

**WARNING:
YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE
ARREST AND IMPRISONMENT FOR CONTEMPT OF COURT.**

**NOTICE:
THE PURPOSE OF THE HEARING IS TO PUNISH THE ACCUSED FOR CONTEMPT
OF COURT, AND THAT SUCH PUNISHMENT MAY CONSIST OF FINE OR
IMPRISONMENT, OR BOTH, ACCORDING TO LAW.**

At IAS Part ___ of the Supreme
Court of the State of New York, held
in and for the County of Bronx, at
the Courthouse, 851 Grand
Concourse, Bronx, New York 10451
on this ___ day of February, 2022.

P R E S E N T: HON. Elizabeth A. Taylor, J.S.C.

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 TO
SHOW CAUSE**

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

--against--

NEW YORK CITY DEPARTMENT OF
CORRECTION,

Index No. 813431/2021E
(Taylor, J.)

Respondent.

Mot. Seq. No. _____

UPON the annexed Affirmation of Katherine Kelly Fell, dated February 1, 2022, and the exhibits annexed thereto; the annexed Affidavit of Kelsey De Avila, dated January 30, 2022; the annexed Affidavit of Sarah Petrick, dated January 31, 2022; the Memorandum of Law in Support of Petitioners' Motion for Contempt; and all other papers and proceedings herein;

LET Respondent New York City Department of Correction show cause before this Court at Part _____, Room _____ thereof to be held at the Courthouse located at 851 Grand Concourse, Bronx, New York 10451, on _____ at _____ a.m./p.m., or as soon thereafter as counsel can be heard, why a judgment should not be made and entered:

1. Adjudging Respondent in civil contempt for its failure to comply with the terms of the Order of Hon. Elizabeth A. Taylor, issued on December 3, 2021 and entered on December 6, 2021, compelling the Respondent to immediately comply with its ministerial duties to (a) provide Petitioners with access to sick call on weekdays, excluding holidays, and to make sick call available at each facility to all persons in DOC custody a minimum of five days per week within 24 hours of a request, or at the next regularly scheduled sick call, whichever is first; and (b) safely keep in the New York City jails each person lawfully committed to his custody by providing sufficient security for the movement of incarcerated persons to and from health services, and by not prohibiting or delaying incarcerated persons' access to care, appropriate treatment, or medical or dental services.
2. Directing the Respondent to accurately identify each person who was or is denied access to a medical appointment because of lack of escort since the Court's Order;
3. Directing the Respondent to pay a contempt fine to each class member denied access to a medical appointment in the sum of \$250 per each instance that DOC failed or continues to fail to comply with the Order;
4. Directing the Respondent to provide Petitioners with primary documentation sufficient to demonstrate the authenticity of any purported class member refusals to attend medical appointments;

5. Scheduling an appearance for the parties within 30 days of any contempt order so that Petitioners may be heard on alternative forms of relief if DOC continues to violate the December 3 Order;
6. Awarding Petitioners their attorneys' fees and expenses for their contempt motion; and
7. Granting such other and further relief as the Court deems just and proper.

SUFFICIENT CAUSE BEING ALLEGED THEREFOR, it is

ORDERED that the filing fee is waived pursuant to C.P.L.R. § 1101 (e).

ORDERED that service of a copy of this order to show cause and the papers upon which it is based by electronic mail to the New York City Corporation Counsel at ServiceECF@law.nyc.gov pursuant to C.P.L.R. § 311 (a) (2) shall be deemed good and sufficient service thereof if made on or before February ___, 2022.¹

ORDERED that any papers opposing the relief requested herein be served and filed on or before _____, and Petitioners' reply papers be served and filed on or before _____.

Dated: February ___, 2022
Bronx, New York

E N T E R:

Hon. Elizabeth A. Taylor
Justice of the Supreme Court

¹ Since June 23, 2020, the service window is only opened on Tuesdays and Thursdays. Corporation Counsel has designated this email address to temporarily accept service via this method. *See* New York City Law Department's web site: <https://www1.nyc.gov/site/law/index.page>.