

Exhibit A

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

CRAIG WILSON, ERIC BELLAMY,
KENDAL NELSON, and MAXIMINO
NIEVES, on behalf of themselves and those
similarly situated,

Petitioners,

v.

MARK WILLIAMS, warden of Elkton
Federal Correctional Institutions; and
MICHAEL CARVAJAL, Federal Bureau of
Prisons Director, in their official capacities,

Respondents.

Case No. 20-cv-0794
Judge James Gwin

**DECLARATION OF DAVID J. CAREY
IN SUPPORT OF PETITIONERS' MOTION FOR CLASS CERTIFICATION**

I, David J. Carey, declare as follows:

1. I am an attorney admitted to practice before courts of Ohio and New York. I am the Senior Staff Attorney at the American Civil Liberties Union of Ohio Foundation ("ACLU of Ohio"). I make this Declaration based on my personal knowledge, based on a review of the records maintained by my office and the office of my co-counsel in the ordinary course of business, and based on the representations of my co-counsel on which I reasonably rely.

2. I have approximately ten years of complex litigation experience as counsel for both plaintiffs and defendants. In my position at the ACLU of Ohio, I have litigated multiple prisoners' rights and other post-conviction actions in federal and state courts in Ohio, as well as litigating in other areas of constitutional law pertaining to voting rights, equal protection, and free expression. Prior to my work at the ACLU of Ohio, I practiced in complex commercial litigation and business litigation at large commercial law firms in Columbus, OH and New York, NY, where I litigated complex contract disputes, labor and employment, product liability, and antitrust cases, as well as

serving on a team litigating a post-conviction appeal in a capital murder case in Alabama. I received my undergraduate degree *magna cum laude* and with high honors from the College of William and Mary in 2006, and my law degree from New York University School of Law in 2009, where I was a Robert McKay Scholar.

3. The ACLU of Ohio is an affiliate of the national ACLU, which has nearly five decades of experience in complex prisoner rights class actions and has represented prisoners in five cases before the U.S. Supreme Court. Since its founding, the ACLU has litigated challenges on behalf of detainees in almost every U.S. state, as well as the District of Columbia, and federal courts have long recognized the special expertise of ACLU staff.¹ The ACLU of Ohio has particular experience litigating prisoners' rights cases, having litigated several complex prisoners' rights cases in recent years, as well as one case that went to the U.S. Supreme Court in 2005.

4. ACLU counsel on this case also include Joseph Mead and Freda Levenson, both of whom have considerable experience with constitutional and other civil litigation. Mr. Mead is Associate General Counsel for the ACLU of Ohio, and is an Assistant Professor at the Cleveland-Marshall College of Law, where he studies and teaches constitutional law, civil procedure, and nonprofit law. Mr. Mead has also served as a trial attorney for the United States Department of Justice, Civil Division, representing the United States in complex and constitutional litigation across the country, including litigating nationwide class actions and putative class actions, and clerked for judges of the United States Court of Appeals for the Sixth Circuit and the U.S. District Court for the Eastern District of Michigan. Ms. Levenson is the Legal Director of the ACLU of

¹ See, e.g., *Plyler v. Evatt*, 902 F.2d 273, 278 (4th Cir. 1990); *Palmigiano v. Garrahy*, 707 F.2d 636, 637 (1st Cir. 1983); *Duvall v. O'Malley*, No. CV ELH-94-2541, 2016 WL 3523682, at *9 (D. Md. June 28, 2016); *Dockery v. Fischer*, 253 F. Supp. 3d 832, 856 (S.D. Miss. 2015); *Riker v. Gibbons*, No. 3:08-CV-00115-LRH, 2010 WL 4366012, at *4 (D. Nev. Oct. 28, 2010); *Diaz v. Romer*, 801 F. Supp. 405, 410 (D. Colo. 1992), *aff'd*, 9 F.3d 116 (10th Cir. 1993).

Ohio, and litigates extensively in a wide range of constitutional and other civil matters, including on behalf of people involved in the criminal justice system specifically. She recently served as trial attorney in a class action before the U.S. District Court for the Southern District of Ohio that resulted in a \$5 million recovery across thousands of class members, and served as lead counsel in a landmark challenge to partisan gerrymandering in Ohio. She previously served as a litigation partner at a large commercial law firm in Chicago.

5. Co-counsel the Ohio Justice & Policy Center (OJPC) has 23 years of experience litigating on behalf of incarcerated people in Ohio. Originally founded as the Prison Reform Advocacy Center in 1997, OJPC has litigated in both state and federal court to protect the human rights of people in prison.

6. OJPC counsel on this case are David A. Singleton, Mark A. Vander Laan, and Michael L. Zuckerman. Mr. Singleton is the executive director of OJPC as well as a professor of law and director of the Constitutional Litigation Clinic at Northern Kentucky University's Chase College of Law, through which he has litigated dozens of cases in federal court. He has practiced law for 28 years, including litigating a class action in the U.S. District Court for the Southern District of Ohio that resulted in a settlement to improve health care for all Ohio prisoners. Mr. Vander Laan is the litigation director of OJPC. He has over forty years of litigation experience, having previously served as a litigation partner of a large Ohio-based firm. Mr. Zuckerman is an attorney and Skadden Fellow at OJPC. He previously served as a law clerk at the U.S. Supreme Court and the U.S. Court of Appeals for the Sixth Circuit.

7. Class counsel have conducted an extensive investigation into Elkton Federal Correctional Institution, as well as the social distancing requirements that are necessary to prevent or mitigate an outbreak of COVID-19.

8. Class counsel have sufficient financial and human resources to litigate this matter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 29, 2020 in Columbus, OH.

/s/ David J. Carey
David J. Carey