

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

In the Matter of the Application of

CHARLES HOLDEN and ALBERTO FRIAS, on
behalf of themselves and all similarly situated
individuals,

Petitioners,

- 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,

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

Index No. _____

**AFFIDAVIT OF
RANDY JOHNS**

I, Randy Johns, hereby affirm the following under penalty of perjury:

1. I make this affirmation in support of this action. I am fully familiar with the facts and circumstances of this case.
2. The contents of this affidavit are based on my personal knowledge.
3. I am currently incarcerated in the custody of the New York City Department of Correction (“DOC”). I am sentenced, on a parole violation, and I am “State ready.” I have three months left on my sentence, but they are not currently transferring people upstate because of COVID-19, so I have been stuck on Rikers Island. I am fifty-five (55) years old.
4. I have been in DOC custody since July 31, 2020. I was first transferred to Manhattan Detention Center (“MDC”) where I was in a cell unit, mid-August 2020. In November 2020, I was transferred from MDC to the Anna M. Kross Center (“AMKC”).

5. I am in dorm housing unit 1 Upper in AMKC. There are fifty (50) beds. Approximately forty-six (46) beds were filled when I arrived, but new people are brought in and taken out constantly. Currently there are thirty-nine (39) people in the dorm. Recently, they have brought in several men who were coming from West Facility, which I have heard is where people with COVID-19 are housed.
6. The beds in this dorm are, at most, four and a half feet apart.
7. On Sunday, January 31, 2021, we got the news that an individual taken out of 1 Upper had tested positive for COVID-19. This person was taken out of 1 Upper two weeks ago and we only heard that he had tested positive when they came to pack up his stuff on Sunday. We heard this from the person who brings our medication to the unit. She also told us that we are a quarantine unit now. Usually we go to a medication window to get our medication, so it was a change to have them bring our medication to us on the unit.
8. Until last Sunday, I would have to travel downstairs to the medication window to get my prescription medication. Before being escorted to get our medication, everyone who gets medication in the unit must line up to go downstairs together. There is no physical distancing in the line and only a few people wear masks. It is impossible to keep my distance when being escorted to medication.
9. There are four phones in my unit. They are in the dayroom, which is a space I must share with other people in my housing unit. The phones are approximately two to three feet apart. There is often a line for the phones. Most of the time, nothing is available to clean the phones, so I clean them myself with my own soap.
10. The dayroom is small and is often crowded. Jail staff do not limit how many people are allowed in the dayroom at one time. People in the dorm gather in the dayroom all day

long. Although I try not to go into the dayroom, I have to go in there to use the phone or to get my meals.

11. Meals are brought to us and served by people who live in the area. The people who serve the meals wear masks sometimes, but not all the time. We line up to get the food and everyone gets crowded right up on each other. It is nowhere near six feet between people when lining up for food. Many people eat in the dayroom. The tables where people eat fit four people. I take the food to my bed to eat, but I have to go into the dayroom to get the food, and that means I must be in close quarters with people who eat and hang out in the dayroom all the time.

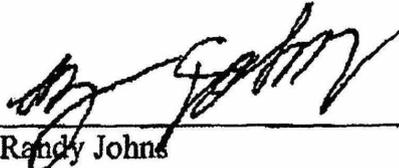
12. In addition to the phones, the televisions are in the dayroom. People gather in the dayroom to watch television all day long.

13. I must leave the housing unit to go to the medical clinic and counseling services, which are also shared spaces in which there are often both jail staff and people in custody. Anytime I leave the unit, I am escorted by staff and taken with others going to the same service. It is impossible to stay distant from staff and other inmates during these movements.

14. There are seven sinks in the bathroom, five on one wall and two sinks on a different wall. The sinks are only about a foot to a foot and a half apart. There are six toilets and seven showers and four urinals. There are always people in the bathroom. It is very difficult to stay away from other people in the bathrooms. People do not practice social distancing.

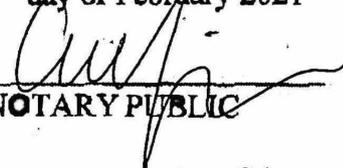
15. I come into contact with about eight to ten (8-10) staff a day. There are two or three (2-3) officers per shift and there are three shifts a day. There are also other people who enter the unit, such as staff from the law library, from social services, staff who deliver medication and people who deliver the meals.
16. There has been no education for us from about keeping ourselves and others safe from the virus. No one from staff has told us about staying physically apart from each other or that we should wear masks. There is no requirement to wear masks while in the housing unit. I sometimes try to tell people they are supposed to keep their distance, but they don't listen. Maybe three or four people in my housing area wear masks. There is no regular distribution of masks. You only get a mask if you ask for one.
17. The last time I was tested for COVID-19 was when I went to sick call almost two months ago. When I went back to sick call, several weeks later, I asked about the test and they told me the test was negative. They do not give you your results most of the time. I asked for another test since hearing that someone on my unit tested positive, but I have not been called to medical since making my request several days ago. They haven't done testing of everyone on the unit since taking out someone who was COVID-19-positive from the unit.
18. No one has said anything to me about whether people in the jails can get a COVID-19 vaccine. I would like to be given the option of getting the vaccine.

DATED: New York, New York
February 3, 2021



Randy Johns

Sworn to before me this
3rd day of February 2021



NOTARY PUBLIC

Anca Grigore
Notary Public, State of New York
No. 02GR6309939
Qualified in Kings County
Commission Expires August 18, 2022