

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

JOSHUA DAVIS, individually and on behalf
of all others similarly situated

v.

PATRICIA COYNE-FAGUE, in her capacity
As the Acting Director of the State of Rhode
Island Department of corrections, and
WAYNE SALISBURY, in his capacity as
Warden of the Anthony Trivisano Intake
Service Center.

**TEMPORARY RESTRAINING ORDER
REQUESTED**

C.A. No. 19-1931

**PLAINTIFF’S MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Plaintiff, by and through his undersigned counsel, individually and on behalf of those similarly situated, hereby moves for the issuance of a Temporary Restraining Order and, after hearing thereon, a Preliminary Injunction, pursuant to Rule 65(a) of the Federal Rules of Civil Procedure, (i) directing Defendants, their successors and other current and future employees of the State of Rhode Island Department of Corrections to provide prisoners in M and N Mod located in the Anthony Trivisano Intake Service Center with heat sufficient to ameliorate dangerously cold conditions or relocate them to other locations providing heat pending determination on the merits of this action.

For purposes of this Motion and to avoid uncertainty or ambiguity in the relief requested, Plaintiff respectfully prays that the term “heat sufficient to ameliorate dangerously cold conditions” be further defined and Defendants be required to provide a heating system to Plaintiff and class members capable of sustained temperatures of 68°F during daytime hours and 65°F during nighttime hours.

In support of the Motion, Plaintiff relies upon the allegations contained in the Complaint and Exhibit A thereto, and upon the Declaration of Plaintiff Davis, attached hereto as Exhibit 1, as well as publicly available information concerning the weather forecast, attached hereto as Exhibit 2, and a supporting Memorandum of Fact and Law which will be submitted separately.

But for the temporary relief sought herein, Plaintiff and the members of the proposed class face imminent, prolonged and continued exposure to dangerously cold conditions within the M and N Mods of the Trivisano Intake Service Center at the Adult Correctional Institutions. According to national weather forecasts, Exhibit 2, the outside overnight temperature near the ACI is expected to drop well below freezing starting Friday January 25, 2019, to plummet to 7°F on January 31, 2019 and to remain below freezing overnight for at least the following seven days. Because Defendants have failed to provide adequate heat to the inmates of the M and N Mods, these conditions threaten the health and safety of the plaintiff and proposed class.

Prior to filing the within motion, on January 24, 2019, undersigned counsel notified Rebecca Partington, Assistant Attorney General of the State of Rhode Island, and Kathleen Kelly, Chief Legal Counsel of the Department of Corrections, of the within motion, and on January 25, 2019, provided electronic copies of the Complaint and the within Motion and supporting documents to counsel for the Defendants.

Plaintiff Joshua Davis,
By his Cooperating Attorneys,
American Civil Liberties Union
Foundation of Rhode Island

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CERTIFICATION

I hereby certify that on January 25, 2019, a true copy of the following documents was delivered by email to Rebecca Partington (RPartington@riag.ri.gov), and to Kathleen Kelly (Kathleen.Kelly@doc.ri.gov)

- Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction, with accompanying Exhibit 1 (Declaration of Joshua Davis) and Exhibit 2
- Complaint

/s/ Lynette Labinger