

**IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI**

DAVID HAMILTON; ELON PERRY;  
ANTHONY MOMAN; TIMOTHY  
CAMPBELL; RICHARD KAY; and  
JERAMY TAYLOR, on behalf of  
themselves and a class of similarly situated  
persons,

Petitioners,

v.

TREVOR FOLEY, in his official capacity  
as Director of the Missouri Department of  
Corrections (“MoDOC”); MYLES STRID,  
in his official capacity as Director of  
Division of Adult Institutions; and CRAIG  
CRANE, in his official capacity as warden  
of Algoa Correctional Center (“Algoa”),

Respondents.

Case No. \_\_\_\_\_

Division: \_\_\_\_\_

**SUGGESTIONS IN SUPPORT OF EMERGENCY PETITION FOR  
WRITS OF HABEAS CORPUS**

COMES NOW David Hamilton, Elon Perry, Anthony Moman, Timothy  
Campbell, Jeramy Taylor, and Richard Kay, and pursuant to RSMo. § 532.010, et seq.,  
and Missouri Supreme Court Rule 91, respectfully petition this court for an emergency  
writ of *habeas corpus*. See Class Action Petition for Declaratory and Injunctive Relief  
and Petition for Writs of Habeas Corpus (“Petition”), filed concurrently herewith. In  
support of this petition, Petitioners state as follows:

Petitioners are entitled to emergency habeas relief because their constitutional rights  
have been and will again be violated when extreme heat imminently returns to Missouri

and they are forced to survive torturous conditions within the brick, heat-absorbing walls of the un-air conditioned Algoa Correctional Center. It is established that forcing people in prison to endure extreme heat without adequate mitigation is unconstitutional. It is further established that extreme heat poses a substantial risk of serious harm for all prisoners. This is particularly true for Petitioners who are uniquely vulnerable to heat and likely to suffer heat-related illness due to their medical conditions, prescribed medications, and age, as well as for those in segregation. Absent relief, Petitioners are certain to suffer gravely, and possibly suffer serious illness or death, from the extreme heat inevitably returning to Missouri in the coming days.

Despite this reality, Respondents have not taken any steps to prevent this unconstitutional tragedy, or in any way mitigate the heat for any prisoners, not even the most vulnerable. The risks of extreme heat—particularly on the elderly and individuals with certain medical conditions or medications—are well-known, and the harms that result are easily preventable. Nonetheless, Respondents have done nothing. This Court cannot allow their inaction to continue.

## INTRODUCTION

Algoa Correctional Center (“Algoa”) is a minimum-security prison in Jefferson City, Missouri. Most people spend a short stint there before leaving the Missouri prison system; these are the lowest-risk offenders on their way home. For those unlucky enough to spend summer months at Algoa, however, hopes for safe homecomings are jeopardized by fears of extreme sickness, injury, and death. These fears are warranted. The heat index outside of Algoa regularly exceeds hazardous levels and reaches up to 120 degrees Fahrenheit. Last summer, global temperatures broke heat records. That trend is expected

to continue this summer in Missouri. All Missourians feel this burn. But inside Algoa, one of Missouri's prisons without any air conditioning where people live and sleep, there is no relief from the brutal heat. This extreme heat exposure is dangerous for anyone, but especially those more vulnerable to heat illness and those residing in solitary confinement. Despite these well-known risks, Algoa is woefully unprepared to deal with imminent summer heat. Without court intervention, it is not a question of *whether* someone will get sick and die due to heat-related illnesses at Algoa, but rather *when* this tragedy will occur.

Courts have repeatedly found that exposure to these kinds of hazardous temperatures, including high heat indices, without adequate heat mitigation puts incarcerated people at serious risk of heat-related illness in violation of their constitutional rights. Petitioners seek emergency habeas relief requiring Respondents to maintain safe indoor temperatures and develop an expert-informed heat mitigation plan. Alternatively, Petitioners Hamilton, Perry, and Moman, who have mere months left on their sentence and suffer from both old age and medical conditions making them extremely vulnerable to heat stroke and related illness, seek immediate release. Such relief is plainly warranted.

## STATEMENT OF FACTS

### **I. Background and Conditions at Algoa**

The number of annual "extreme heat" days is rising across the United States, and Missouri is no exception. Here, heat and humidity steadily rise to dangerous levels during the summer months. Extreme heat is the leading weather-related cause of death in the United States. Between 1979-1996, Missouri had the second highest national rate of heat-

related deaths due to weather conditions. Expert Report of Susi Vassallo, M.D. at ¶ 96, attached as Exhibit 1 (“Vassallo Report”). Missouri has only gotten hotter since the late 1990s.

Last year, 2024, was the warmest year recorded in human history. The past decade has been the hottest in nearly two centuries. As average daily temperatures continue increasing, dangerously hot days are becoming more frequent, intense, and long-lasting. Heat domes and heat waves are occurring more often, and the likelihood of heat waves lasting more than three days has nearly doubled in the past 30 years and will continue to rise. Nighttime temperatures are also rising, limiting people’s ability to find any respite. These trends create retained environmental heat. Many Missourians feel the effects of warmer summers and take well-known safety precautions to protect themselves from heat-related harms. But these precautions, indeed any ability to cool oneself off, are stripped from people living at Algoa.

Algoa is over 93 years old. It is one of the oldest prisons in Missouri and was originally built to be an intermediate reformatory and farm for young boys. It is built out of material that absorbs and traps heat for long periods of time. Expert Report of Dr. Ufuoma Ovienmhada at pp. 5-6, attached as Exhibit 2 (“Ovienmhada Report”). This means that indoor air temperatures at Algoa likely exceed outdoor air temperatures at most hours of the day or night, due to sustained building heat absorption and standard heat loads from the prison’s operation. *Id.* at p. 7. Among all medium and minimum-security correctional facilities in Missouri, Algoa experienced the highest summer daily maximum air temperatures in 2023. *Id.* at 3. People incarcerated at Algoa are forced to

practically bake in this heat – there is no air conditioning in any housing units nor is there policy designed to mitigate heat-related risks.

During the summer, extreme heat in these housing units renders confinement conditions unconstitutional and dehumanizing at best. All people, including healthy people with no known medical problems, are at risk of developing heat-related illness during persistent exposure to heat indices above 88 degrees Fahrenheit. *See Vassallo Report* at ¶ 65-69, attached as Exhibit 1. The heat indexes at Algoa regularly reach and surpass that hazardous threshold of 88 degrees Fahrenheit during the summer. *See Ovienmhada Report* at pp. 3-5, attached as Exhibit 2.

