

Exhibit B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

VERNON JONES, et al.

Petitioners,

v.

20-CV-00361 LJV

CHAD WOLF, in his official capacity as Acting Secretary,
U.S. Department of Homeland Security;

THOMAS E. FEELEY, in his official capacity as Field
Office Director, Buffalo Field Office, U.S. Immigration
& Customs Enforcement; and

JEFFREY SEARLS in his official capacity as
Administrator, Buffalo Federal Detention Facility.

Respondents.

DECLARATION OF CAPTAIN ABELARDO MONTALVO, M.D.

Pursuant to 28 U.S.C. § 1746, I, Captain Abelardo Montalvo, M.D., hereby declare and state as follows:

1. I am a medical doctor with a Board Certification in Family Medicine. I make this declaration in opposition to the Petition brought by 22 individuals seeking immediate release from immigration detention. The information provided herein is based upon my personal knowledge, review of DHS records, and information provided to me by the United States Attorney's Office.

2. In response to this Court's order, dated April 2, 2020, and in addition to the steps taken to limit exposure of detainees to the COVID-19 virus outlined in my declaration dated March 30, 2020, I submit the following plan for limiting the Petitioners deemed

“vulnerable individuals” to exposure to COVID-19 at the Buffalo Federal Detention Facility (“BFDF”):

- a. Each Petitioner’s medical conditions and medical history has been assessed to determine whether they constitute “vulnerable individuals” as defined by Centers for Disease Control (“CDC”) guidelines;
 - b. Vulnerable individuals include those aged 65 years older, those who suffer from diseases, illnesses, or maladies which compromise their immune system, and those suffering from chronic conditions which make them more at risk to suffer negative health consequences from the COVID-19 virus. Such chronic conditions include heart disease, diabetes, and obesity;
 - c. If a Petitioner is a “vulnerable individual,” he will be relocated and provided with a living situation that facilitates “social distancing.”
3. For BFDF purposes, “social distancing” will include measures recommended by the CDC and New York State Department of Health, including:
- a. Maintaining a distance of 6 feet between individuals;
 - b. Providing space at meal time so that each detainee can remain 6 feet away from any other detainee, and allowing detainees to eat at their beds for maximum distancing;
 - c. Pre-screening all visitors to the housing units (which will consist solely of BFDF staff) by taking temperatures and seeing if the person is exhibiting flu-like symptoms;
 - d. Providing for individual cells and/or beds with 6 feet of separation between each bed;
 - e. Providing outdoor recreation in areas allowing for detainees to maintain 6 feet of separation from any other detainee.
4. In addition, and to assuage concerns raised by this Court’s order, I can confirm that **all** new arrivals to BFDF are quarantined for 14 days, after being screened in the garage bay for fever, COVID-19 symptoms, or exposure to COVID-19 infected individuals.

5. ICE will review the medical conditions and histories of Petitioners, as described above, and report back in accordance with this Court's order, by 9:00 AM, Monday, April 6, 2020, to confirm that the above procedures have been implemented.

6. In addition to the above, and the steps outlined in my declaration of March 30, 2020, BFDF has taken the following steps to further limit exposure of both staff and detainees to COVID-19 with regard to all persons at BFDF, not just Petitioners:

- a. All staff and visitors have their temperature taken at the main gate to the facility, before even entering BFDF grounds (this includes delivery persons);
- b. Discussed with all staff at pre-briefings the importance of social distancing;
- c. Notified the staff about the importance of self-monitoring symptoms and taking their temperatures. Also informed them if they are not feeling well to stay home;
- d. Split up and held several pre-briefing musters, rather than one main muster per shift to keep staff from congregating in one area;
- e. Cancelled all annual refresher training sessions until further notice;
- f. Cancelled all classroom firearms annual training sessions until further notice;
- g. Established separate quarantine unit for all incoming male detainees. They will be held in this unit, kept on minimum movement, and put on 14 day quarantine to evaluate and ensure they do not have symptoms of the COVID-19 Virus;
- h. Detainees who are moved out of the quarantine unit for any type emergency will be required to wear N-95 mask and gloves;
- i. A female-only quarantine unit is being utilized for any incoming female detainees, They will be held in this unit and kept on minimum movement and put on 14 day quarantine to evaluate and ensure they do not have symptoms of the COVID-19 Virus;
- j. Detainees moving out of the female-only unit for any type of emergency will be required to wear N-95 mask and gloves;
- k. In dormitories with larger number of beds, every other bed is being left vacant to ensure distancing between detainees, to the fullest extent possible;

- l. All group gatherings that do not allow for social distancing have been cancelled, including art classes, barbering services, religious gatherings, and others;
 - m. Detainees have been encouraged to increase communication with BFDF staff via the electronic request and grievance forms on the tablets and an increased number of staff are monitoring and responding more frequently;
 - n. Essential visitation, such as attorneys visits, or ICE staff serving paperwork that they cannot serve via inter office mail, are encouraged to use the non-contact visitation booth and if they must use the contact booth, they are required to use PPE;
 - o. Participation in detainee work programs have been decreased to avoid interaction with staff and amongst detainees.
7. In determining which Petitioners may be considered “vulnerable individuals”

