



May 1, 2020

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*****FOR IMMEDIATE RELEASE*****

As COVID-19 Continues to Spread at NYS Prisons, Legal Aid And Kasowitz File Mass Writ to Free Five Incarcerated Clients; New Yorkers Who Have Upcoming Release Dates Or Who Are Especially Vulnerable To COVID-19

370 Incarcerated New Yorkers and 1,060 Correction Staff at NYS Prisons have Tested Positive for the Virus

(NEW YORK, NY) – The Legal Aid Society and Kasowitz Benson Torres LLP, in light of the quickly escalating public health crisis that the COVID-19 pandemic has triggered within New York State prisons, filed a [petition](#) for habeas corpus on behalf of five clients seeking their immediate release from facilities in Oneida County, New York. This litigation comes just weeks after Legal Aid called on the New York State Department of Corrections and Community Supervision (DOCCS) demanding the immediate release of these clients. That communication went unanswered. The petition was drafted with the pro bono legal assistance of attorneys from Kasowitz Benson Torres LLP.

The state prison system in New York has not been spared from COVID-19. As of April 30, 2020, DOCCS [reports](#) that 1,060 staff members, 370 incarcerated people, and 46 parolees in DOCCS custody are infected. Per DOCCS, two staff member, ten New Yorkers in custody, and four parolees have already succumbed to the virus. Marcy and Mid-State correctional facilities, the prisons where these plaintiffs are currently incarcerated, both have [confirmed](#) COVID-19 cases among the population.

The lawsuit seeks the immediate release of these clients from prison on the grounds that continuing to incarcerate them under these unprecedented conditions constitutes deliberate indifference to a risk of serious medical harm, and imposes upon them punishment that is grossly excessive and grossly disproportionate to their offense, in violation of the Eighth Amendment to the United States Constitution and Article I, Section 5 of the New York State Constitution.

“The situation at prisons across New York State is dire as COVID-19 continues to infect more and more of our vulnerable clients each day and it’s unconscionable that our leaders in Albany ignore and refuse to respond meaningfully to this reality,” said **Tina Luongo, Attorney-in-Charge of the Criminal Defense Practice at The Legal Aid Society**. “The only recourse to stave off further loss of life is to grant those individuals deemed a high risk clemency and release. Without this action, the situation will only decline further, cause more harm, and claim more lives.”

“Kasowitz Benson Torres is honored to have the opportunity to work with Legal Aid to help these five older and medically high risk clients from becoming victims of the public health crisis that threatens to overtake our prisons,” said **David J. Abrams, Partner of Kasowitz Benson Torres and Chair of the firm’s Pro Bono Committee**.

Petitioner John Frateschi is incarcerated at Marcy Correctional Facility. Mr. Frateschi is 72 years old and has a fifteen-year history of respiratory conditions, including COPD, severe asthma, reoccurring walking pneumonia, and bronchitis. He is therefore at high risk of serious complications or death if he contracts COVID-19. Mr. Frateschi requires the use of a CPAP machine to sleep every night and the use of a wheelchair because he cannot maintain a steady gait. He also requires weekly treatment for his other conditions, all of which are debilitating. Mr. Frateschi has served 9 years of his 12-year sentence.. He has completed several programs, including Comprehensive Alcohol and Substance Abuse Treatment and Aggression Replacement Therapy, and has maintained a good disciplinary record. If he is released, he will return to Janesville, New York where he lives with his wife and children.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. <https://www.legalaidnyc.org>

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