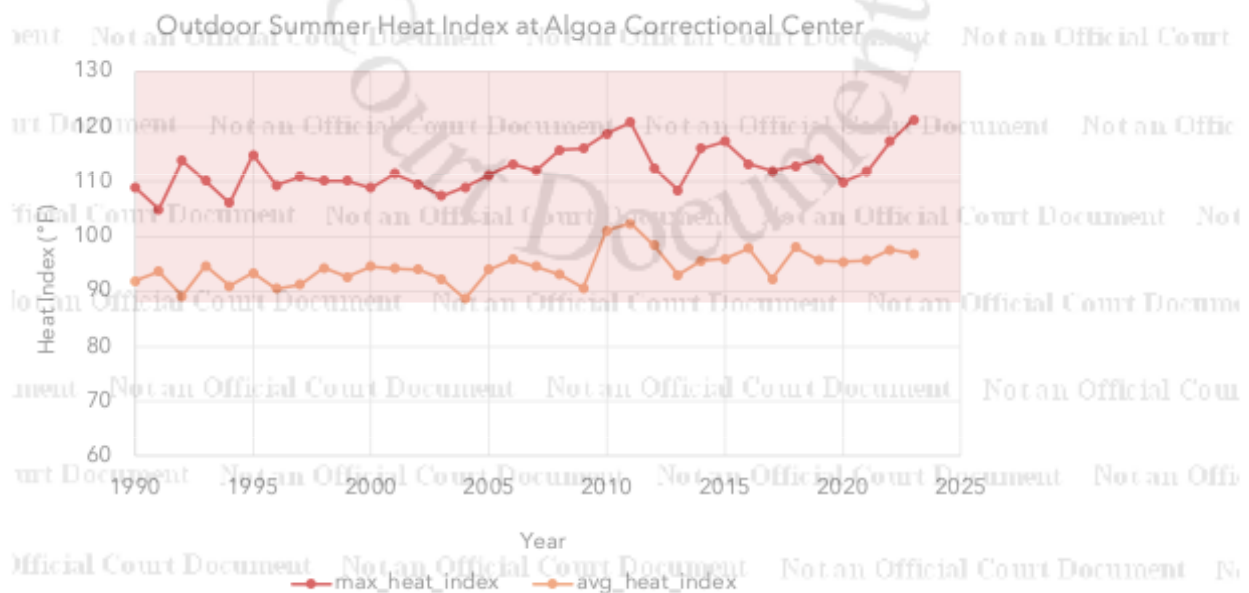
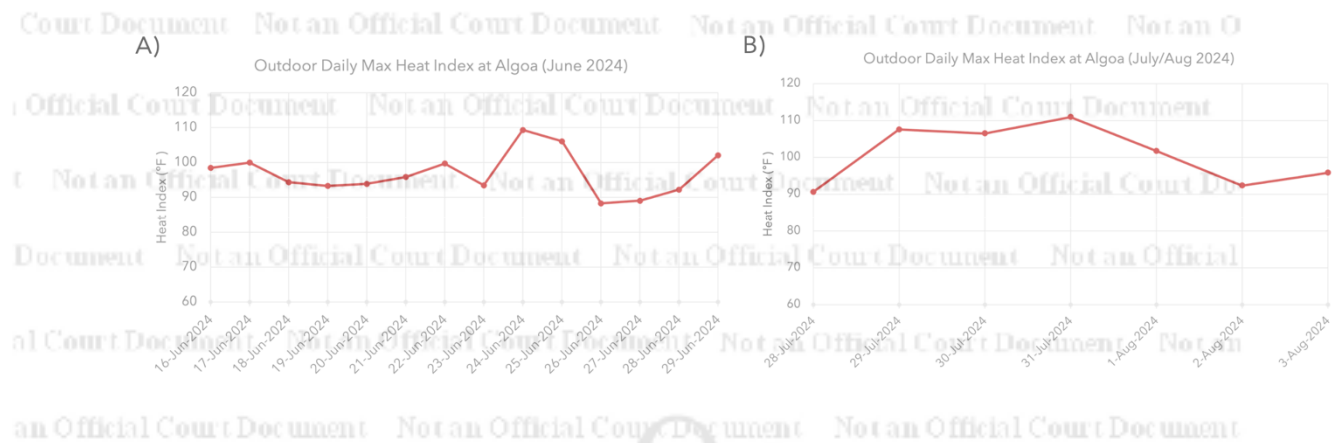


Figure 1. Graphic created by Dr. Ufuoma Ovienmhada. Annual summer heat indices at Algoa as calculated from the North American Land Data Assimilation System (NLDAS-2) to calculate heat index. The orange line indicates an average of all summer daily maximum heat indices each year. The red line indicates the single highest heat index observed in an hour across a given summer.





*Figure 2. Graphic created by Dr. Ufuoma Oviemhada. Daily summer heat indices at Algoa. The red line indicates the single highest hourly heat index observed in a day. Underlying data obtained from <https://www.visualcrossing.com/> 'Historical Weather Data' which sources true observed data for more than one hundred thousand worldwide observation stations, including satellite and maritime sources. The red line indicates the single highest hourly heat index observed in a day.*

Respondents are well-aware of these extreme temperatures, and the life-and-death health risks associated with extreme heat. Nevertheless, they refuse to take necessary steps to protect people in their custody from the summer heat. They fail to record internal temperatures or enforce any temperatures standards and do not have a heat policy in place designed to mitigate the risks associated with the extreme heat. *See* MoDOC Sunshine Response re. Temp Checks, attached as Exhibit 5; MoDOC Sunshine Response re. Policy and Procedures for Heat Mitigation, attached as Exhibit 4. All of Respondents' flimsy attempts at heat mitigation have been completely ineffective. The fact that heat-related illnesses and death are entirely preventable makes Respondents' actions and inactions even more devastating. These conditions are dire for all inmates – including those who are healthy and those who are more vulnerable to heat.

