IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION

WILLIAM THORPE, *et al.*, *Plaintiffs*, v. VIRGINIA DEPARTMENT OF CORRECTIONS, *et al.*, *Defendants*.	Civil Case No. 2:20-cv-00007-JPJ-PMS **CLASS ACTION**

PLAINTIFFS' REPLY IN SUPPORT OF
THEIR REVISED STATEMENT REGARDING
NEW PROPOSED CLASS REPRESENTATIVES AND AMENDED NOTICE

Plaintiffs file this reply to Defendants' response, ECF No. 474, in accordance with the Court's minute order at ECF No. 472.

Defendants' response asserts that named Plaintiff and proposed class representative Derek Cornelison is not a member of the Constitutional Violation Injunction Class. ECF No. 474 at 2. Respectfully, Defendants' argument is inconsistent with its prior position. In opposing Plaintiffs' previously proposed class representative, Peter Mukuria, Defendants argued that "[u]nlike Mukuria, other Named Plaintiffs still are housed at VDOC facilities. It is more likely that one of them, as opposed to Mukuria, 'could be . . . classified at Security Level S or Level 6, and then be subjected to the Step-Down Program again.' *Those individuals are members of the Constitutional Violations Injunctive Relief class as currently defined*." ECF No. 365 at 7 (emphasis added) (internal citations omitted). Mr. Cornelison is still housed at VDOC facilities and therefore, by Defendants' own admission, is a member of the Constitutional Violation Injunction Class. Nevertheless, it appears that the Court need not rely on Mr. Cornelison's membership in the class alone, as the parties agree that Mr. Cornelison may at least represent the Constitutional Violation Injunction Class under the

holding of *Jonathan R. ex rel. Dixon v. Justice*, 41 F.4th 316, 325 (4th Cir. 2022). *See* ECF 474 at 2.

Plaintiffs therefore respectfully reiterate their request that Mr. Cornelison be appointed as the class representative for both the Constitutional Violation Injunction Class and the Constitutional Damages Class.[1]

Dated: May 9, 2023

Respectfully submitted,

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[1] As Plaintiffs noted in their opening paper, to the extent the Court has any concerns as to the adequacy of Mr. Cornelison's representation, Mr. Sidney Bowman could be appointed as a class representative in place of, or in addition to, Mr. Cornelison. *See* ECF No. 471 at 5–6. However, in that instance, Plaintiffs would respectfully request leave to amend their complaint consistent with the Court's decision. *See id*.

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of May, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all CM/ECF participants.

/s/ William O'Neil

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