STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

ALFONSO SMALLS, KARIEM TOMLIN JEROME LESLIE, TARON JACKSON, SAIWON ROBBINS, and MICHAEL WILLIAMS, on behalf of themselves and all Similarly situated individuals,

Plaintiffs-Petitioners,

-against-

DANIEL F. MARTUSCELLO III, as Commissioner of the New York State Department of Corrections and Community Supervision,

Defendant-Respondent.

DECISION AND ORDER
(Motion 3)
Index No: 903926-25

APPEARANCES: Antony P. F. Gemmell, Esq.
Katherine E. Haas, Esq.
Lauren P. Stephens-Davidowitz, Esq.
Riley D. Evans, Esq.
Samantha R. Coulson
The Legal Aid Society
Prisoners' Rights Project
Attorneys for Plaintiffs-Petitioners
49 Thomas Street, 10th Floor
New York, New York 10013

Letitia James
Attorney General of the State of New York
Ryan W. Hickey, Esq. (Assistant Attorney General, of Counsel)
Brian P. Henchy, Esq. (Assistant Attorney General, of Counsel)
Attorneys for Defendant-Respondent
The State of New York
The Capitol
Albany, New York 12224

LYNCH, J.:

This litigation arises from a dispute over the application of the Humane Alternatives to Long-Term Solitary Confinement Law (hereinafter referred to as "HALT"). Plaintiffs-Petitioners

(hereinafter referred to as "plaintiffs") are members of a putative class of individuals incarcerated in facilities across the State of New York run by the Department of Corrections and Supervision (hereinafter referred to as "DOCCS"). Defendant-Respondent Daniel F. Martuscello (hereinafter referred to as "defendant") is the commissioner of DOCCS.

On February 17, 2025, correction officers in 38 of the 41 facilities operated by DOCCS went on strike. According to defendant, this strike ultimately encompassed 8,000 of the 13,000 correction officers and sergeants employed by DOCCS. In response, on February 19, 2025, Governor Kathy Hochul issued Executive Order 47, which declared a state of emergency and deployed 6,500 members of the New York National Guard to assist in the operation of DOCCS facilities. On February 20, 2025, defendant issued a memorandum (hereinafter referred to as "the February 20 Memorandum"), entitled "Path to Restoring Workforce," to all DOCCS facility superintendents "suspending the elements of HALT that cannot safely be operationalized under a prison wide state of emergency until [DOCCS] can safely operate the prisons" (NYSCEF Doc. No. 56, pg. 1).

Similarly, in a March 8, 2025 Memorandum of Agreement (hereinafter referred to as "the March 8 MOA") between the State and the New York State Correctional Officers and Police Benevolent Association, Inc., which set forth conditions for an end to the strike and addressed the concerns that led to it, defendant agreed to "exercise his existing discretion under the HALT Act and continue the temporary suspension of the programming elements of the HALT Act for 90 days from [March 8, 2025] due to the ongoing emergency and exigent circumstances that exist within each facility due to the illegal strike and the significant staffing deficit that existed prior to the illegal strike" (NYSCEF Doc. No. 59, pg. 1). Defendant further agreed to, 30 days after March 8, 2025, engage in an ongoing, "facility-by-facility" evaluation of "the operations, safety, and

security of [DOCCS] facilities relative to staffing levels and determine whether re-instituting the suspended elements of HALT would create an unreasonable risk to the safety and security of the incarcerated individuals and staff" (NYSCEF Doc. No. 59, pg. 1).[1]

Plaintiffs contend that these two documents – the February 20 Memorandum and the March 8 MOA – constitute an improper suspension by defendant of the protections accorded to incarcerated individuals such as themselves by HALT. In affidavits submitted to the Court, plaintiffs assert that since the strike began, they have spent roughly 21 to 24 hours a day in their cells, with minimal time for meals, recreation and programming. Therefore, they have commenced the instant hybrid proceeding/action, seeking an order (1) declaring defendant's suspension of HALT programming and recreation requirements to be in violation of the New York Constitution, article III, § 1 and article IV, § 3, as well as Correction Law § 137 (6) (j) (ii), and (2) vacating and annulling the suspension of HALT programming and recreation under CPLR article 78, asserting that the suspension is arbitrary and capricious and violates HALT's plain language.

