



## PRISONERS' LEGAL SERVICES OF MASSACHUSETTS

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May 22, 2020

Francis V. Kenneally  
Clerk, Supreme Judicial Court  
John Adams Courthouse  
One Pemberton Square  
Suite 1300  
Boston, MA 02108

Re: Foster et al. v. Mici et al., SJC-12935

Dear Clerk Kenneally:

Plaintiffs submit this additional letter under Mass. R. App. P. 16(l) to bring to the Court's attention two additional cases ordering preliminary relief upon a likely showing of deliberate indifference in the face of risks from COVID-19.

First, on May 12, 2020, the District of Massachusetts issued a preliminary injunction prohibiting, *inter alia*, imprisoning any additional immigration detainees in the Bristol County House of Correction. *Savino v. Souza*, No. CV 20-10617-WGY, 2020 WL 2404923, at \*11 (D. Mass. May 12, 2020). In issuing the ruling, the court found that the government was likely deliberately indifferent to the risks created by the virus because it had “refus[ed] to work toward a safe population level” despite having “admirably taken significant steps toward protecting the Detainees from COVID-19[.]” *Id.* at \*8-9.

Second, on May 21, 2020, the Eastern District of Michigan issued a preliminary injunction, finding that “[a]ny response other than release or home confinement placement constitutes deliberate indifference” for medically

vulnerable prisoners, subjected to individualized consideration for release, because “the inherent characteristics of the Jail cannot be altered to any extent that would make it safe enough to protect the members of the Medically-Vulnerable Subclass from the potentially lethal combination of their unique vulnerabilities and COVID-19’s health-shattering consequences.” *Cameron et al. v. Bouchard et al.*, No. CV 20-10949, 2020 WL 2569868, at \*24 (E.D. Mich. May 21, 2020); *see id.* at \*25 (“failure to make prompt, broader, and more meaningful use of their authority to implement what appears to be the only solution capable of adequately protecting medically-vulnerable inmates may constitute deliberate indifference under the Eighth Amendment.”).

Respectfully Submitted,

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