

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

JOSEPH LEWIS, JR., ET AL.

CIVIL DOCKET

VERSUS

15-318-SDD-RLB

BURL CAIN, ET AL.

RULING

This matter is before the Court on Plaintiffs' *Emergency Motion to Re-open Discovery Regarding COVID-19*,¹ *Motion for Expedited Consideration on Emergency Motion for Discovery*,² and Plaintiff's *Emergency Motion to Restrain Defendants from Transferring COVID-19 Carriers to Louisiana State Penitentiary*,³ to which Defendants filed an *Opposition*.⁴ Plaintiffs' *Motion for Expedited Consideration on Emergency Motion for Discovery*⁵ is granted; however, Plaintiff's substantive motions shall be denied.

I. BACKGROUND

This suit was originally brought by several inmates incarcerated at the Louisiana

² Rec. Doc. No. 581.

³ Rec. Doc. No. 582.

⁴ Rec. Doc. No. 585.

⁵ Rec. Doc. No. 581. -

6 at 0017; DX 14 at 02876.

provided at LSP violates the Eighth Amendment prohibition of cruel and unusual punishment. Following a class certification hearing,

In such settings, transmission to large numbers of Class members is inevitable.¹⁴

Plaintiffs further claim that the evidence presented the 2018 bench trial in this case established that LSP “has a uniquely high number of inmates who are elderly, immuno-compromised, or disabled, or have cardiac, pulmonary, or cardiovascular conditions—individuals who are at particularly high risk for severe or even fatal consequences if they contract COVID-19.”¹⁵ Plaintiffs argue that, if Defendants “intentionally bring carriers of COVID-19 to LSP and treat them in the infirmary—the only place at LSP where even moderate cases of COVID-19 could conceivably be treated—the infection is likely to spread throughout this unit of compromised patients,’ just like ‘nursing homes where COVID is known to have caused significant death.”¹⁶ Plaintiffs claim that Defendants “will be intentionally and willfully exposing the most vulnerable people in the entire DOC system to an unconscionably high risk of death or serious harm.”¹⁷ Thus, Plaintiffs request the Court enter a TRO preventing Defendants from “knowingly transferring patients with COVID-19 to LSP” until a preliminary injunction hearing may be held.¹⁸

Defendants oppose Plaintiffs’ motion for a TRO, arguing that the Louisiana Department of Corrections (“DOC”) and LSP have taken steps to protect both offenders and staff from the COVID-19 pandemic. Defendants submit details regarding the efforts it has taken in this regard:

In response to the COVID-19 pandemic, DOC has a developed a plan to protect the health and safety of all offenders within the DOC system. As part of its infection control program, DOC’s Influenza and Pandemic Viral

¹⁴ Rec. Doc. No. 582-1, p. 1 (footnotes omitted).

¹⁵ *Id.* at pp. 1-2.

¹⁶ *Id.* at p. 2 (quoting Supplemental Declaration of Dr. Michael Puisis, ¶ 10).

¹⁷ *Id.*

¹⁸ *Id.* at p. 3.

Outbreaks regulation provides a formal policy and procedure concerning the planning, preparation, and management of a pandemic viral disease or an influenza outbreak. DOC recognized that a pandemic or an influenza outbreak may not follow an expected course and may present new challenges. DOC activated this regulation to the highest level, and DOC facility plans have been customized specifically to address COVID-19.

Pursuant to the DOC regulation, each state prison has implemented a thorough and detailed Continuity of Operations Plan (“COOP”), which have been reviewed by DOC Headquarters Medical/Operations. DOC is coordinating with the Governor’s office and other state agencies to stay up to date on all COVID-19 related issues, developments, and discussions. Secretary LeBlanc has engaged in daily phone calls with the Unified Command Group headed by the Governor. He along with all other Cabinet Secretaries, participate in these phone calls. DOC is actively involved in the statewide management and response through the Governor’s Office of Homeland Security and Emergency Preparedness. Moreover, DOC leadership has conference calls every Monday, Wednesday, and Friday with all Wardens, Louisiana State Police, and the Louisiana Sheriffs Association. These phone calls discuss updates from each institution, medical reports and updates, institutional reports, and strategy for continued management related to COVID-19.¹⁹

Defendants maintain that they have been proactive in the fight against the COVID-19 pandemic and the DOC is following the guidelines of the United States Centers for Disease Control and Prevention (“CDC”). The DOC has obtained from the Louisiana Department of Health (“LDH”) COVID-19 test sample collection kits, which have been issued to all prison facilities, and Defendants described the plan for testing criteria.

Defendants explain that:

Personal Protective Equipment (“PPE”) has been distributed to staff and offenders, as needed. DOC has issued COVID-19-specific guidelines and trained all state prisons regarding screening, isolation, quarantine, housing, proper use of PPE, and precautionary measures. These guidelines are revised and updated as the CDC issues new information. Each DOC facility has quarantine and isolation capabilities, which are used as needed. DOC has implemented daily tracking of all inmate influenza and COVID-19

¹⁹ *Id.* at pp. 2-3 (footnotes omitted).
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testing at each facility and delivers the COVID-19 test samples to LDH for laboratory testing.²⁰

Defendants go on to describe the specific ways LSP is implementing the guidelines and safety measures at Angola.

III. ANALYSIS

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The Court need not reach the merits of the requirements for a TRO because the D1Bj 0.06 -

**CHIEF JUDGE SHELLY D. DICK
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**