with the potential to be

¹ *See, e.g.*, Evan Watson, “Coronavirus threat to jails: ‘If it gets in, it’s going to spread like wildfire,’” Mar. 18, 2020, 13newsnow.com, *available at* <https://perma.cc/7A7M-VE33>.

highly fatal. This danger is a result of the close quarters in which people are held, poor sanitation practices, lack of ready access to supplies for hand-washing and other steps to prevent transmission, and sub-standard medical care. The class in this case consists of individuals who are now, or soon will be, at risk of becoming infected with COVID-19 solely because they cannot afford their monetary conditions of release. Exposure to this virus should not be based on one's financial circumstances.

8. The rate at which COVID-19 has spread across the United States and the danger it presents to individuals detained behind bars both provide good cause and changed circumstances for Plaintiffs' request for leave to file this Renewed Motion for a Preliminary Injunction and to file a memorandum in excess of the default page limits. Preventing the unnecessary detention of individuals—reducing crowding in the jail and slowing the impact of COVID-19 in the facility and in the broader community—is strongly in the public interest.

9. Because of the exponential rate at which this virus is spreading throughout the country, Plaintiffs further request an expedited briefing schedule on their Renewed Motion for Preliminary Injunction. Plaintiffs ask that this Court order Defendants to file any response by April 3, 2020, and Plaintiffs will file any reply by April 6, 2020.

For the foregoing reasons, Plaintiffs request that the Court grant this Motion.

Dated: March 30, 2020

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2020, I electronically filed the foregoing Motion for Leave to File Renewed Motion for Preliminary Injunction, to File Overlength Brief, and for Expedited Briefing with the Clerk of the Court for the Eastern District of Missouri using the electronic case filing system, which will send notice to all counsel of record.

Dated: March 30, 2020

/s/ Jacqueline Kutnik-Bauder
Jacqueline Kutnik-Bauder