## II. The Risk of Serious Health Disorders from Heat Exposure

Exposure to hazardously high temperatures at Alcoa creates serious and obvious health risks. Dr. Susi Vassallo, a medical doctor well-regarded for her expertise in thermoregulation, has been qualified as an expert by multiple courts in cases concerning heat-related conditions in prisons. *See* Vassallo Report at ¶¶ 1-7, attached as Exhibit 1. Dr. Vassallo describes a heat index of 88 degrees Fahrenheit as the point at which life-threatening risks of heat stroke and heat-related illness sharply increase. That danger zone was reached or exceeded at Alcoa regularly. *See* Vassallo Report at ¶¶ 15, 31, 65, 67, 100, attached as Exhibit 1; Oviennmhada Report at pages 1-6, attached as Exhibit 2. Prolonged exposure to that heat level, as is the case for anyone incarcerated at Alcoa, is likely to cause significant damage to people of all ages and health levels. This damage includes serious risk of suffering from heat-related illnesses, including but not limited to heat stroke and/or worsening of underlying conditions, death, or permanent physical injury. *See* Vassallo Report at ¶¶ 14-16-31-43, attached as Exhibit 1. These results can occur in a matter of hours or days. *Id.* at ¶¶ 14.

Both temperature and humidity contribute to extreme heat. The body's safe physiological range is typically a set point of plus or minus 0.8 degrees Fahrenheit to 98.6 degrees Fahrenheit. *Id.* at ¶ 17. Maintaining this safe core body temperature is essential to normal physical functioning, because temperatures above that range can result in "heat stress," or medically dangerous heat conditions that occur when the body is under stress from overheating. *Id.*; *see also* U.S. EPA OFFICE OF ATMOSPHERIC PROGRAMS, EXCESSIVE HEAT EVENTS GUIDEBOOK 10 (2016), [https://www.epa.gov/sites/default/files/2016-03/documents/ehguide\\_final.pdf](https://www.epa.gov/sites/default/files/2016-03/documents/ehguide_final.pdf).

To maintain a safe internal body temperature when exposed to high heat and humidity, the body perspires, or sweats, to cool and engages in cutaneous vasodilation (dilation of blood vessels close to the skin). *See* Vassallo Report at ¶¶ 17, 22-23, attached as Exhibit 1. Both of these mechanisms facilitate heat dissipation and are essential to effective thermoregulation, or control of one's body temperature. *Id.* When the body is unable to properly dissipate heat, or thermoregulate, multiple bodily systems' functioning is impaired, including but not limited to the nervous system, pulmonary system, cardiovascular system, gastrointestinal system, and kidney function. *Id.* at ¶ 18.

Humidity also impacts the body's ability to thermoregulate through sweat evaporation. *Id.* at ¶¶ 20, 24-25. The human body feels warmer in humid conditions. This is why scientists measure air temperature and humidity together using a formula with a resulting figure called the heat index, or "apparent temperature." *Id.* at ¶ 29. The heat index is a measure of what the temperature feels like to the human body when relative humidity is combined with air temperature. *Id.* When the external environment gets hotter and more humid, the body must work harder to cool itself by increasing vasodilation and sweating. *Id.* at ¶ 25. The heart must also pump faster and harder to ensure more blood circulates through the body. *Id.* If these bodily functions are overwhelmed, the body may no longer be able to effectively dissipate heat, causing body temperature to rise, which increases the risk of significant morbidity and mortality. *Id.* The act of sweating itself depletes the body of water and salt. Thus, without adequate repletion, a person will become dehydrated, core body temperature rises, and hyperthermia can result – all of which can be dangerous and even deadly. *Id.* at ¶ 26. And because evaporation becomes



less effective as humidity rises in the external environment, the risk of hyperthermia significantly increases with extreme humidity. *Id.* at ¶ 28.

Prolonged exposure to high heat and humidity, at 88 degrees Fahrenheit heat index and above, places even healthy people at risk of serious heat-related illnesses, including heat syncope, heat cramps, heat exhaustion, and most dangerously, heat stroke. *Id.* at ¶¶ 65–69. Heat-related illnesses occur when the body’s thermoregulation system is overloaded, and the body cannot adequately dissipate heat. *Id.* at ¶ 31. Heat is not always preceded by heat exhaustion or any other heat-related illness. In fact, it can and does rapidly occur without warning when thermoregulation fails. *Id.* at ¶¶ 36–40. Heat stroke is a severe medical emergency can cause death or permanent disability, including damage to the brain and other vital organs, if emergency treatment is not provided. *Id.* at ¶ 36, 41.

The altered mental status accompanying heat stroke could be subtle, manifesting as impaired judgment or irritability; it may cause confusion, delirium, obtundation, seizures, or result in a coma. *Id.* Especially in carceral settings, the altered mental state can be misinterpreted as misbehavior instead of one’s psychological response to excessive heat. *Id.* Due to altered mental state, some heat stroke victims will be unable to call for help or report to others, including corrections officers, that they are suffering. *Id.*

Classical heat stroke is not associated with exercise and can occur due to exposure to a high-heat index and an inability to leave a hot environment. *Id.* at ¶ 37. In just ten to twenty minutes, without any warning, a person may demonstrate life-threatening elevation of body temperature and alteration of mental states. *Id.* Heat stroke can occur when someone falls asleep normally, then is found critically ill or dead. *Id.* at ¶ 39. Studies show that heat stroke mortality rates range from 30% to 80%, that heat stroke

survivors may have permanent inability to walk or talk, and that permanent neurological damage occurs in 17% of survivors. *Id.* at ¶ 42. Those with certain underlying medical conditions, those taking certain medications, and those above age 65 are at the most severe risk of heat stroke and other heat-related illnesses. *Id.*

#### **A. Certain Physiological Conditions Increase The Risk of Serious Harm from Exposure to Extreme Heat**

Numerous medical conditions impair the body's ability to thermoregulate, making people with such conditions more vulnerable to extreme heat. Petitioners have many of these conditions. People with chronic illnesses or medical conditions such as heart disease, diabetes, obesity, and respiratory diseases like asthma or chronic obstructive pulmonary disease ("COPD") are much more likely to develop heat-related illness and/or succumb to heat stroke when under heat stress, due to their body's inability to properly thermoregulate. *See* Vassallo Report at ¶¶ 46–47, attached as Exhibit 1.

Those with heart conditions and cardiovascular diseases are at particularly high risk of heat stroke because under heat stress their heart must circulate more blood more quickly. Those with heart disease are less capable of increasing their stroke volume and cardiac output (how much and how quickly their heart can pump blood to the skin and body). *Id.* at ¶¶ 48–50. This puts additional strain on the heart and can worsen existing heart conditions. For people over 65 years old, there is an increased risk of 11.7% in cardiovascular disease mortality associated with heat waves. Yash Desai, *Heat and the Heart*, YALE JOURNAL OF BIOLOGY AND MEDICINE (June 30, 2023) available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC10303253/#R17>. People with diabetes and pre-diabetics are also at increased risk of heat stroke because diabetes causes blood vessels to

inadequately dilate and deliver sufficient blood and nutrients to the body, which compromises vasodilation, and in turn, compromises thermoregulation. *See* Vassallo Report at ¶¶ 51, attached as Exhibit 1. Diabetes also often impairs kidney function, and the body's ability to thermoregulate is threatened when one's kidneys cannot maintain electrolyte and fluid balance in the body. *Id.* at ¶ 51.

