

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**PITRELL BRISTER, et al.**

**PLAINTIFFS**

**V.**

**NO. 4:20-CV-7-SA-JMV**

**NATHAN BURL CAIN, et al.**

**DEFENDANTS**

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**JOINT MOTION TO DISMISS 20 PLAINTIFFS**

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Plaintiffs and Defendants submit this Joint Motion to Dismiss the claims of 20 of the remaining 80 named Plaintiffs in this case on the basis that these named Plaintiffs are not presently confined at the Mississippi State Penitentiary at Parchman (“MSP”) because they have been paroled or otherwise transferred away from MSP.

1. This Joint Motion is in keeping with the Court’s March 1, 2022 Order on the Defendants’ previous Motion to Dismiss of like nature. [Doc. 363].

2. Attached as Exhibit 1 to this Joint Motion is a Housing History dated January 11, 2023, which shows that the 20 named Plaintiffs at issue do not presently reside at MSP.

3. Thus, the below-listed Plaintiffs, all of whom seek only declaratory and prospective injunctive relief related to conditions at MSP, cannot prove the existence of a live case or controversy. “A claim for declaratory and injunction relief based on conditions of confinement is rendered moot upon the prisoner’s release or transfer from the facility.” *Smith v. City of Tupelo, Miss.*, 281 F. App’x 279, 282–83 (5th Cir. 2008); [Doc. 363].

4. Pursuant to the reasoning of the Court’s previous Order [Doc. 363], the parties jointly and respectfully request that the Court dismiss the claims of the below-listed 20 named Plaintiffs and terminate them from litigants in this action:

1. Pitrell Brister, MDOC No. 208459
2. Tyree Ross, MDOC No. K9384
3. H.D. Alexander Scott, MDOC No. 117837
4. Phillip Webster, MDOC No. 157916
5. Larry Bardney, MDOC No. 27397
6. Joshua Bogan, MDOC No. 223071
7. Dwayne Bridget, MDOC No. 167410
8. Michael A. Dillard, MDOC No. 21421
9. Paul Evans, Jr., MDOC No. K9280
10. Ricky Joseph Gavin, MDOC No. 153557
11. William Golden, Jr., MDOC No. K3957
12. Jonathan Key Ivy, MDOC No. 103620
13. Michael Oliver, MDOC No. 197427
14. Xavier Phillips-Bowman, MDOC No. 189860
15. Gavin Pierson, MDOC No. 141688
16. Montrail Robinson, MDOC No. L3977
17. Jodon Slaughter, MDOC No. K1780
18. Netorrium Tyson, MDOC No. 200796
19. Jerry Vanwagner, MDOC No. 161751
20. Eric Wayne Watkins, MDOC No. 35738

5. As shown by Exhibit 1, all 20 of these named Plaintiffs have been transferred away from MSP. Two of the 20 named Plaintiffs, Larry Bardney 27397 and Xavier Bowman 189860, have been paroled in South Carolina and Tennessee, respectively.

6. The parties agree that none of these Plaintiffs have shown a “demonstrated probability” or “reasonable expectation” of being transferred back to MSP, and thus, for reasons set forth in the Court’s previous Order [Doc. 363], and binding Fifth Circuit precedent, the parties request that the Court dismiss these Plaintiffs’ claims and terminate them as litigants in this case.

7. In light of the straightforward nature of this Joint Motion, and that the Joint Motion is agreed upon by both Plaintiffs and Defendants, the parties respectfully request that this Court dispense with L.U. Civ. R. 7(b)(4)’s requirement to submit a formal memorandum brief in support of the relief requested. Alternatively, the parties seek leave to submit that filing.

Accordingly, Plaintiffs and Defendants jointly and respectfully request that the Court dismiss the claims of the above 20 named Plaintiffs and terminate them as litigants in this case.

Plaintiffs and Defendants request such other and further relief as the Court deems just and proper.

Date: January 13, 2023.

/s/ Cody C. Bailey

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### **CERTIFICATE OF SERVICE**

I, Cody C. Bailey, hereby certify that on January 13, 2023, I caused the foregoing pleading to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification to all counsel of record.

/s/ Cody C. Bailey

One of the Attorneys for the Plaintiffs