I have relied upon guidance and information from the CDC made available to health care practitioners, including those who operate in a detention setting. I also reviewed the medical histories and records of the Petitioners, including their medications and the current status of any conditions they may suffer. Based upon my review of medical literature and guidance, and the review of the individual Petitioners’ medical histories, I have concluded that the following Petitioners have a potentially increased vulnerability to negative health consequences from infection by the COVID-19 virus:

- a. Jubril Adalakun
- b. Dween Afarel Blackman
- c. Aldwin Brathwaite
- d. Eric Commissiong
- e. Danilo Concepcion
- f. Jonathan Espinal-Polanco
- g. Idada Falodun
- h. Curry Wendell Forbes

- i. Necati Harsit
 - j. Juan Carlos Lainez Mejia
 - k. Patrick Maduabuchi Nwankwo
 - l. Ricardo Quintanilla-Mejia
 - m. Ibrahima Sory Sow
8. Nine of the Petitioners do not meet the “vulnerable individual” category for the following reasons:
- a. Petitioner Donga is 31 years old and thus does not qualify as an individual 65 years or older. Although he reports a history of smoking, he has been asymptomatic for any complications from smoking and has not been smoking for the duration of his detention at BDFD.
 - b. Petitioner Jones is 39 years old and thus does not qualify as an individual 65 years or older. Although he claims to suffer from epilepsy, this does not make him more susceptible to negative health consequences if infected with COVID-19 than the average person
 - c. Petitioner Jules is 46 years old and thus does not qualify as an individual 65 years or older. He alleges to suffer from pre-diabetes but his A1C levels have been stable and he is not more susceptible to negative health consequences if infected with COVID-19 than the average person
 - d. Petitioner Bhuyan is 56 years old and thus does not qualify as an individual 65 years or older. Although he alleges a tumor on his head a CT scan of the head failed to show evidence of a brain tumor therefore this does not make him more susceptible to negative health consequences if infected with COVID-19 than the average person
 - e. Petitioner Narain is 59 years old and thus does not qualify as an individual 65 years or older. His medical history is unremarkable and he is therefore not any more susceptible to negative health consequences if infected with COVID-19 than the average person.
 - f. Petitioner Salcedo is 57 years old and thus does not qualify as an individual 65 years or older. His medical history is unremarkable and he is therefore not any more susceptible to negative health consequences if infected with
 - g. Petitioner Thomas is 27 years old and thus does not qualify as an individual 65 years or older. While Petitioner Thomas does suffer from mental health issues and possibly a seizure disorder, he has not suffered a seizure since at

least October 2018. He is therefore not any more susceptible to negative health consequences if infected with COVID-19 than the average person.

- h. Petitioner Wilson 51 years old and thus does not qualify as an individual 65 years or older. Although he reports a history of smoking, he has been asymptomatic for any complications from smoking and has not been smoking for the duration of his detention at BFDF.
9. ICE has informed me that it plans to institute the following to allow for social distancing of each of the above:
- a. **Jubril Adelakun:** This Petitioner will be moved to the C4 unit, which consists of communal bedding. Beds which are filled will be adjoined by vacant beds to ensure social distancing of detainees in the beds.¹
 - b. **Dween Afarel Blackman:** This Petitioner will be moved to the A2 unit and given his own cell.²
 - c. **Aldwin Brathwaite:** This Petitioner will be moved to the B1 unit and given his own cell.³
 - d. **Eric Commissiong:** This petitioner will be moved to the A2 unit and given his own cell.
 - e. **Danilo Concepcion:** This Petitioner will be moved to the B2 unit and given his own cell.
 - f. **Jonathan Espinal-Polanco:** This Petitioner will be moved to the B1 unit and given his own cell.
 - g. **Idada Falodun:** This Petitioner will be moved to the B2 unit and given his own cell.
 - h. **Curry Wendell Forbes:** This Petitioner will be moved to the B1 unit and given his own cell.

¹ Although the C units have communal washrooms, this does not increase the risk of infection as once an individual is finished using the washroom, they will have washed their hands and removed any possible contaminants they encountered in the washroom. These units are also operating at diminished capacity which will decrease the number of detainees using the washrooms.

² Cells in the A unit include a toilet and sink for the use of the occupant(s).

³ Cells in the B unit include a toilet and sink for the use of the occupant(s).

- i. **Necati Harsit:** This Petitioner will be moved to the A2 unit and given his own cell.
- j. **Juan Carlos Lainez Mejia:** This Petitioner will be moved to the A2 unit and given his own cell.
- k. **Patrick Maduabuchi Nwankwo:** This Petitioner will be moved to the C4 unit, which consists of communal bedding. Beds which are filled will be adjoined by vacant beds to ensure social distancing of detainees in the beds.
- l. **Ricardo Quintanilla-Mejia:** This Petitioner will be moved to the B1 unit and given his own cell.
- m. **Ibrahima Sory Sow:** This Petitioner will be moved to the B3 unit and given his own cell.

10. In the event that a detainee shows symptoms of the COVID-19 virus, that detainee will immediately be isolated in one of two negative pressure rooms in the BFDF. The negative pressure room operates to limit the flow of air from the room with the infected individual to outside the room. This will further help limit any exposure should any individual become infected. The infected individual will then be tested for COVID-19, monitored, and, as required, transported to a local hospital for treatment.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 3, 2020

CAPT Abelardo Montalvo, M. D.

CAPTAIN ABELARDO MONTALVO, M.D.