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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____) Case No.
SID# _____) PETITION FOR WRIT OF HABEAS
Plaintiff,) CORPUS
vs. _____))
_____, Superintendent,)
(Jail or prison) _____))
Defendant. _____))

Comes now the plaintiff who alleges the following:

1.

At the time of this filing, plaintiff is imprisoned and restrained of their liberty at
(current prison or jail) _____, Oregon Department of Corrections
(hereinafter referred to as "ODOC") or _____ ("Prison" or "Jail"), located in
_____ County, Oregon. The named defendant is (Superintendent or Sheriff)
_____ Superintendent or Sheriff _____ of
(current prison or jail) _____.

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2.

Said imprisonment and restraint is not by virtue of any process issued by any court of the United States or by a judge or commissioner or other officer thereof in any case where such court, judge or commissioner thereof has exclusive jurisdiction by virtue of the commencement of any action, suit, or other proceeding in such a court and before such judge, commissioner or officer thereof. The illegality of plaintiff's imprisonment and restraint is not by virtue of any judgment or decree of a competent tribunal of civil or criminal jurisdiction wherein such tribunal has exclusive jurisdiction.

3.

Plaintiff is imprisoned and restrained pursuant to judgments of conviction or charges in (case name) State v. _____, (county) _____ County Circuit Court case no(s). _____. Plaintiff's earliest release date is _____.

4.

To plaintiff's knowledge and belief, they are not restrained by an order specified in ORS 34.330, and this claim has not already been adjudicated in a prior habeas corpus action. Plaintiff has sought and exhausted available administrative remedies to the best of their abilities, or plaintiff in imminent danger and exhaustion is not possible without irreparable harm, absent habeas intervention.

5.

Invoking the jurisdiction of this court to grant a writ of habeas corpus is the most appropriate method of gaining relief from the deprivations detailed herein. Without

1 immediate judicial action, plaintiff's illegal confinement will continue, they will continue
2 to suffer from defendant's illegal conditions of confinement, and they will be irreparably
3 harmed by these actions of the defendant and its agents.

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6.

A writ of habeas corpus should be granted because there is a need for immediate
judicial scrutiny and there are no other plain, adequate, or speedy remedies available for
plaintiff to seek review of the challenged actions of the defendant.

7.

Plaintiff is incarcerated in a facility that does not follow this state's required
precautions to prevent the spread of the disease Covid-19, by placing plaintiff and all other
prisoners within the facility in imminent danger of acute illness, deprivation of essential
medical care, and death. Contrary to the federal and state guidance regarding Covid-19,
the facility does not keep prisoners adequately separated from each other or potentially
infected facility staff, supply adequate soap and/or sanitizer, or provide adequate access to
sinks, masks, or other Personal Protection Equipment ("PPE") to prevent contraction of
Covid-19. The facility does not adequately quarantine prisoners from staff or prisoners in
transport to or from the facility. The facility does not adequately screen staff for
coronavirus contacts or symptoms. Upon information and belief, the facility lacks
adequate health care services and capacity to preserve the lives of plaintiff and other
prisoners suffering from acute, life threatening Covid-19 infections, where infection of
prisoners and facility staff and will likely become widespread as Oregon fails to require

1 social distancing, PPEs, increased testing, and/or other precautions in prisons and jails
2 known to slow the spread of Covid-19.

3
4 8.

5 Plaintiff has underlying health condition(s) that make them at-risk for severe
6 complications or death should they contract Covid-19, the disease that arises from
7 coronavirus. Specifically, plaintiff has the following underlying health conditions,
8 determined by consensus in the medical community to make them at-risk for severe
9 complications or death:

10
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____

18 9.