Currently before the Court is plaintiffs' request for a preliminary injunction barring defendant from enforcing or implementing his suspension of HALT's provisions and forcing him to comply with HALT's requirements for the time in which incarcerated individuals can be held in their cells. Defendant opposes. The Court heard oral arguments by the parties regarding plaintiffs' motion for a preliminary injunction on June 24, 2025, at the Albany County Courthouse.

Under the relevant provisions of HALT, which was codified in amendments to the Correction Law that went into effect in March 2022, " '[s]egregated confinement' means the

[1] The March 8 MOA never went into operation, as it required that 85% of pre-strike DOCCS employees return to work by March 10, 2025, and this did not occur. Despite this, DOCCS agreed to honor certain portions of the March 8 MOA, including the portion quoted above (*see* NYSCEF Doc. No. 24, pg. 12-13).

confinement of an incarcerated individual in any form of cell confinement for more than [17] hours a day other than in a facility-wide emergency" (Correction Law § 2 [23]). Additionally, "[p]ersons in segregated confinement shall be offered out-of-cell programming at least four hours per day, including at least one hour for recreation. Persons admitted to residential rehabilitation units shall be offered at least six hours of daily out-of-cell congregate programming, services, treatment, recreation, activities and/or meals, with an additional minimum of one hour for recreation. Recreation in all residential rehabilitation units shall take place in a congregate setting, unless exceptional circumstances mean doing so would create a significant and unreasonable risk to the safety and security of other incarcerated persons, staff, or the facility" (Correction Law § 137 [6] [j] [ii]).

As to the requirements in the motion currently before the Court, "a party seeking a preliminary injunction must demonstrate a probability of success on the merits, danger of irreparable injury in the absence of an injunction and a balance of equities in its favor" (*Petry v Gillon*, 199 AD3d 1277, 1278 [3d Dept 2021 [internal quotation marks and citations omitted]; *accord Camp Bearberry, LLC v Khanna*, 212 AD3d 897, 898 [3d Dept 2023]).

I. The Likelihood of Plaintiffs' Success on the Merits

Plaintiffs assert that they are likely to succeed on the merits of their actions for three reasons: (1) defendant's suspension of HALT's limitations on segregated confinement is irrational, as it is based on an overbroad use of the "facility-wide emergency" exception; (2) defendant's suspension of HALT's mandatory programming requirements constitutes a failure to perform a duty required by law; and (3) the suspension of HALT's provisions violates the separation of powers, as it constitutes policymaking by DOCCS, an executive agency, and impermissibly nullifies HALT, a duly enacted law. Defendant argues that plaintiffs are not likely to succeed on

of their claims, as the suspension was a reasonable exercise of the discretion accorded to defendant in the text HALT and does not violate the separation of powers.

The Court will turn first to petitioner's argument that the suspension is arbitrary and capricious. "An action is arbitrary and capricious when it is taken without sound basis in reason or regard to the facts. When a determination is supported by a rational basis, it must be sustained even if the reviewing court would have reached a different result" (*Matter of Evercare Choice, Inc. v Zucker*, 218 AD3d 882, 885 [3d Dept 2023] [internal quotation marks and citations omitted]; *accord Matter of John E. Andrus Mem., Inc. v Commissioner of Health of the N.Y. State Dept. of Health*, 225 AD3d 959, 961 [3d Dept 2024]).

As noted above, there are two explicit suspensions of HALT's provisions here – the February 20 Memorandum and the March 8 MOA. The former "suspend[ed] the elements of HALT that [could not] safely be operationalized under a prison wide state of emergency until [DOCCS could] safely operate the prisons," and the latter "continue[d] [this] temporary suspension of the programming elements of the HALT Act for 90 days from [March 8, 2025] due to the ongoing emergency and exigent circumstances that exist[ed] within each facility due to the illegal strike and the significant staffing deficit that existed prior to the illegal strike" (NYSCEF Doc. No. 56, pg. 1; NYSCEF Doc No. 59, pg. 1). The March 8 MOA – which DOCCS agreed to honor after the conclusion of the strike – further provided that "[a]fter 30 days from the date of the MOA, [defendant would] begin to evaluate the operations, safety, and security of [DOCCS] facilities relative to staffing levels and determine whether re-instituting the suspended elements of HALT would create an unreasonable risk to the safety and security of the incarcerated individuals and staff," and that "[t]his analysis would be done on a facility-by-facility basis and [would] be ongoing" (NYSCEF Doc. No. 59, pg. 1).