People with hypertension, or high blood pressure, similarly face an increased risk of harm when exposed to extreme heat. Because hypertension requires one's heart to pump harder, they struggle more to increase cardiac output under heat stress. *Id.* at ¶ 52. Lastly, people with respiratory or pulmonary diseases like asthma or COPD are also at increased risk of heat stroke and heat-related disorders. *Id.* at ¶ 51. These people have compromised ability to exchange gases in their lungs and oxygenate their body. *Id.* Heat stress requires the body to pump more blood, which requires the lungs to oxygenate that blood—which is difficult for those with diseased lungs, thus increasing the risk of heat stroke. *Id.* at ¶ 53.

Petitioners Perry, Hamilton, Campbell, and Moman are at an increased risk of heat-related illness because they live with physiological conditions that compromise their ability to thermoregulate. Petitioner Hamilton has coronary artery disease and hypertension dyslipidemia. *Id.* at ¶ 78. Petitioner Perry has atherosclerotic cardiovascular disease, Type 2 diabetes, and hypertension. *Id.* at ¶ 76. Petitioner Campbell has hypertension and asthma. *Id.* at ¶ 77; *see also* Declaration of Timothy Campbell, attached as Exhibit 7. And Petitioner Moman has hypertension, chronic obstruction pulmonary disease/bronchospasm, and Parkinson's disease. *See* Vassallo Report at ¶¶ 79–81, attached as Exhibit 1. Because each of these conditions threatens their bodies' ability to

properly dissipate heat, each of these Petitioners face an increased risk of risk of heat-related illness, including death, without warning when exposed to extreme heat at Algoa.

**B. People With Mental Illness Also Face an Increased Risk of Heat-Related Illness From Exposure to Extreme Heat**

Those suffering from psychiatric or mental health disorders are also at increased risk of heat-related disorders and heat stroke because they may have impaired behavioral responses to heat stress. *See* Vassallo Report at ¶ 54, attached as Exhibit 1. These individuals may have impaired ability to reason, take precautions, or help themselves during heat stress, which amplifies their risk because heat-related illnesses require the ability, energy, and interpersonal skills to express one's need for help. *Id.* People living with depression and anxiety are often unable to communicate well and may experience apathy, or inability to overcome challenging circumstances during physiologic heat stress. *Id.* Worse, many symptoms of heat-related disorders such as feeling poorly, irritability, anxiety, and confusion are also common symptoms of mental illness. *Id.* Accordingly, when people are suffering from heat-related health issues rather than manifestations of their mental illness, they often receive insufficient attention or support from medical providers and those living around them. *Id.*

Various Petitioners suffer from mental illness that place them at increased risk of heat-related disorders and heat stroke. Petitioner Moman lives with major depressive disorder and anxiety. *Id.* at ¶ 79. Petitioner Campbell lives with Post-Traumatic Stress Disorder, as well as ADHD. *Id.* at ¶ 77; *see also* Declaration of Timothy Campbell, attached as Exhibit 7. These mental health disorders may impair Petitioner Moman and Campbell's ability to reason or communicate when experiencing the onset of heat-related

illness or heat stroke and make it more likely that authorities or fellow inmates will misinterpret manifestations of possible heat-related illness for typical depression or addiction symptoms. Vassallo Report at ¶¶ 77–81, attached as Exhibit 1.

### **C. Certain Medications Increase the Risk of Serious Harm from Heat-Related Illness**

People who take certain medications to treat underlying health conditions are also at increased risk of heat-related illness and heat stroke when those medications interfere with their body's ability to dissipate heat, circulate blood, or interfere with salt and water balances. *See* Vassallo Report at ¶ 55, attached as Exhibit 1. Medications that impair sweating and vasodilation place people at an even greater risk of heat stroke and other heat-related illness. *Id.*

Many, if not all, medications used to treat mental illness, including but not limited to selective serotonin reuptake inhibitors (SSRIs) Remeron, Zoloft, Catapres, and antipsychotics, like Lithium, increase the risk of heat-related illness. *Id.* at ¶¶ 55, 61–62. Selective serotonin reuptake inhibitors (SSRIs) and antidepressants interfere with the body's ability to sweat and cool down because they target the hypothalamus to regulate mood, which decreases the hypothalamus' ability to respond to and regulate the body's temperature. *Id.* at ¶¶ 61–62. Drugs that depress cardiac function, cause dehydration, or impair cardiac output also put people at greater risk of heat stroke and heat-related illnesses. *Id.* at ¶ 56. Included within this drug category are beta blockers and calcium channel blockers, which impair the heart's ability to squeeze and reduce the speed at which the heart beats, as well as diuretics, which decrease the amount of blood that the heart squeezes in. *Id.* These drugs are commonly used to treat hypertension. *Id.*



Other commonly prescribed drug categories impair the body's ability to thermoregulate. These include: sympathomimetic drugs like common nasal decongestants and over the counter cold remedies, which are associated with heat stroke in many reports and cause vasoconstriction; anticholinergic drugs, like Benadryl, which cause sweat gland dysfunction, or drugs with anticholinergic properties, which are plentiful and include drugs used to treat insomnia, allergies, mental illness, itching, and gastrointestinal disorders; and phenothiazines, which interfere with the which impair the body's ability to perspire and cool itself off. *Id.* at ¶ 58–61.

Petitioners Campbell, Hamilton, Moman, and Perry all take medications from the aforementioned classes of medications, putting them at an extremely high risk of suffering heat-related illness or heat stroke. Petitioners Campbell and Moman are respectively prescribed Celexa and Zoloft to treat their mental health disorders—both SSRIs that dangerously interfere with their bodies' ability to thermoregulate. *Id.* at ¶ 62, 77, 80. Petitioner Hamilton is prescribed amlodipine (Norvasc), a calcium-channel blocker, to treat his underlying medical conditions including coronary artery disease and hypertension dyslipidemia; this medication along with the other medications he takes for these conditions interfere with his ability to thermoregulate. *Id.* at ¶ 78. Additionally, Petitioner Perry is prescribed triamterene and hydrochlorothiazide (Maxzide), both diuretic medications, to treat his hypertension, and Lisinopril for high blood pressure which also interfere with his ability to thermoregulate, preventing him from cooling down in the heat. *Id.* at ¶ 76.

