

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE**

Favian Busby and Michael Edgington, *on their own behalves and on behalf of those similarly situated,*

Petitioners-Plaintiffs,

v.

Floyd Bonner, Jr., *in his official capacity,*
Shelby County Sheriff, and the Shelby County
Sheriff's Office,

Respondent-Defendant.

Case No. _____

**SECOND DECLARATION OF JOSH SPICKLER IN SUPPORT OF
PETITIONERS-PLAINTIFFS' MOTION FOR A TEMPORARY
RESTRAINING ORDER**

I, Josh Spickler, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746:

1. My name is Josh Spickler. I am over the age of 18 and I am competent to make this declaration.

2. I am an attorney with Just City, I am one of the counsel of record for Plaintiffs. I am licensed to practice law in the state of Tennessee.

3. I respectfully submit this Declaration in support of Plaintiffs' Motion for a Temporary Restraining Order. The purpose of this Declaration is to record the conversation I had on May 16, 2020 with Michael Edgington, a person detained at the Shelby County Jail and a lead Plaintiff in this action.

I. Background

4. Mr. Edgington is 60 years old. His date of birth is March 9, 1960. He has been detained since May 8, 2019. He is being held at Shelby County Jail on \$500,000 total bond that he cannot afford to pay. He is charged with two counts of Conspiracy to Manufacture, Deliver, or Sell a Controlled Substance.

5. Michael goes by the nickname "Duke" and is one of four siblings, two of whom are deceased. Before he was incarcerated, he lived with and cared for his elderly mother, Charlesetta Edgington. He would return to her house if released and would have a separate room in which to quarantine for 14 days in order to protect her. She currently lives alone.

II. Spatial Conditions in L Pod

6. Mr. Edgington is in L pod at Shelby County Jail, where he shares his cell with one other person. Their cell is approximately six feet by ten feet. He and his cellmate share a bunkbed. Mr. Edgington occupies the bottom bunk. There is also a toilet, sink, and table in the room that he

and his cellmate share. Mr. Edgington says it is impossible for them to be six feet away from each other in the cell.

7. Mr. Edgington also says that he cannot keep a distance of six feet from other people housed in the pod. As of May 16, 2020, there were 30-33 people housed in L pod with Mr. Edgington. The pod consists of 23 cells positioned on opposing walls. Cells 1 to 11 occupy the left wall when entering the pod. Cells 12 to 23 occupy the right wall. All but one of the cells are configured for two men. Another has been converted to a janitorial closet. The guard station is at the far end of the pod, directly opposite the entrance. There are four circular tables approximately four-feet in diameter with room for four chairs around them. One table is approximately five feet from the guard desk. There is a section of the pod near the television where 10-13 loose chairs sit for people to watch television. The men sit side by side with little room between the chairs according to Mr. Edgington.

8. Mr. Edgington explained that, when he leaves his cell, it is not possible to go into the day room and be six feet away from others. At mealtime, he must stand in line right next to others to get his meal tray. If he chooses to eat at a table, it is crowded with three other people.

9. There is a shower with three shower heads in the middle of the pod, between cells 5 and 6. There are always multiple people in the shower. The shower is not large enough for people to stand six feet away from each other while showering and there is typically a line of people in close proximity outside the shower.

10. Mr. Edgington is often in the communal areas with other detained people. He and the others in L pod are able to be in the day room from 8 a.m. to 12 p.m. and again from 3 p.m. to 7:30 p.m. every day. During that time, people and guards are situated throughout the pod. Some sit at tables, some sit in the chairs and watch TV, and some may choose to stay in their cells. In

order to get to and from the guard desk, which holds the guards' computer and supplies, guards must walk the length of the pod weaving in and out of tables and chairs. They frequently come in close proximity to the people being detained as they move in and out of the pod performing their duties, observing, and giving directions. They are often not wearing masks or gloves.

11. Mr. Edgington describes mealtime as a particularly difficult time to maintain distance from others. Meals are served by "rockmen"—two detained people with special jobs and extra privileges—from meal carts. The "rockmen" wear gloves and masks. The men line up to get a tray and are in very close proximity while they wait. Meals can be eaten in the common area or in the cells. Eating at a table means sitting close to someone. Eating in a cell means walking through a crowded area before and after getting food.

12. Additionally, Mr. Edgington describes standing in the medication line as another activity that puts him in close proximity to lots of other people. On a daily basis, many of the men line up to see the nurse and receive medication. They stand close together in a line awaiting their turn.

III. Hygiene Conditions

13. One bar of soap is distributed to each detained person by the jail staff each week. It is also available for purchase from the commissary, but availability has been limited recently. For indigent detainees, an additional small bar of soap is distributed once per week.

14. Mr. Edgington and others in L pod are allowed to shower once per day at the same time.

15. Mr. Edgington was given a mask by jail staff. It is white cotton with loops that go over his ears. He stated that he washes it each night with soap in the sink in his room. Guards do wear gloves when searching people housed in L pod before and after visits to the court.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 20th day of May, 2020, in Memphis, Tennessee.

/s/ Josh Spickler
Josh Spickler
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