Plaintiffs have demonstrated a likelihood of success on their claim that these determinations are arbitrary and capricious. First, these two determinations rely on a system-wide emergency to suspend HALT's provisions in each facility, essentially permitting the exception to swallow the rule. HALT contemplates the confinement of incarcerated individuals in cells for more than 17 hours a day only in a "**facility**-wide emergency" (Correction Law § 2 [23] [emphasis added]). Giving effect to the plain language of this provision's text, as the Court must when that text is unambiguous (*see People ex rel. Negron v Superintendent, Woodbourne Corr. Facility*, 170 AD3d 12, 14-15 [3d Dept 2019], *affd* 36 NY3d 32 [2020]; *Matter of Talisman Energy USA, Inc. v New York State Dept. of Envtl. Conservation*, 113 AD3d 902, 904 [3d Dept 2014]), the confinement of incarcerated individuals for more than 17 hours a day requires the declaration of an emergency throughout the facility where said incarcerated individual is imprisoned. The February 20 Memorandum, on the other hand, rests upon a system wide state of emergency, and the March 8 MOA continued this suspension due to the staffing issues in every facility in the DOCCS system. While the March 8 MOA references exigent circumstances within each facility in justifying the suspension, it does so without any specific findings of fact related to the conditions in each facility – as demonstrated by its failure to note that three facilities did not have any striking correction officers – meaning that this determination is necessarily without a basis in the facts as they existed on a facility-wide basis on March 8, 2025 and so is likely to be determined arbitrary and capricious (*see Matter of Hudson Health Extracts, LLC v Zucker*, 206 AD3d 1515, 1519 [3d Dept 2022]; *Matter of C.S.E.A. v County of Dutchess*, 6 AD3d 701, 702 [2d Dept 2004]).[2]

[2] Certain interrogatory responses by DOCCS in an unrelated HALT litigation, submitted as Exhibit 18 to the hybrid complaint/petition herein, do appear to indicate that DOCCS has engaged in some facility-by-facility analyses of the situation (*see* NYSCEF Doc. No. 23, pgs. 4-5). However, "a rational explanation must be given at the agency level and cannot, therefore, be provided in response to a CPLR article 78 challenge" (*Matter of Collins v Governor's Off. of Empl. Relations*, 211 AD2d 1001, 1003 [3d Dept 1995]; *see Matter of Wills v Christian Nursing*

Second, insofar as the March 8 MOA also justifies the suspension by pointing to DOCCS' pre-strike staffing deficit, it fails to explain why these pre-existing staffing deficiencies were not the basis for facility-wide emergencies before the strike but now are sufficient to create such emergencies. This failure by defendant to explain "the departure from [DOCCS'] own precedent" also likely requires that the March 8 MOA and the suspension of HALT's programming and confinement rules therein "be deemed arbitrary and capricious" (*Matter of Collins v Governor's Off. of Empl. Relations*, 211 AD2d 1001, 1003 [3d Dept 1995]; *see Matter of Kopyt v Governor's Off. of Empl. Relations*, 55 AD3d 1179, 1182 [3d Dept 2008]).

Furthermore, even if these two determinations were found to be supported by a rational basis, there is a third, informal suspension of HALT at issue here: the 90-day time frame set forth in the March 8 MOA expired on June 6, 2025, and yet, as of the date of oral arguments, the suspension nevertheless remained in place, to varying degrees, throughout the DOCCS system. On June 23, 2025, counsel for defendant provided the Court with a letter update on the status of HALT programming in 14 facilities throughout the state, which indicated that different facilities have re-implemented various levels of programming and recreation, ranging from full reopening of programming to the continued suspension of HALT's programming and confinement requirements (*see* NYSCEF Doc. No. 65). Moreover, this letter addressed only conditions in special housing units and residential rehabilitation units; it did not address conditions in general population, where plaintiffs' counsel represented their clients remain in cell confinement for more than 17 hours a day. As such, while it is clear from this letter that the HALT suspension remains in place throughout the DOCCS system, this letter failed to set forth the reasoning for the re-

---

Registry, 280 AD2d 810, 812 [3d Dept 2001]). As such, this evidence does not impact the determination that plaintiffs have demonstrated a likelihood of success on their arbitrary and capricious claim.

implementation, or lack thereof, of HALT's requirements on a facility-by-facility basis, and defendant provided no other document justifying the suspension beyond June 6, 2025.