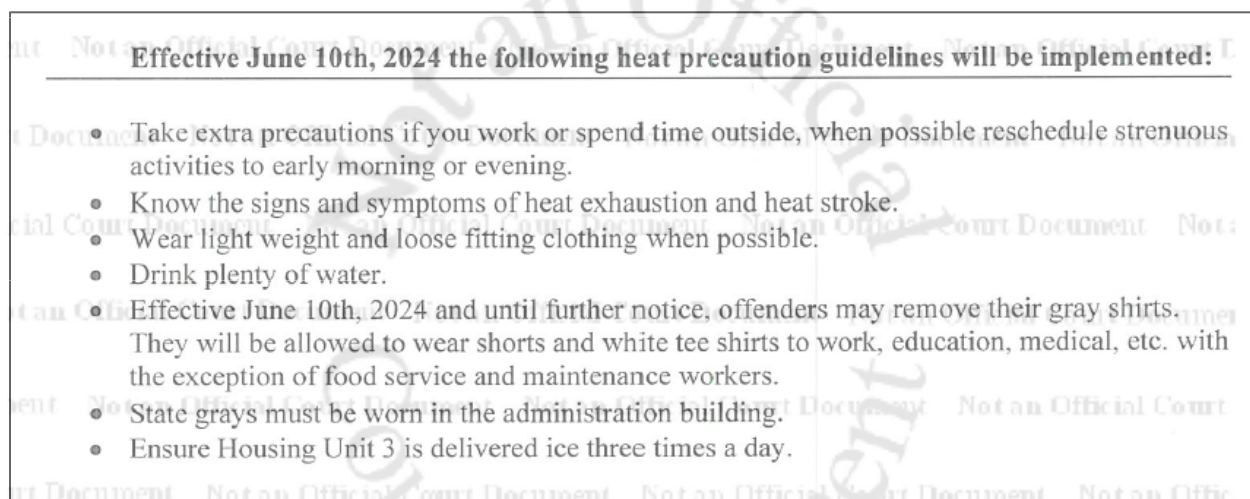
#### **D. All Elderly People are at Risk of Serious Harm from Exposure to Extreme Heat**

Elderly individuals, defined as individuals 65 years old and above, are at increased risk of harm when exposed to extreme heat. *See* Vassallo Report at ¶ 46, attached as Exhibit 1. Even young, healthy people with no medical problems are at risk of heat-related illness during prolonged exposure to a heat index above 88 degrees Fahrenheit, as is the case at Algoa. *Id.* at ¶ 65. The risk of heat-related illness, heat stroke, and heat-related mortality and morbidity only increases with age, as other bodily functions inevitably decrease in efficacy. *Id.* at ¶¶ 9, 15, 64. Epidemiological studies suggest that the elderly simply cannot tolerate heat-related stress as well as younger individuals, especially during heat waves. *Id.* at ¶ 65.

The risk of heat-related illness, especially for those taking medications that interfere with their ability to thermoregulate, increases on a continuum with age: the older you are, the greater the risk. *Id.* at ¶ 15. All elderly men incarcerated at Algoa, not only those 65 and over, are accordingly at substantial risk of serious heat-related illness due to their age. *Id.* at ¶ 15. This is especially true for Petitioner Hamilton who is age 65. *Id.* at ¶ 78. It is also true for Petitioner Moman, who is 62, and Petitioner Campbell and Petitioner Perry, who are both 60. *Id.* at ¶¶ 76–77, 79, 81. Each of these Petitioners' age increases their risk of heat-related illness, heat stroke, or their age especially increases the risk that they will die if they experience heat-related illness. *Id.*

### III. Respondents' Efforts at Heat Mitigation Are Inadequate

Neither Algoa nor MoDOC has a formalized heat mitigation policy designed to help Petitioners mitigate the deadly effects of summer heat. Nor does Algoa record internal temperatures, which would help Respondents know when conditions are turning dangerous. Instead, Algoa issues ad hoc and vague "Heat Guidelines" for correctional staff, as depicted in the image below:



See Algoa 2024 Heat Guidelines, attached as Exhibit 3. These "guidelines" are anemic at best.

Respondents have informal heat mitigation practices for residents at Algoa, but those too are woefully inadequate. They include:

1. Providing a single small, 6-9-inch personal fans for purchase at commissary. If one cannot afford a fan, one may apply for the "fan program," to have portions of their ~\$7 monthly stipend removed every month to subsidize the fan. The fans provide little to no relief from the heat. When temperatures reach hazardous levels, they just circulate hot air. See Declaration of John Whitney at ¶ 11, attached as Exhibit 9; Declaration of Mark Vollet at ¶ 16, attached as Exhibit 25; Declaration of Matthew Smith at ¶ 10(b), attached as Exhibit 24; Declaration of Willis Penrose at ¶ 10(c);, attached as Exhibit 22; Declaration of Jeremy Hann at ¶ 15(a), attached as Exhibit 17; Declaration of Patrick Gilbert at ¶ 15, attached as Exhibit 16; Declaration of Allen Fuller at ¶ 20, attached as Exhibit 15; Declaration of Jeffrey Constantinou at ¶ 11(c); attached as Exhibit 11.

