

THIRTEENTH JUDICIAL DISTRICT COURT
COUNTY OF SANDOVAL
STATE OF NEW MEXICO

Cause No: D-1329-CV-2020-713

IN RE: THE MATTER OF THE SANDOVAL COUNTY DETENTION CENTER

MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE

COMES NOW the American Civil Liberties Union of New Mexico (hereinafter “ACLU-NM”), through the undersigned counsel and respectfully requests this Court to issue an order granting it leave to file a brief as amicus curiae in the above-captioned matter. As grounds for this Motion, the ACLU-NM respectfully submits:

1. This matter addresses the release of all persons charged with or convicted of misdemeanor or non-violent felony crimes from the Sandoval County Detention Center during the State of Emergency caused by the COVID-19 virus. It further addresses a prohibition on booking or accepting into the Detention Center and future persons who are charged with misdemeanor or non-violent felony crimes until the Governor declares the end to the current State of Emergency.

2. ACLU-NM has a strong, well-established interest in protecting the civil rights of the citizens of the State of New Mexico because we have been deeply involved in securing the principles embodied in the Eighth and Fourteenth Amendments and their analogous state constitutional provisions, including the fundamental rights of incarcerated persons.

3. ACLU-NM respectfully desires to file a brief as amicus curiae setting forth its view of the issue and believes its brief as amicus curiae will assist the Court in addressing the issue raised, and accordingly asks the Court to find cause and allow it to immediately file its brief.

4. Counsel for Petitioner has been contacted and does not oppose this Motion. The proposed motion is attached as an exhibit hereto.

WHEREFORE, the American Civil Liberties Union of New Mexico respectfully requests that this Court issue an Order granting leave to file a brief as amicus curiae regarding this matter.

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION
OF NEW MEXICO

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INTEREST OF AMICUS CURIAE

The American Civil Liberties Union (“ACLU”) is a nationwide, nonprofit, nonpartisan organization with over 1,600,000 members, 3,200,000 online activists, and 3,700,000 social media followers dedicated to the principles embodied in the Bill of Rights. The ACLU of New Mexico (“ACLU-NM”) is one of the ACLU’s statewide affiliates with approximately 12,000 members. ACLU-NM has a strong, well-established interest in protecting the civil rights of the people of the State of New Mexico.

ACLU-NM’s interest in this matter centers on the rights of incarcerated persons in New Mexico. ACLU-NM has been deeply involved in protecting and advancing the rights of inmates in New Mexico, such as their due process rights, right to be free from cruel and unusual punishment, and their right to receive adequate medical care. As one recent example, in 2019, ACLU-NM lead a campaign to help pass New Mexico House Bill 364, which limits the usage of solitary confinement people living with mental illness. Additionally, ACLU-NM has a project specifically dedicated to advocacy for incarcerated women.

STATEMENT

ACLU-NM joins the Sandoval County Attorney’s Petition for *Writ of Mandamus* to Sandoval County Detention Center to Release All Misdemeanor and Non-Violent Offenders and Refuse to Admit Any Additional Misdemeanor and Non-Violent Offenders During this Period of State Emergency.

Recognizing the seriousness of the COVID-19 pandemic, on March 23, 2020, the Governor of New Mexico issued an order shutting down all non-essential businesses and limiting gatherings to no more than 5 people. “Everyone in this state has as social contract for responsibility for one another,” she said, “If you don’t take this serious, then we can’t reduce the spread of COVID-19.”¹

People in jails are highly vulnerable to outbreaks of contagious illnesses. They are housed in close quarters, are often in poor health, and are often without access to adequate hygiene supplies. An outbreak of COVID-19 in the Sandoval County Detention Center would impact not only individuals incarcerated there, but the Sandoval County community at large.

Incarcerated persons have the constitutional right to adequate health care. They also have the right to be protected from known risks of serious harm, such as the one posed by COVID-19. In this time of emergency, the best way to protect individuals in the Sandoval County Detention Center and in the community at large is to release as many people from custody as is reasonably possible, as the Montana and New Jersey Supreme Courts have already directed in those states.² Courts across the country are taking action³ and Sandoval County can be a leader for New Mexico to follow suit.

¹ Boyd, Dan and McKay, Dan, “Gov issues closure of all ‘non-essential’ businesses,” Albuquerque Journal, March 23, 2020, found at: <https://www.abqjournal.com/1435599/lujan-grisham-to-announce-stay-at-home-instruction.html>

² See Larson, Seaborn, “Montana Supreme Court to city, county judges: Release inmates if possible,” Montana Standard, March 23, 2020, found at: <https://bit.ly/2QDTxvM> and *In the Matter of the Request to Commute or Suspend County Jail Sentences*, Docket No. 084230 (S. Ct. N.J. March 22, 2020) (recognizing the extreme risk posed to incarcerated persons by COVID-19 and ordering the release of any New Jersey inmate serving a county jail sentence as a condition of probation or as a result of a municipal court conviction).

³ *U.S. v. Stephens*, 19cr95, 2020 WL 1295155, (AJN) (S.D.N.Y. Mar. 19, 2020), Dkt. No. 2798, (“[U]nprecedented and extraordinarily dangerous nature of the COVID-19 pandemic” which may place inmates, in particular, at “heightened risk.” Ordering “the Defendant released subject to the additional conditions of 24-hour home incarceration and electronic location monitoring as directed by the Probation Department.”); *In The Matter Of The Extradition Of Alejandro Toledo Manrique*, 2020 WL 1307109, (N.D. Cal. March 19, 2020) (Ordering release on bond of individual held in San Mateo County Jail due to facilities lack of preparedness plan for COVID-19); and *United States v. Barkman*, 2020 U.S. Dist. LEXIS 45628 (D. Nev. Mar. 17, 2020) (“With confirmed cases that indicate community spread, the time is now to take action to protect vulnerable populations and the community at large.”).

For the reasons articulated herein, as well as in the Petition for *Writ of Mandamus*, the Court should grant the relief requested therein.

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION
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