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# Manhattan Inmates Want Out Of 'Inhumane' Prison Amid Virus

By **Frank G. Runyeon**

Law360 (April 28, 2020, 9:08 PM EDT) -- Federal inmates in a Manhattan prison filed a class action petition for release or transfer Tuesday, arguing that the prison's failure to adequately protect them from the spread of COVID-19 inside its walls had violated their constitutional rights.

Five inmates are bringing the lawsuit on behalf of the Metropolitan Correctional Center's 700 detainees, calling the warden's response to the viral outbreak inept and the staff's treatment of sick inmates "inhumane." The inmates say the prison is violating pretrial detainees' and prisoners' Fifth and Eighth Amendment rights, which shield them from the deliberate indifference of prison officials amid a deadly pandemic.

"An unprecedented public health crisis is unfolding at the MCC, a result of the jail's delayed and patently inadequate response to the COVID-19 pandemic," the inmates said in their petition, reporting that the prison is filled to 150% of its capacity and over 30 staff members have tested positive for COVID-19.

According to the lawsuit, the inmate petitioners — Cesar Fernandez-Rodriguez, Rober Galvez-Chimbo, Sharon Hatcher, Jonathan Medina and James Woodson — all have medical conditions that put them at greater risk of severe illness or death if they contract the virus. Three of them have already shown COVID-19 symptoms.

But the prison has failed to test many inmates with symptoms of the virus and has done little to isolate sick inmates from others, according to the petition.

"The MCC has responded to the spread of COVID-19 within its walls with a mixture of ineptitude and indifference that threatens the safety of inmates, staff and the community at large," the inmates said, noting that while the prison has tested only a few inmates, most have tested positive.

As of Tuesday evening, the prison had tested eight inmates, five of whom were infected, while 39 staff members had confirmed cases of COVID-19, according to a court-mandated bi-weekly report.

MCC has also violated guidelines set by the Centers for Disease Control and Prevention and the Federal Bureau of Prisons to trace and quarantine those who came in contact with infected inmates, the inmates said.

"In multiple instances, the MCC has simply left symptomatic inmates in open dormitories in which more than two dozen men bunk closely together, sharing a single toilet and one or two sinks," according to the suit. "Unsurprisingly, the virus has spread rapidly through at least one of the units that contain these open dormitories."

"Inmates suspected of infection have received, at best, only cursory medical attention," the inmates said, adding that some sick inmates have been locked in "cells with concrete 'beds' that were used to hold 9/11 terrorist defendants."

The prison has denied prisoners even basic sanitation, the inmates argue, claiming a lack of soap, and staff members circulate around the facility "often without masks or gloves."

Despite a federal order by Attorney General William Barr to prioritize the release of inmates

vulnerable to COVID-19, the inmates say they don't know of a single MCC inmate who has been released in line with that directive. The MCC currently has 205 such inmates, according to the petition.

The inmates are seeking an emergency and permanent injunction directing the prison to ramp up "medically-appropriate quarantine, isolation and treatment," expand testing and other disease surveillance measures, hire professional cleaners to sanitize the facility, hand out free "hygiene necessities" and release from MCC vulnerable inmates or other inmates as "reasonable under the extraordinary circumstances of the COVID-19 pandemic."

Furthermore, the petition asks the court to order that any remaining inmates be quickly transferred away from MCC to a federal prison that is better able to provide "adequate health care" and appropriate virus prevention measures "until such time as the MCC can improve conditions sufficiently to take such measures and provide such care itself."

The BOP declined to comment.

The Manhattan inmates' claims bear striking similarity to a separate class action petition **filed** in March by inmates at the Metropolitan Detention Center in Brooklyn. An attorney for those inmates **told Law360** last week that sick inmates there had their pleas for medical care ignored. The MDC opposes the petition and asked the court to **dismiss it** on Friday.

The Manhattan inmates are represented by Arlo Devlin-Brown, Andrew A. Ruffino, Alan Vinegrad, Timothy C. Sprague and Ishita Kala of Covington & Burling LLP.

Counsel information for the MCC was not immediately available on Tuesday evening.

The case is Fernandez-Rodriguez et al. v. Licon-Vitale, case number 1:20-cv-03315, in the U.S. District Court for the Southern District of New York.

--Editing by Michael Watanabe.

*Update: This article has been updated with comment from BOP.*