

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

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In the Matter of the Application of
CHARLES HOLDEN and ALBERTO FRIAS on behalf
of themselves and all others similarly situated,

Index No.

Petitioners,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules,

AFFIDAVIT OF
ALBERTO FRIAS

- against -

HOWARD A. ZUCKER, as Commissioner of Health for
New York State, and ANDREW M. CUOMO, as Governor
of the State of New York,

Respondents.

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Alberto Frias, being duly sworn, deposes and says:

1. I am a Petitioner in the above captioned proceeding.
2. I am 24 years old. I am currently incarcerated at Otis Bantum Correctional Center (OBCC) on Rikers Island in the custody of the New York City Department of Correction. I am incarcerated due to securing orders set in two criminal cases. I have been incarcerated in Department of Correction custody since April 26, 2020.
3. The housing unit in which I currently reside at OBCC is cell housing. Although I sleep in a cell, the set-up of my housing unit requires me to spend time outside of my cell, in spaces I must share with other people in custody and jail staff, to meet my basic daily needs. When I shower, eat meals, or use the phone it is in shared space in close quarters with other incarcerated men and jail staff. During the day, I and the people in my unit spend significant time in a shared dayroom.
4. At meal time I must congregate with other incarcerated people to obtain my food from the worker who hands out the food trays. My unit eats our meals at tables that are in the dayroom. Each table seats six people and I am often shoulder to shoulder with other incarcerated people while eating. No one wears a mask while eating meals. In general, the incarcerated people in my unit do not wear masks in the shared spaces of the housing area.

5. I share showers, television remotes, mops, brooms, an electric kettle, telephones, stair railings, and other items with the other incarcerated people in my unit. People in the unit do not clean or sanitize the items between uses.

6. Any time I or anyone in my housing unit leave the housing area, such as for an attorney visit, teleconference, medication, or medical care, we must be accompanied by an escort. When I leave the housing area I am escorted by officers and one officer walks closely on each side of me, often touching me. If I need to go to the clinic to access medical care—a clinical space which is a shared space with medical staff, jail staff, and other people in custody—I must often share clinic holding cells with other incarcerated people while waiting to be seen by medical staff. The holding cells are small, and I cannot maintain social distance when there is anyone else in the holding cell.

7. Correction officers rotate through my housing unit in shifts, with additional staff covering when they take breaks for meals or are out sick or on vacation. There are two to four correction officers in my unit at any given time. Other staff enter the unit to do maintenance and repairs. Staff from Social Services, grievance staff and program employees also enter the unit on a regular basis.

8. During the day, I am unable to maintain social distance from other inmates and correction staff. Even when I am in my cell, I cannot stop other inmates or staff from entering my cell during lockout hours. The housing area is small and is generally at full capacity. Most of the time I have very little to no control over how close other people in custody or jail staff come to me. If jail staff or other people in my housing unit fail to wear masks, practice social distancing, or follow other public health guidance, which is common, I cannot choose to leave the housing unit.

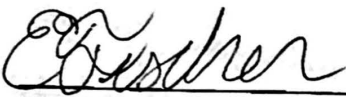
9. Throughout my incarceration I have not received or been offered the COVID-19 vaccination, nor to my knowledge has anyone in my housing area. I would like to have the option to receive the vaccine.

DATED: New York, New York
February 3, 2021

Albedo fri

[client]

Sworn to before me this
3rd day of ~~January~~ 2021
February



NOTARY PUBLIC

ELIZABETH ANNE FISCHER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02FI6380252
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES SEPTEMBER 4, 2022