
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF THE BRONX

Matter of JOSEPH AGNEW, ANTHONY GANG,
TYRONE GREENE and KAMER REID,

On behalf of themselves and all others similarly situated,

Petitioners,

**PROPOSED ORDER
GRANTING CLASS
CERTIFICATION**

For a judgment under Article 78 of the Civil Practice
Law and Rules

--against--

NEW YORK CITY DEPARTMENT OF
CORRECTION,

Index No. 813431/2021E

Respondent.

[PROPOSED] ORDER CERTIFYING CLASS AND GRANTING RELATED RELIEF

This matter having been submitted to the Court on Petitioners' motion for an order pursuant to CPLR Article 9:

1. Certifying a class defined as:

All current and future people incarcerated in New York City Department of Correction facilities who have been or will be denied access to medical care based on Respondent's failure to discharge its ministerial duties (the Class).

2. Designating Plaintiffs Joseph Agnew, Anthony Gang, Tyrone Greene, and Kamer Reid as lead Petitioners and class representatives; and

3. Appointing The Legal Aid Society (Legal Aid), Brooklyn Defender Services (Brooklyn Defenders), and Milbank LLP (Milbank) as class counsel.

The Court having read and considered all of the papers filed in support of and in opposition to the motion, the Court finds that:

1. The Class is so numerous that joinder of all members is impracticable;

2. Questions of law or fact common to the Class predominate over any questions affecting only individual members;
3. Petitioners' claims are typical of the claims of the Class;
4. Petitioners and proposed class counsel Legal Aid, Brooklyn Defenders, and Milbank will fairly and adequately protect the interests of the Class; and
5. A class action is superior to other available methods for the fair and efficient adjudication of the controversy in that:
 1. Class members have a limited interest in individually controlling the prosecution of separate actions and those who wish to pursue their claims independently will be able to opt out of this action in order to do so;
 2. It would be impractical and inefficient for the parties to prosecute and defend separate actions;
 3. The Court is not aware of other pending litigation concerning the same issues;
 4. It is highly desirable to concentrate the litigation in this forum; and
 5. The Court perceives no serious difficulties in managing this action and believes that the parties and the Court are equipped to handle issues as they arise.

Accordingly, the Court hereby orders as follows:

1. That Petitioners may maintain this action as a class action;
2. The certified Class consists of all current and future people incarcerated in New York City Department of Correction facilities who have been or will be denied access to medical care based on Respondent's failure to discharge its ministerial duties.

3. Petitioners Joseph Agnew, Anthony Gang, Tyrone Greene, and Kamer Reid are designated lead Petitioners and class representatives;

4. Legal Aid, Brooklyn Defenders, and Milbank are appointed as Class Counsel;

5. The parties shall negotiate an agreed form of notice of this class action, and methods through which Respondents will distribute such notice to class members in their custody, within three (3) days of this order.

IT IS SO ORDERED.

Date:

Hon. Elizabeth A. Taylor
Justice of the Supreme Court