

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TIMOTHY BROWN, et al.,	:	
	:	
	:	
Petitioners,	:	CLASS ACTION
	:	
v.	:	
	:	Case No. 20-cv-1914-AB
WARDEN KEVIN PISTRO,	:	
	:	
	:	
Respondent.	:	

ORDER

The matter of *Brown v. Pistro*, No. 20-cv-1914 (formerly captioned *Brown v. Marler*), is pending before this Court. In that matter, two detainees at the Federal Detention Center in Philadelphia (“FDC”), individually and on behalf of members of a proposed class, seek declarative and injunctive relief related to the threat posed by the COVID-19 pandemic.

In view of the recent outbreak of COVID-19 infections at the FDC, as reported to this Court by the government in its filed notices, the Court wishes to advise every detainee at the FDC (that is, every person held in custody under the Bail Reform Act before trial or sentencing), and their counsel, of the ability to request judicial review of the detainee’s continued custody based on any medical condition that puts him/her at increased risk of severe illness were he/she to contract COVID-19.

Therefore, the Court, with the consent of all parties, directs the government to distribute the following notice to every FDC detainee and to take reasonable steps to distribute the notice to attorneys representing FDC detainees, including by provision of the notice to the Defenders Association, a representative of the CJA panel, and organizations of criminal defense attorneys in the District of Delaware, District of New Jersey, and Eastern District of Pennsylvania.

Notice

1. Under the Bail Reform Act, 18 U.S.C. § 3141 et seq., a detainee may seek reconsideration of an order of detention.

2. A detainee who has a medical condition that puts him/her at increased risk of severe illness were he/she to contract COVID-19 may present a circumstance warranting reconsideration. The Centers for Disease Control and Prevention (“CDC”) has identified a list of conditions that present such medical risks; that list currently includes cancer, chronic kidney disease, COPD (chronic obstructive pulmonary disease), specified heart conditions, immunocompromised state (weakened immune system) for solid organ transplant, obesity, pregnancy, sickle cell disease, smoking, and type 2 diabetes mellitus. The CDC regularly updates the list, which may be found at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.

3. Counsel for a detainee, or a pro se detainee himself or herself, may request a copy of the current electronic medical records of the detainee, to permit an assessment of whether any relief is appropriate. Such a request may be sent by email to the United States Attorney’s Office at FDCRecordsRequest@usdoj.gov. The request for medical records should include in the subject line of the email: the detainee’s name, BOP number, district of prosecution, and case number. The BOP will endeavor to produce these records as soon as practicable after each submitted request.

4. Any motion for reconsideration of a detention order must be presented to the assigned United States District Judge. The fact that a detainee presents a condition that is a CDC-identified risk factor related to COVID-19 does not assure relief. The Court must consider all pertinent provisions in the Bail Reform Act, 18 U.S.C. § 3141 et seq., in determining whether detention is required and/or warranted in each particular case.

5. In accordance with the Bureau of Prisons Modified Operations, counsel for a detainee may seek to arrange or schedule an attorney-client telephone call with his or her client(s) by contacting the detainee’s unit team or submitting an email to PHL-LegalSvcs@bop.gov. The BOP will endeavor to schedule these calls as soon as practicable after each submitted request.

SO ORDERED:

s/ANITA B. BRODY, J.
Anita B. Brody, J.

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