IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

OSCAR SANCHEZ, MARCUS	§	
WHITE, TESMOND MCDONALD,	§	
MARCELO PEREZ, ROGER	§	
MORRISON, KEITH BAKER, PAUL	§	
WRIGHT, TERRY MCNICKLES,	§	
AND JOSE MUNOZ, on their own	§	
behalf and on behalf of a class of	§	Civil Action
similarly situated persons,	§	Case No. 3:20-cv-00832
Petitioners/Plaintiffs,		
	§ §	
v.	§	
	§	
DALLAS COUNTY SHERIFF	§	
MARIAN BROWN, in Her Official	§	
Capacity; DALLAS COUNTY,	§	
TEXAS,	§	
Respondents/Defendants.	§	

DEFENDANTS' AMENDED MOTION TO DISMISS

Defendants, Dallas County Sheriff Marian Brown, in her official capacity, and Dallas County, Texas move to dismiss Plaintiffs' claims.

Plaintiffs' habeas claims should be dismissed because habeas petitions may not be used to challenge conditions of confinement. They are available for challenging the cause of confinement, for which the only available remedy is release. Plaintiffs have therefore not stated a claim for habeas relief.

Plaintiffs' habeas claims should also be dismissed because they have not exhausted available state law remedies.

The post-adjudication Plaintiffs' 42 U.S.C. § 1983 claims should be dismissed because granting these Plaintiffs release—which they claim is "the only medically and legally sound

remedy"— would necessarily imply the invalidity of their judgments of conviction and terms of confinement.

Finally, the Court should abstain from entertaining Plaintiffs' claims at this time. Conditions are dynamic, and constitutional litigation punctuated with court orders on sensitive issues of federalism and the interplay of competing interests, fraught with the threat of contempt, would not serve Plaintiffs, Defendants, or the public interest well.

In support of this Motion, Defendants rely on the following contemporaneously filed documents:

- 1. Brief in Support of Defendants' Amended Motion to Dismiss; and,
- 2. Proposed Order Granting Defendants' Amended Motion to Dismiss.

For the reasons stated in this Motion and its accompanying documents, Defendants respectfully request that the Court grant this Motion to Dismiss.

Date: April 19, 2020 Respectfully Submitted,

HUSCH BLACKWELL LLP

/s/ Kate David

Katharine D. David

Texas Bar No. 24045749

kate.david@huschblackwell.com

Nick Stepp

Texas Bar No. 24077701

nick.stepp@huschblackwell.com

Ben Stephens

Texas Bar No. 24098472

ben.stephens@huschblackwell.com

600 Travis, Suite 2350 Houston, Texas 77002

Tel: 713.525.6200 Fax: 713.647.6884

/s/ Russell H. Roden

Russell H. Roden Texas Bar No. 17132070 russell.roden@dallascounty.org John Butrus Texas Bar No. 03537330 john.butrus@dallascounty.org

133 N. Riverfront Blvd., LB 19 Dallas, Texas 75207

Tel: 214.653.3600 Fax: 214.653.5774

COUNSEL FOR DALLAS COUNTY, TEXAS

AND SHERIFF MARIAN BROWN

CERTIFICATE OF SERVICE

I certify that on this, the 19th day of April, 2020, a true and correct copy of the foregoing document was transmitted using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

> /s/ Nicholas D. Stepp Nicholas D. Stepp

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

OSCAR SANCHEZ, MARCUS	§	
WHITE, TESMOND MCDONALD,	§	
MARCELO PEREZ, ROGER	§	
MORRISON, KEITH BAKER, PAUL	§	
WRIGHT, TERRY MCNICKLES,	§	
AND JOSE MUNOZ, on their own	§	
behalf and on behalf of a class of	§	Civil Action
similarly situated persons,	§	Case No. 3:20-cv-00832
Petitioners/Plaintiffs,	§	
-	§	
V.	§	
	§	
DALLAS COUNTY SHERIFF	§	
MARIAN BROWN, in Her Official	§	
Capacity; DALLAS COUNTY,	§	
TEXAS,	§	
Respondents/Defendants.	§	

[PROPOSED] ORDER

Before the Court is Defendants' Amended Motion to Dismiss. Having considered the Motion, the Brief in Support, Plaintiffs' Response in Opposition, any Reply, and arguments of counsel, the Court is of the opinion that the Motion should be GRANTED.

BE IT THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Petition for Writ of Habeas Corpus is dismissed without prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

BE IT FURTHER ORDERED, ADJUDGED, AND DECREED that the 42 U.S.C. § 1983 claims of the putative post-adjudication class are dismissed without prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

	BE IT FURTHER ORDERED, ADJUDGED, AND DECREED that the Court abstains
from r	uling on the remaining 42 U.S.C. § 1983 claims.
	This order dismisses all pending claims.
Date:	

The Honorable Ada Brown