2. Two and sometimes three times a day, every person housed in each general population housing unit (over 100 people per housing unit) is given brief access to two small coolers of ice. Incarcerated people must purchase their own pitchers or trash cans to hold the ice. That ice is both in high demand and melts quickly. Adding insult to injury, the ice lockers in each housing unit remain visible, but locked at all times. The ice lockers are not accessible at night, and ice is never provided after 10 p.m. *Id.* See Declaration of John Whitney at ¶ 9, 10, attached as Exhibit 9; Declaration of Willis Penrose at ¶ 10, attached as Exhibit 22; Declaration of Arnez Merriweather at ¶ 13, attached as Exhibit 20; Declaration of Matthew Smith at ¶ 10(a), attached as Exhibit 24; Declaration of Mark Vollet at ¶ 15(b), attached as Exhibit 25; Declaration of Patrick Gilbert at ¶ 15 attached as Exhibit 16; Declaration of Myron Nelson at ¶ 11 (d), attached as Exhibit 21; Declaration of Anthony Russell at ¶ 16(c), attached as Exhibit 23; Declaration of Robert Crowley at ¶ 13(b), attached as Exhibit 12; Declaration of Lawrence Dering at ¶ 19(b), attached as Exhibit 13; Declaration of Zachariah Bishop at ¶ 18(a), attached as Exhibit 8; Declaration of Patrick Gilbert at ¶ 16, attached as Exhibit 16; Declaration of Jeremy Hann at ¶ 15(e), attached as Exhibit 17; Declaration of Allen Fuller at ¶ 21, attached as Exhibit 15; Declaration of Chris Marshall at ¶ 14(b), attached as Exhibit 19; Declaration of Anthony Hill at ¶ 18(b), attached as Exhibit 18; Declaration of Jeffery Lyon at ¶ 14, attached as Exhibit 14.
3. Windows in cells crack open, but they only allow more hot air inside. See Declaration of John Whitney at ¶ 14, attached as Exhibit 9; Declaration of Willis Penrose at ¶ 10(d), attached as Exhibit 22; Declaration of Arnez Merriweather at ¶ 13, attached as Exhibit 20; Declaration of Matthew Smith at ¶ 7, attached as Exhibit 24; Declaration of Mitchell Warren at ¶ 10, attached as Exhibit 10; Declaration of Mark Vollet at ¶ 17, attached as Exhibit 25; Declaration of Myron Nelson at ¶ 11 (c), attached as Exhibit 21; Declaration of Patrick Gilbert at ¶ 9, attached as Exhibit 16; Declaration of Robert Crowley at ¶ 10, attached as Exhibit 12; Declaration of Lawrence Dering at ¶ 19(b), attached as Exhibit 13; Declaration of Zachariah Bishop at ¶ 18, attached as Exhibit 8; Declaration of Jeffery Constantinou at ¶ 11, attached as Exhibit 11; Declaration of Kenneth Barrett at ¶ 9, attached as Exhibit 6; Declaration of Jeremy Hann at ¶ 15, attached as Exhibit 17; Declaration of Allen Fuller at ¶ 22, attached as Exhibit 15; Declaration of Chris Marshall at ¶ 14, attached as Exhibit 19; Declaration of Anthony Hill at ¶ 18(d), attached as Exhibit 18; Declaration of Jeffery Lyon at ¶ 17, attached as Exhibit 14.
4. Box fans at the end of each hallway, which only blow hot air around, functionally convert living quarters into convection ovens. See Declaration of Myron Nelson at ¶¶ 6, 12, attached as Exhibit 21; Declaration of Anthony Russell ¶ 16, attached as Exhibit 23; Declaration of Patrick Gilbert at ¶ 20, attached as Exhibit 16; Declaration of Zachariah Bishop at ¶ 18, attached as Exhibit 8; Declaration of Jeremy Hann at ¶ 15(b), attached as Exhibit 17.



5. Access to warm showers, not cooling showers, during the day. *See* Declaration of Willis Penrose at ¶ 10(b), attached as Exhibit 22; Declaration of Arnez Merriweather at ¶ 13, attached as Exhibit 20; Declaration of Matthew Smith at ¶ 10, attached as Exhibit 24; Declaration of Mark Vollet ¶ 15, attached as Exhibit 25; Declaration of Myron Nelson ¶ 11, attached as Exhibit 21; Declaration of Patrick Gilbert ¶ 17; attached as Exhibit 16; Declaration of Robert Crowley at ¶ 13, attached as Exhibit 12; Declaration of Lawrence Dering at ¶ 19; attached as Exhibit 13; Declaration of Zachariah Bishop at ¶ 11, attached as Exhibit 8; Declaration of Jeffery Constantinou at ¶ 11(a), attached as Exhibit 11; Declaration of Jeremy Hann at ¶ 15; attached as Exhibit 17; Declaration of Chris Marshall at ¶ 14, attached as Exhibit 19; Declaration of Anthony Hill at ¶ 18, attached as Exhibit 18; Declaration of Jeffery Lyon at ¶ 12, attached as Exhibit 14.
6. Unreliable access to small, crowded, and restricted areas with air conditioning in the Recreation Room. There is no plan in place regarding access to any air-conditioned areas. Accordingly, there is no guarantee that any incarcerated person can access an air-conditioned space during a hot day. Indeed, many people confirm that they cannot access air conditioning at Algoa during hot days. For those who can, the room is often packed with inmates, whose combined body heat offsets the limited cooling effect of the air conditioning *See* Declaration of Matthew Smith at ¶ 10, attached as Exhibit 24; Declaration of Mark Vollet ¶ 15, attached as Exhibit 25; Declaration of Patrick Gilbert at ¶ 19, attached as Exhibit 16; Declaration of Jeremy Hann ¶ 15, attached as Exhibit 17; Declaration of Allen Fuller at ¶ 10, attached as Exhibit 15.
7. Movement is even further restricted during heat advisory days, and often people are not able to access any area that would provide them with respite. *See* Declaration of Anthony Russell at ¶ 16, attached as Exhibit 23; Declaration of Patrick Gilbert at ¶ 19, attached as Exhibit 16; Declaration of Allen Fuller at ¶ 10, attached as Exhibit 15; Declaration of Mark Vollet at ¶ 15, attached as Exhibit 25.

These practices are clearly ineffective heat mitigation, and Petitioners' and declarants' own experiences confirm as such. *See* Declarations of Barrett, Campbell, Bowen, Bishop, Whitney, Warren, Constantinou, Crowley, Dering, Lyon, Fuller, Gilbert, Hann, Hill, Marshall, Merriweather, Nelson, Penrose, Russell, Smith, Vollet, and Baugh attached as exhibit Exhibits 6-27, Vassallo Report at ¶¶ 83-91, attached as Exhibit 1. As an initial matter, none of these efforts actually reduce the temperature in the prison, which is required to reduce the risk of heat-related illness. *Id.* at ¶ 91. For Petitioner



Hamilton, who struggles with respiratory issues, keeping the fan blowing on him all night (his only means of self-cooling during the night, when ice and showers are inaccessible) poses a severe health risk because “[t]he hot air blowing on his face would cause his nasal passage to become congested, placing him at risk of choking in his sleep. When he was able to sleep, he frequently woke up drenched in sweat.” Petition at ¶ 144. And because ice is only offered at most twice a day in two coolers, Petitioners frequently cannot access ice at all; they are elderly, and rarely quick enough to be at the front of the line. *Id.* at ¶¶ 55, 167.