19 Plaintiff has requested protection from defendant from contraction of coronavirus,
20 and been denied in the following ways:

21 1) By continuing to incarcerate plaintiff within a closed and densely populated
22 facility that threatens the life of plaintiff, other prisoners and ODOC staff;

23 2) By sustaining:

24 a.) Unavoidably and dangerously close proximity of plaintiff to other prisoners
25 and DOC staff who might be infected;

1 b.) Exposure to DOC staff who enter and leave the facility, a significant
2 number of whom may not be known to be infected or show symptoms of infection but will
3 nevertheless be capable of infecting plaintiff and other individuals;

4 c.) The impossibility of protecting plaintiff from infection within DOC
5 facilities that remain at their current and normal number of prisoners per cell and
6 aggregate number of prisoners at the facility;
7

8 d.) Inadequate health care at the facility to care for plaintiff and other
9 potentially acutely ill prisoners through the provision of intensive care and ventilator
10 treatment foreseeably needed to preserve plaintiff's life if infected within the facility;

11 OTHER (medical conditions and complaints not covered above):

12 _____
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2 In the span of just a few months, as of May 6, 2020, over 3,809,180 people globally
3 have been confirmed diagnosed with Covid-19 and over 266,432 have died. (*Johns Hopkins*
4 *University, Coronavirus Resource Center, May 6, 2020.*) In the United States, as of May 6,
5
6 2020, over 1,193,813 people have been diagnosed with Covid-19. At least 70,802 people have
7 died, most within at-risk groups: older adults, people with asthma, HIV, diabetes,
8 respiratory disease, and heart disease, and other co-morbidities. (*Center for Disease*
9 *Control, May 6, 2020.*) Covid-19 is extremely lethal with a high rate of lethality that
10 increases significantly among at-risk groups. (*Lancet, Infectious Diseases, March 30,*
11
12 2020.) The disease is up to 20 times more infectious than seasonal flu and spreads
13 exponentially, doubling within days. The disease is erupting or about to erupt in jails and
14 prisons in Oregon as result of failure to institute comprehensive Covid-19 precautions.
15 Prisoners are currently the only group of Oregonians unprotected by Governor Kate
16 Brown's Executive Order 20-12 that requires social distancing and other precautions for
17
18 groups, for no apparent reason other than their status as people who are incarcerated.

19 Members of the public concerned about the safety of prisoners in this environment
20 have requested ODOC take urgent protective measures to prevent wide-spread infection
21 of Covid-19 in this vulnerable population: those requests have not yet been implemented.
22
23 In this environment, plaintiff is at risk of immediate harm and death and requires
24
25 immediate judicial scrutiny of their claims. Plaintiff is incarcerated and wholly dependent
upon defendant for protection from Covid-19 and has no other available adequate or
timely remedy. Defendant's refusal to protect plaintiff from contracting Covid-19 amounts

1 to deliberate indifference to plaintiff's serious medical needs, in violation of the Eighth
2 Amendment to the United States Constitution and Article I, Sections 13, 16 and 23 of the
3 Oregon Constitution. Defendant's conduct amounts to a denial of due process and a
4 denial of equal protection in violation of Plaintiff's constitutional rights per the Oregon
5 and United States Constitutions, and Oregon's statutory and administrative rule rights.
6

7 Plaintiff prays that a writ of habeas corpus be granted, directed to defendant,
8 commanding them to file a return stating the legality of, and the time and cause of the
9 imprisonment, incarceration, and restraint of plaintiff, or to have the body of plaintiff
10 before the court at the time and place specified in the writ; to do what shall be considered
11 by the court concerning plaintiff.
12

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15 DATED this _____ day of _____, 2020.
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19 _____
Signature of Plaintiff
20 SID#: _____
Correctional Facility (Address):
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CERTIFICATE OF DOCUMENT PREPARATION

Pursuant to UTCR 2.010(7)

I hereby certify that the following is true:

- I selected this document and it was prepared without paid assistance.
- I requested help from an inmate legal assistant to assist me in the preparation of this document at _____.
- I paid or will pay money to _____ for assistance in preparing the document(s)/forms.

DATED this _____ day of _____, 2020.

Signature of Plaintiff
SID#: _____
Correctional Facility (Address):

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CERTIFICATE OF SERVICE

I certify that I served the foregoing PLAINTIFF’S PETITION FOR WRIT FOR
HABEAS CORPUS on the Respondent by U.S. mailing a true copy thereof, in compliance
with the “Mailbox Rule” for filing and mailing legal documents, certified by me as the
Plaintiff, upon the following parties:

Trial Court Administrator
_____ County Courthouse

_____, OR 97_____

DATED this _____ day of _____, 2020.

Signature of Plaintiff
SID#: _____
Correctional Facility (Address):

