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ANTHONY TILLMAN,)
)
Plaintiff,)
)
v.)
) Cause No. 4:21-cv-00299
)
CITY OF ST. LOUIS, MISSOURI,)
)
ADRIAN BARNES,)
)
, and)
)
COMMISSIONER DALE GLASS,)
)
)
)
Defendants.)

Cause No. 4:21-cv-00299

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Plaintiff Anthony Tillman hereby moves the Court, pursuant to Rule 65 of the Federal Rules of Civil Procedure, for a temporary restraining order and preliminary injunction requiring Defendant City of St Louis, Defendant Adrian Barnes, and Defendant Dale Glass to (1) file with the Court, within 5 days of the Court’s order, a detailed plan to establish a wheelchair-accessible shower at the City Justice Center (“CJC”); (2) build out a wheelchair-accessible shower within 21 days of the filing of the detailed plan; and (3) in the interim assign nursing staff to assist Mr. Tillman in the shower.

Mr. Tillman uses a wheelchair due to paraplegia. He has been detained at CJC since October 5, 2020. Since then, Defendants have provided him with neither a wheelchair-accessible shower nor staff assistance in showering; instead, they gave him a basin filled with lukewarm water and a rag.

As detailed in Plaintiff’s accompanying Memorandum, if the Court does not issue a temporary restraining order and preliminary injunction, Plaintiff will be placed at grave risk of

infection. Mr. Tillman suffers from persistent, open wounds on his body; extremely dry skin; and toenails that frequently fall off. The basin-and-rag-system leaves Mr. Tillman unable to reach and clean many of these affected areas, due to his paraplegia.¹

Plaintiff will likely prevail on the merits of his claim that Defendants' refusal to provide a wheelchair-accessible shower and/or staff assistance in showering violates the Americans with Disabilities Act ("ADA"). Defendants' actions have, and will continue to, injure Plaintiff disproportionately to any harm Defendants would incur if Plaintiff was provided adequate shower facilities, and staff assistance while such facilities were being constructed. The requested injunction would also serve the public interest of ensuring that a national legislative mandate, the ADA, is enforced.

Pursuant to Rule 65(b)(1)(A) of the Federal Rules of Civil Procedure, Plaintiff submits a declaration with this motion attesting to the irreparable injuries he will suffer unless this Court issues a temporary restraining order and preliminary injunction.

Pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil Procedure, Plaintiff's counsel certifies that it provided notice of the motion via email to Defendants' attorneys, and will also provide notice of this motion's filing by calling and emailing copies of all documents filed in this case to Defendants' attorneys as well.

For the foregoing reasons, and as set forth in the accompanying Memorandum of Law, this Motion for a Temporary Restraining Order and Preliminary Injunction should be granted.

Dated: March 9, 2021

Respectfully submitted,

ARCHCITY DEFENDERS, INC.

¹Mr. Tillman has attempted to file grievances on multiple occasions, but prison officials have not formally accepted such grievances.

// _____

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RIGHTS BEHIND BARS

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I hereby certify that on the 9th day of March, 2021, I electronically filed the foregoing with the clerk of the court for the U.S. District Court, Eastern District of Missouri, using the electronic case filing system of the Court. This Motion for Temporary Restraining Order will be served in accordance with the Federal Rules of Civil Procedure.

/s/ _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

,

capacity *in his official*

his official capacity

in

*****EXPEDITED HEARING
REQUESTED*****

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

FACTS

See

Id.

Id.

Id.

Id.

Id.

Id.

Id.

Id.

Id.

Id

Id.

Id.

Id.

Id.

Id

Id.

Id.

Id.

Id.

1

See generally

Prevention and management of wound infection

Id

Id.

LEGAL STANDARD

Manion v. Nagin

Entergy, Arkansas, Inc. v. Nebraska

See e.g. Calvert v. Paniagua,

A Place for Mom, Inc. v.

Hochhalter

Chicago Stadium Corp. v. Scallen

Planned Parenthood Minn., N.D., S.D. v. Rounds

ARGUMENT

I. **Mr. Tillmans is Entitled to a Temporary Restraining Order Enjoining Defendants' Discriminatory Conduct.**

A. **Mr. Tillman is Likely to Succeed on the Merits of his ADA Claim**

Jet Midwest Int'l Co., Ltd v. Jet Midwest Grp.,

LLC

Id

Planned Parenthood Minn., N.D., S.D. v. Rounds

Gorman v. Barch,

Randolph v.

Rodgers,

Pennsylvania Dep't of Corr. v. Yeskey

see also Randolph v.

Rodgers,

Kutrip . City of St. Louis

United States . Georgia

See Kutrip

Furgess Pennsylvania Dep't of Corr.

Pierce County of Orange

St.

Pierre McDaniel

Kimman N.H. Dept. of Corrs.

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L Q P D W H

See

Id.

As a result, Mr. Tillman has not had a shower during over five full months of detention.

See Robertson v. Las

Animas Cty Sheriff's Dep't

See generally Furgess

Id.

Id.

B. Mr. Tillman Will Suffer Irreparable Harm Without a Temporary Restraining Order

City of Fayetteville, Ark.

Rogers Grp., Inc. v.
quoting Gen. Motors Corp. v. Harry

Brown's, LLC

See Winter v. Nat. Res. Def. Council, Inc.,

Id.

See e.g. Sak v. City of

Aurelia, Iowa,

C. Plaintiffs' Injuries Outweigh Any Potential Harm to Defendants Caused by a Temporary Restraining Order

See supra

See

see also

White v. Martin

de minimis

Id.

D. A Temporary Restraining Order Serves the Public Interest

11/16

see also Crowder v. Kitagawa

see also Sak

II. The Court Should Use its Discretion to Waive Posting of Security.

See Richland/Wilkin Joint Powers Auth. v. U.S. Army

Corps of Eng'rs

Steward v. West

First Lutheran Church v. City of St. Paul

Cf. Richland/Wilkin Joint Powers Auth.

See, e.g. Council on American-Islamic Rels. v. Graubatz

City of Atlanta v. Metro.

Atlanta Rapid Transit Auto

See, e.g. Johnson v. Bd. Of Police Comm'rs

See Moltan Co. v. Eagle-Pitcher Indus., Inc.

CONCLUSION

See e.g.

/s/Emanuel Powell

/s/Amy e. Breihan

/s/Brendan Roediger

/s/Oren Nimni

pro hac vice forthcoming

Attorneys for the Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ANTHONY TILLMAN,)	
)	
Plaintiff,)	
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v.)	
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CITY OF ST. LOUIS, MISSOURI,)	
ADRIAN BARNES, <i>in his official</i>)	
<i>capacity</i> , and)	
COMMISSIONER DALE GLASS, <i>in</i>)	
<i>his official capacity</i> ,)	
)	
Defendants.)	

Cause No. 4:21-CV-00299

*****EXPEDITED HEARING
REQUESTED*****

[PROPOSED] ORDER

Upon consideration of Plaintiff’s Motion for Temporary Restraining Order and Preliminary Injunction, it is **ORDERED** that the motion is **GRANTED**. Defendants are hereby enjoined from their discriminatory refusal to provide a wheelchair-accessible shower to Plaintiff Anthony Tillman and **ORDERED** to:

- (1) file with the Court, within 5 days of the entry of this Order, a detailed plan to establish a wheelchair-accessible shower at the City Justice Center (“CJC”);
- (2) build out a wheelchair-accessible shower within 21 days of the filing of the detailed plan; and
- (3) in the interim, assign nursing staff to assist Mr. Tillman in the shower.

Ordered this _____ day of _____, 2021

United States District Judge