Showers provide, at best, momentary relief. *Id.* at ¶¶ 60, 143, 153, 165, 166. Because the showers are set to warm temperatures, they often do not provide any relief at all. When Petitioner Campbell showered during the summer, “the humidity immediately ate him alive as soon as he got out. He was instantly sticky and drenched in sweat as soon as he finished showering.” *Id.* at ¶ 166. For medically vulnerable, elderly individuals like Petitioner Hamilton, who cannot stand for long periods, showers are often inaccessible during the summer as the shower line regularly takes two hours. *Id.* at ¶ 143.

Dr. Vassallo noted that, while at least one inmates was instructed (in a response to an IRR) to contact a staff member for help “[i]f you feel you are beginning to suffer from any heat-related illness or injury,” this guidance fails to recognize that people suffering from heat-related illnesses may not be able to ask for help. Dr. Vassallo further observes that, even if a prisoner can ask for help, “it is unclear what steps the staff are offering to help relieve the heat-related illness.” Vassallo Report at ¶ 94, attached as Exhibit 1.

#### IV. Conditions in Housing Unit 3, Also Known as “The Hole” or “Solitary Confinement” Are Even Worse

Petitioners and other people housed in Housing Unit 3, also known as “the hole,” “solitary confinement,” or “segregation,” during extreme summer heat are perhaps the most vulnerable to severe risks of serious harm, as they are afforded even fewer options for heat mitigation than people housed in general population, despite the fact that they are trapped in their cells at all times, and they have no access to an emergency button to call for medical help. They are not allowed to possess or use a personal fan. *See* Pet. at ¶¶

172, 188; Declaration of Mitchell Warren at ¶ 12, attached as Exhibit 10; Declaration of Myron Nelson at ¶ 12, attached as Exhibit 21; Declaration of Kenneth Barrett at ¶ 19, attached as Exhibit 6; Declaration of Allen Fuller at ¶ 6, attached as Exhibit 15. While ice is sometimes delivered, days frequently pass with no ice in segregation, as the guards bring it “when they feel like it.” Declaration of Mitchell Warren at ¶ 11, attached as Exhibit 10. People in Housing Units 3 also are denied regular showers and access to any area that might provide respite from the heat; they are only allowed to shower three times per week. *See* Pet. at ¶ 151; Declaration of Mitchell Warren at ¶ 9, attached as Exhibit 10; Declaration of Myron Nelson at ¶ 12 (g), attached as Exhibit 21; Declaration of Kenneth Barrett at ¶ 19, attached as Exhibit 6; Declaration of Allen Fuller at ¶ 6, attached as Exhibit 15.

People incarcerated in Housing Unit 3 are almost never allowed outside to experience fresh air. *See* Declaration of Mitchell Warren at ¶ 10, attached as Exhibit 10; Declaration of Kenneth Barrett at ¶ 11, attached as Exhibit 6. In the rare instances that they are, they must remain shackled at all times. In non-punitive segregation, Petitioners

are permitted outside only two or three times per week, for 30 minutes or less. *See* Declaration of Timothy Campbell at ¶ 18, attached as Exhibit 7. In punitive segregation, Petitioners are never allowed outside. *See* Declaration of Kenneth Barrett at ¶ 11, attached as Exhibit 6. With no access to fresh air, a small personal fan, regular ice, or even a daily shower, Petitioners housed in, or at risk of being housed in segregation, face an overwhelming risk of exposure to completely unmitigated, boiling heat. While in Housing Unit 3 during July and August 2024, Petitioner Campbell felt like he was being tortured due to the heat. He had never felt so overheated. He spent many days in Housing Unit 3 dizzy and afraid for his safety. Pet. at ¶ 171.

Making their conditions even more deadly, the cells in Housing Unit 3 are not equipped with emergency buttons. *See* Pet. at ¶¶ 173, 182, 191; Declaration of Mitchell Warren at ¶¶ 13, 15 attached as Exhibit 10; Declaration of Myron Nelson at ¶ 12, attached as Exhibit 21; Declaration of Kenneth Barrett at ¶¶ 15, 17, attached as Exhibit 6. When medical emergencies occur, such as people fainting or vomiting from the extreme heat, people incarcerated in Housing Unit 3 are at a high risk of being ignored by correctional staff and have no option but to kick the doors and scream for help. *Id*; *see also* Vassallo Report at ¶¶ 85, 88, attached as Exhibit 1. Denied rudimentary heat mitigation tools and any safe way to notify guards of emergencies, those housed in segregation at Alcoa during summer months face near-certain risk of heat-related illness, heat stroke, and possible death. Petitioners Kay and Taylor are both currently confined in segregation in Housing Unit 3. *See* Declaration of Leah Fessler, attached as Exhibit 28.

## V. Petitioners Have Suffered and Will Continue to Suffer in the Heat

Petitioners have suffered while detained at Algoa during the summer and they fear for their safety and lives this summer. With no way to cool off, Petitioner Campbell, for example, could only sit still in his cell during extremely hot days. Pet. at ¶ 170–173; Declaration of Timothy Campbell, attached as Exhibit 7. Many times, he found himself unable to breathe and felt dizzy during the summer. *Id.* He felt as if he was having another heat stroke, having already experienced several. *Id.* He felt as if he was boiling in the heat. *Id.* Similarly, because Petitioner Moman's SSRIs interfere with his hypothalamus' ability to respond to and regulate his body's temperature, and his Parkinson's Disease itself limits his ability to thermoregulate, as well as his ability to seek help, he experienced numerous dizzy spells and felt like he was close to passing out almost daily last summer. Pet. at ¶ 180; *see also* Vassallo Report at ¶¶ 62, 77–80, attached as Exhibit 1. These dizzy spells caused Petitioner Moman to throw up many times during the extreme summer heat, a violent experience that is particularly difficult to control as a 62-year-old with limited mobility due to his Parkinson's. *Id.* A few times when he vomited because of the heat, he was taken to medical, only to be quickly sent back to Housing Unit 3 without any safety or precautionary measures. *Id.*

Petitioner Perry felt as if he could not breathe during the summer. Unable to cool off, in part because of the medications he takes and his physiological conditions, he would constantly overheat. *Id.* at ¶¶ 152–155. Petitioner Hamilton also felt like he could not breathe and struggled to move. *Id.* at ¶¶ 138–139, 143. At age 65, and concerned about risking his health with any movement, he could do nothing other than lay down all day. *Id.* at ¶ 140. The heat would cause Petitioner Hamilton's legs to seriously and

painfully swell. *Id.* at ¶ 142. At night, he felt exceptionally hot and was often unable to sleep. *Id.* at ¶ 144. When he was finally able to rest, he would frequently wake up drenched in sweat. *Id.*

Without emergency habeas relief requiring Respondents to create and implement effective heat mitigation consistent with environmental experts' recommendations, Petitioners will be forced to endure the constant risk of irreversible physical and psychological injury. Respondents will subject Petitioners and other vulnerable incarcerated people at Alcoa to extreme, unmitigated heat throughout the summer, likely the hottest in Missouri's history.