Thus, nowhere within the record before this Court is any written determination that there are post-June 6 emergencies in each DOCCS facility sufficient to permit the continued suspension of HALT's programming requirements and limitations on segregated confinement. Therefore, defendant has wholly failed to demonstrate that the continuing suspension of HALT's programming requirements and cell confinement restrictions has a rational basis in fact. This failure is exacerbated by the admission at oral argument by defendant's counsel that DOCCS has no date certain by which it expects the existing emergency to end and the HALT suspension to be lifted. As such, plaintiffs have demonstrated a likelihood of success on their claim that the suspension is arbitrary and capricious.

II. The Danger that Plaintiffs Will Suffer an Irreparable Injury

Plaintiffs argue that they will suffer irreparable harm if the suspension of HALT is not enjoined, as remaining isolated in cell confinement puts them at risk of developing severe mental health issues, up to and including suicide. Defendant counters that plaintiffs have not made such a showing, as they offer no proof that their alleged mental health injuries are causally connected to the HALT suspension, and that the asserted physical and emotional injuries can be compensated with money damages, and so are not irreparable harms.

Plaintiffs have established that they will suffer an irreparable injury if their motion for a preliminary injunction is not granted. "[P]urely economic loss does not generally rise to the level of an irreparable injury, as it can be compensated through monetary damages" (*Darwish Auto Group, LLC v TD Bank, N.A.*, 224 AD3d 1115, 1118 [3d Dept 2024]; *see Eastview Mall, LLC v Grace Holmes, Inc.*, 182 AD3d 1057, 1058 [4th Dept 2020]). However, plaintiffs have set forth

far more than economic harm. In affidavits attached to the hybrid complaint/petition, plaintiffs each state that since the strike began, they have spent 21 to 24 hours in their cell, without most programming. Each stated that his increased cell confinement has caused him mental anguish, including depression, feelings of insanity, and thoughts of suicide, as well as physical harm, such as weight loss, weight gain and trouble sleeping. Plaintiffs aver that the confinement has also caused them to miss out on programming that they hoped to attend to assist their reintegration into society after their release from incarceration.

Defendant's contention that these injuries are not causally related to the suspension of HALT is meritless. Plaintiffs' affirmations are based on their own personal experiences, and clearly demonstrate that the drastic uptick in cell confinement – and its attendant harms – occurred at the same time as the strike and defendant's suspension of HALT's confinement and programming requirements. The causal connection between plaintiffs' injuries and the implementation of HALT is apparent from their affirmations, and so further proof of causation, such as expert testimony, is not required (*see DeMaille v State of New York*, 166 AD3d 1405, 1406-1407 [3d Dept 2018]; *Kohl v Green*, 235 AD2d 671, 672 [3d Dept 1997], *lv denied* 89 NY2d 1025 [1997]; *Barabash v Castellano*, 81 Misc 3d 1237[A], *10 [Sup Ct, Kings County 2024]).

Defendant's assertion that the alleged harms are compensable by money damages alone is equally meritless. Plaintiffs' affidavits demonstrate that their confinement during the HALT suspension resulted in, and will continue to result in, physical and mental injuries. Such a showing is sufficient to establish irreparable injury as required to be entitled to a preliminary injunction (*see Jolly v Coughlin*, 76 F3d 468, 482 [2d Cir 1996]; *Bingham v Struve*, 184 AD2d 85, 90 [1st Dept 1992]).

III. The Balance of the Equities

Finally, plaintiffs contend that the balance of the equities tips in favor of granting the preliminary injunction, as the harms to incarcerated individuals from increased cell confinement outweigh DOCCS' interest in enforcing the suspension of HALT's protections. Defendant retorts that the requested injunction is not in the public interest, as plaintiffs ask the Court to end the HALT suspension without regard for the safety and security of DOCCS' facilities and the individuals who work and reside there.

