

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)	
Plaintiff)	
)	Criminal No. SAG-19-CR-0500
V.)	
)	
JONATHAN WILLIAM WALL,)	
Defendant)	

BRIEF IN SUPPORT OF DEFENDANT’S MOTION TO TRANSFER
LOCATION OF PRETRIAL DETENTION

NOW COMES the Defendant, Jonathan William Wall, by counsel, and states as follows:

INTRODUCTION

The United States has around four percent of the world’s population but 25 percent of its prisoners, which many consider to be problematic. The majority of those presumed innocent and awaiting trial are held for non-violent crimes, which many consider to be problematic. The majority of those prisoners are being held for drug crimes as part of a long running War on Drugs, which many consider to be problematic. The now half-century Drug War has cost our country more than a trillion dollars, which many consider to be problematic. The majority of arrests and convictions in the trillion-dollar Drug War have been for a plant whose threat to American society that now appears to have been overstated, which many consider to be problematic. The cost of incarcerating the non-violent accused in supermax jails like the Chesapeake Detention Center is more than \$40,000 dollars a year, which many consider to be problematic. The denial of access to family, limited access to counsel, resources like libraries, meaningful exercise, mental health services and educational opportunity, concomitant with exposure to violent and predatory offenders in these supermax and maximum-security jails—

many consider to be problematic. The conditions that the non-violent accused have had to endure and that they continue to endure during the Covid-19 Pandemic, along with the grossly-extended trial wait times, lack of quality health care and elevated risks of exposure and infection to a known deadly disease—many consider this to be problematic as well.

Perhaps one, two or even three of the above facts would remain within the problematic and thus dispensable, but when every one of them is ripely applicable—as they are herein—then we respectfully cross over from the problematic to an actual problem, which, transposed into the justiciable, is a violation of the Sixth and Eighth Amendments to the United States Constitution.

RELEVANT FACTS

The Defendant is one of those prisoners described above.

The Indictment in this case charges the Defendant and ten other men with conspiracy to distribute marijuana over a period of over three years, “in the District of Maryland and elsewhere.” The Defendant denies all of the charges against him, and looks forward to his trial, which, due to the unforeseen pandemic and the extensive delays associated with it, will not be until May 5, 2022, approximately two years after he returned to the United States to face trial.¹

The Defendant is currently housed at the Chesapeake Detention Center while he awaits trial. He has been housed there since his transfer from California last year. This is an old, no contact, Supermax jail in downtown Baltimore that needs to be, and will likely be, torn down soon. Family cannot visit prisoners at that facility. Lawyers can barely visit their clients at that facility. It is the hardest time imaginable, especially for a pretrial detainee, who is still subject to the presumption of innocence. And this facility is in no way meant for long term incarceration (i.e., one year or more) of pretrial detainees especially during the Covid pandemic.

¹ With regard to filing the instant Motion after the Motions deadline, the 2022 trial date was set after the motions’ deadline and is not, respectfully, scheduled for close to another year.

The facility has no law library, no exercise area, and no privacy regarding toilets. It is not a reasonable or constitutional location for pretrial detention.

It has been a Covid nightmare, which has forced numerous pretrial detainees (and two other prisoners), with the assistance of the Lawyers' Committee for Civil Rights under Law and a noted white shoe law firm, Bryan Cave Leighton Paisner LLP, to file a class action lawsuit against the facility in this Court (Case No. 1:21-cv-00428-GLR) seeking a comprehensive overhaul of the facility under 42 U.S.C. §1983 based on the facility's (i.e., the Warden's) violation of their rights under the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution.

If the Defendant had a choice in this matter, he would wish to be incarcerated pending trial at the Washington Central Detention Facility. Per the DC Department of Corrections website, <https://doc.dc.gov/page/correctional-facilities>, this facility offers a variety of programs, including HIV/AIDS Prevention, Education and Intervention Services; Individual and Group Counseling Services; Hispanic Life Skills; Book Club; Street Law; Literacy Education; Religious Services; Mental Health Adjustment; and Anger Management, among other life skills development and religious services.

Nothing of this sort is available at the Chesapeake Detention Center.

ARGUMENT

“The constitutional protections afforded a pretrial detainee as provided by the Fourteenth Amendment are co-extensive with those provided by the Eighth Amendment. The inquiry with respect to the conditions alleged is whether or not those conditions amount to punishment of the pretrial detainee because due process proscribes punishment of a detainee before proper adjudication of guilt.” *Conaway v. Capasso*, 2018 U.S. Dist. LEXIS 104768, at 5 (D. Md. June

22, 2018), *citing Bell v. Wolfish*, 441 U.S. 520, 535, 99 S. Ct. 1861 (1979). “A particular restriction or condition of confinement amounts to unconstitutional punishment if it is imposed by prison officials with the express intent to punish or it is not reasonably related to a legitimate, non-punitive goal. *Id.* at 5-6, *citing Bell*, 441 U.S. at 538-39 (restrictions or conditions that are arbitrary or purposeless may be considered punishment).

Put a different way, because “[p]retrial detainees have not been convicted of a crime and thus may not be punished in any manner, . . . courts considering challenges to confinement brought by pretrial detainees must first consider whether the circumstances of the particular confinement render the confinement punitive.” *Iqbal v. Hasty*, 490 F.3d 143, 168 (2nd Cir. 2007), *reversed on other grounds, Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937 (2009).

In the Defendant’s case, the restrictions that he must suffer through at the Chesapeake Detention Facility are arbitrary or purposeless. *Bell, supra*. They may or may have been imposed on him and the other pretrial detainees for the explicit purpose of punishment, but they are no less arbitrary or purposeless. No judicial or criminal justice purpose is served whatsoever by making the Defendant suffer through these conditions. They are a violation of the Defendant’s rights under the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution.

But an alternative exists, and it is an hour away at the Washington Central Detention Facility.

WHEREFORE, the Defendant respectfully requests that the Court order that he be transferred to the Washington Central Detention Facility for the remainder of his pretrial detention.

Respectfully submitted this 24th day of June, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the within document with the Clerk of the Court using the CM/ECF system which will send notification of such filing(s) to all counsel of record.

/s/ Jason Flores-Williams
Jason Flores-Williams