

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BROOME

JUSTICE AND UNITY FOR THE SOUTHERN TIER

Plaintiff,

AFFIDAVIT

vs.

Index No.
EFCA2022000924

DAVID HARDER, Broome County Sheriff

Defendant.

BROOME COUNTY ATTORNEYS OFFICE • BROOME COUNTY OFFICE BUILDING
GOVERNMENT PLAZA • BINGHAMTON, N.Y. 13901

MARK SMOLINSKY, being duly sworn, deposes and says:

1. That I am the Jail Administrator for the Broome County Correctional Facility. I am familiar with the facts and circumstances of this action, and make this Affidavit in support of the Defendant's motion to modify the Court's prior order to permit the Broome County Correctional Facility to operate in-person visitation in compliance with the minimum standards established by the New York State Commission of Corrections.
2. Upon receipt of the Order by the Appellate Division Third Department lifting the automatic stay pending appeal, we began preparations for the commencement of in-person visitation on September 29, 2022.
3. I contacted the State Commission of Corrections to determine the number of hours of visitation that had to be provided at the Broome County Jail.
4. I spoke with Terry Moran, the Director of Operations at the New York State Commission of Corrections, concerning the Commission's minimum standards for in-person visitation. Mr. Moran provided me the formula attached hereto as Exhibit C to use in calculating the number of visitation hours/sessions required per week.

BROOME COUNTY ATTORNEYS OFFICE • BROOME COUNTY OFFICE BUILDING
GOVERNMENT PLAZA • BINGHAMTON, N.Y. 13901

5. I used this formula to calculate the number of visitation hours/sessions required per week at the Broome County Correctional Facility. Based on this formula, the visitation scheduled set forth in Plaintiff's Exhibit A was created. All inmates were notified of the amended schedule prior to September 29, 2022.

6. I forwarded this schedule to Mr. Moran at the Commission of Corrections and he reviewed and approved the schedule as meeting minimum standards.

7. On September 29, 2022, in-person visitation commenced and has continued this week. No visitors have been turned away. Visitors are contacting the Sheriff's office and scheduling their visitation. I am not aware of anyone being unable to contact us to schedule a visit.

8. We have not received a grievance from any inmate that they cannot obtain visitation under this schedule.

9. Minimum standards permit visitation for two hours a week, in one-hour blocks, one hour being in the day and one hour in the evening. The current schedule complies with minimum standards.

10. Mr. Martin criticizes the Correctional Facility because no officers had masks on. On September 7, 2022, Governor Hochul lifted the mask mandate for correctional facilities. A copy of the NYS DOH guidelines is attached hereto as Exhibit A.

11. As I have previously stated to the Court, the visitation room has partitions at each table which extend ten inches high from the table.

12. Upon information and belief, the current visitation schedule provides the inmates with the visitation required under the minimum standards and complies with this Court's order to require in-person visitation. We do not believe that the Court intended to prohibit the Correctional Facility from providing visitation in a manner that complied with the minimum standards of the

Commission of Corrections, as long as in-person visitation was permitted. To the extent this is incorrect, the Defendant is moving to request the Court to amend its previous order to permit the Sheriff to provide in-person visitation that complies with the minimum standards set by the Commission of Corrections.

13. The inmates also continue to have access to the tablets if they wish to use the tablets to have visitation.

WHEREFORE, your Deponent respectfully requests that an Order be entered to the extent necessary granting the Defendant's motion and amending the Court's prior order to require that the in-person visitation be provided in a manner that complies with the standards established by the New York State Commission of Corrections.


MARK SMOLINSKY

Sworn to before me this
10th Day of October 2022



Notary Public

ROBERT G BEHNKE
Notary Public - State of New York
NO. 02BE4763842
Qualified in Broome County
My Commission Expires 7/31/26

BROOME COUNTY ATTORNEYS OFFICE • BROOME COUNTY OFFICE BUILDING
GOVERNMENT PLAZA • BINGHAMTON, N.Y. 13901