## 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' MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION

Defendants, Dallas County Sheriff Marian Brown, in her official capacity, and Dallas County, Texas move to dismiss the remaining claims of Plaintiffs Marcelo Perez, Roger Morrison, Keith Baker, Paul Wright, Terry McNickels, Jose Munoz, Kiara Yarborough, Olivia Washington, and Ideare Bailey (the "Released Plaintiffs").

Each of the Released Plaintiffs is no longer detained in the Dallas County Jail. They are not subject to the conditions of confinement of which they complain, and therefore lack standing to pursue prospective injunctive relief under the 42 U.S.C. § 1983.

<sup>&</sup>lt;sup>1</sup> Plaintiffs Oscar Sanchez, Marcus White, and Tesmond McDonald remain in detention.

Moreover, with regards to the proposed Post-Adjudication Class, all named plaintiffs seeking to represent that class have been released. The Post-Adjudication Class's claim for relief under the Eighth Amendment is moot, not subject to the "capable of repetition, yet evading review"

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

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

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

Date: September 25, 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

exception.

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 a copy of the foregoing was served on all counsel of record via the ECF system of the Court on September 25, 2020.

/s/ Kate David
Kate David