The balance of the equities favors granting the requested preliminary injunction. Defendant mischaracterizes plaintiffs' request – plaintiffs do not ask this Court to order an immediate restoration of all HALT programming, regardless of the situation in each facility. Instead, plaintiffs simply ask that defendant be required to follow the text of HALT and set forth facility-by-facility emergency determinations if HALT's protections are to be suspended. The Court understands defendant's concerns regarding DOCCS' staffing and the resulting safety risks to correction officers, DOCCS employees and incarcerated individuals. However, HALT is a duly enacted law, and the people of the State of New York have a strong interest in seeing the implementation of laws enacted by their democratically elected representatives. If the situation in a particular facility is such that HALT's programming requirements and confinement restrictions cannot be followed, HALT gives defendant the discretion to declare an emergency. Imposing the requested injunction only requires defendant to "comply with [his] statutory . . . obligations. Any inconvenience caused by compliance is outweighed by the harm which would be suffered otherwise" (*Doe v Dinkins*, 192 AD2d 270, 276 [1st Dept 1993]). To that effect, the granting of this preliminary injunction does not require defendant to flip a switch and open the cell doors in every facility immediately – defendant still possesses all the discretion granted to him under HALT. This injunction merely

compels him to follow the procedures set forth in Correction Law § 2 (23) and make rational determinations of emergencies on a facility-by-facility basis, which is also exactly what DOCCS already committed to do in the March 8 MOA.

In light of the above, then, plaintiffs are entitled to the issuance of a preliminary injunction. However, recognizing the grave impact the sudden re-implementation HALT's provisions could have on DOCCS' facilities, as well as the employees and the incarcerated individuals therein if DOCCS does not have sufficient staff to implement HALT, the Court finds that it is in the public interest to have the preliminary injunction take effect on July 11, 2025, to give DOCCS time to take measures to ensure the safety of its facilities and their inhabitants.

Any remaining arguments not specifically addressed herein have been considered and found to be lacking in merit or need not be reached in light of this determination.

Accordingly, it is hereby

ORDERED that as of **July 11, 2025**, defendant Daniel F. Martuscello III is **preliminarily enjoined** from enforcing or implementing any suspension of the provisions of HALT in DOCCS facilities without a finding of a facility-wide emergency in each facility as set forth in Correction Law § 2 (23); and it is further

ORDERED that if defendant Daniel F. Martuscello III makes a finding of such a facility-wide emergency, that finding shall be filed publicly to the docket in this case within two business days of the onset of such reliance and be accompanied by the sworn affirmation of a DOCCS employee with personal knowledge setting forth detailed facts describing the facility-wide emergency, including its scope and expected duration; and it is further

ORDERED that any such filing will refer to incarcerated individuals by acronym only, as good cause exists to prevent the unnecessary public disclosure of sensitive information about any

incarcerated individual; however, if such acronyms are used, defendant Daniel F. Martuscello III shall separately and confidentially provide the Court and plaintiffs' counsel with the names of the individuals referred to by acronym.

The foregoing shall constitute the Decision and Order of this Court. The signing of this Decision and Order shall not constitute filing, entry, service, or notice of entry under CPLR 2220 and § 202.5-b(h)(2) of the Uniform Rules for the New York State Trial Courts. The parties are not relieved from the applicable provisions of those rules with respect to service and notice of entry of the Decision and Order.

SO ORDERED.

ENTER.

Dated: July 1, 2025
Albany, New York

HON. DANIEL C. LYNCH
Supreme Court Justice

07/02/2025

Papers considered:

1. Petition, dated April 17, 2025, together with Exhibits 1 – 36;
2. Memorandum of Law in Support of Petition, dated April 17, 2025;
3. Notice of Motion for Preliminary Injunction, dated May 7, 2025;
4. Memorandum of Law in Support of Motion for Preliminary Injunction of Riley D. Evans, Esq., dated May 7, 2025;
5. Affirmation of Daniel F. Martuscello III in Opposition, dated May 23, 2025, together with Exhibits A – G;
6. Memorandum of Law in Opposition of Ryan W. Hickey, Esq., dated May 23, 2025;
7. Memorandum of Law in Reply of Katherine E. Haas, Esq., dated May 29, 2025;
8. Letter to Judge Daniel C. Lynch by Ryan W. Hickey, Esq., dated June 23, 2025, and
9. Oral arguments before the Court on June 24, 2025.