### ARGUMENT

Incarcerated people may obtain *habeas corpus* review of prison conditions that constitute cruel and unusual punishment, even though the detention is legal. *Cooper v. Gammon*, 943 S.W.2d 699, 702 (Mo. App. W.D. 1997) (citing *McIntosh v. Haynes*, 545 S.W.2d 647, 652 (Mo. 1977) (en banc); *State ex rel. Haley v. Groose*, 873 S.W.2d 221, 223 (Mo. 1994) (en banc)). Courts have repeatedly found it unconstitutional and cruel and unusual punishment, in violation of the Eighth Amendment, to force incarcerated people to endure prolonged exposure to unmitigated, extreme heat. *See, e.g., Ball v. LeBlanc*, 792 F.3d 584, 593 (5th Cir. 2015); *Gates v. Book*, 376 F.3d 323, 334 (5th Cir. 2004); *Hamilton v. Earl*, No. 621CV06016SOHBAB, 2023 WL 2950638, at \*6 (W.D. Ark. Jan. 24, 2023); *Yates v. Collier*, 868 F.3d 354, 359-61 (5th Cir. 2017); *Voice of the Experienced v. LeBlanc*, No. CV 23-01304-BAJ-EWD, 2024 WL 3279899, at \*24 (M.D. La. July 2, 2024) (collecting cases); *Tiede v. Collier*, 1:23-cv-01004-RP (W.D. Tex. Mar. 26, 2025). This is especially true for heat sensitive individuals, like the elderly and



medically vulnerable. Petitioners face a serious risk of irreparable harm from unmitigated exposure to impending summer heat, including *inter alia* serious illness, permanent disability, and possible death. Emergency habeas relief is required to save lives.

“The Cruel and Unusual Punishments Clause prohibits the imposition of inherently barbaric punishments under all circumstances.” *State v. Wood*, 580 S.W.3d, 566, 588 (Mo. 2019) (en banc) (citing Article I, § 21 of the Missouri Constitution). In determining whether confinement conditions constitute cruel and unusual punishment, Missouri courts look to Eighth Amendment jurisprudence with approval. *See, e.g., Cooper*, 943 S.W.2d at 702-703 (Mo. App. W.D. 1997). Missouri courts repeatedly interpret Article I § 21 as coterminous with the Eighth Amendment, holding that “[t]he Eighth Amendment and Article I § 21 of the Missouri Constitution provide the same protection against cruel and unusual punishment.” *State v. Nathan*, 522 S.W.3d 881, 882 n.2 (Mo. 2017) (en banc); *see State v. Lee*, 841 S.W.2d 648, 654-55 (Mo. 1992) (en banc) (holding the Eighth Amendment and Article I, § 21 of the Missouri Constitution provide the same protection against cruel and unusual punishment); *see McIntosh v. Haynes*, 545 S.W.2d 647, 652 (Mo. 1977) (same); *see also State ex rel. Johnson v. Blair*, 628 S.W.3d 375, 388 (Mo. 2021) (same); *see also Wood*, 580 S.W.3d at 588 (Mo. 2019) (en banc) (same).

To prevail on an Article I, § 21 claim challenging confinement conditions, as required to prevail under the Eighth Amendment, a petitioner must satisfy two prongs: First, the petitioner must satisfy an objective prong, that the alleged violation is “objectively [and] sufficiently serious,” meaning they are “incarcerated under conditions posing a substantial risk of serious harm.” *Cooper*, 943 S.W.2d at 702 (Mo. App. W.D.

1997) (quoting *Farmer v. Brennan*, 511 U.S. 825, 834 (1994)). Second, the petitioner must satisfy the subjective prong by showing that prison officials acted with “deliberate indifference to the inmate’s health or safety.” *Id.* at 703 (quoting *Farmer*, 511 U.S. at 834 (1994)); *Thomas v. Denney*, 453 S.W.3d 325, 332 (Mo. App. W.D. 2014). As set forth below, the extreme, unmitigated heat at Algoa satisfies both prongs under well-established Eighth Amendment case law. And so, because Article I § 21 coterminous with the Eighth Amendment, the same must true under Article I § 21.

### **I. PETITIONERS MEET THE OBJECTIVE STANDARD**

Prison conditions are “objectively, sufficiently serious” such that they become unconstitutional when they “pos[e] a substantial risk of serious harm.” *Farmer*, 511 U.S. at 834 (internal quotations omitted); *Kulkay v. Roy*, 847 F.3d at 642–43 (8th Cir. 2017).

Conditions rise to this level when they “offend contemporary concepts of decency, human dignity, and precepts of civilization.” *Hope v. Pelzer*, 536 U.S. 730, 737 (2002); *see also Estelle v. Gamble*, 429 U.S. 97, 102 (1976) (courts must measure prison conditions against “the evolving standards of decency that mark progress of a maturing society,” not the standards in effect when the Eighth Amendment was drafted), *Helling v. McKinney*, 509 U.S. 25, 36 (1993) (in evaluating whether the objective prong of the Eighth Amendment is violated, the court must assess “whether society considers the risk that the prisoner complains of to be so grave that it violates contemporary standards of decency to expose *anyone* unwillingly to such a risk. In other words, the prisoner must show that the risk of which he complains is not one that today’s society chooses to tolerate”). To satisfy the objective prong, Petitioners need only show a substantial risk of serious harm *exists*, not that serious harm has already occurred. *See Gates*, 376 F.3d at

332. That the Eighth Amendment protects against future harm to inmates is not a novel proposition. *Helling*, 509 U.S. at 33 (1993).

Extremely hot prison conditions, when not adequately mitigated, constitute a substantial risk of serious harm under the Eighth Amendment. *Yates*, 868 F.3d at 359–61 (5th Cir. 2017); *see, e.g., Ball*, 792 F.3d at 592–94, 596 (affirming that extreme heat conditions at a Louisiana prison pose a substantial risk of serious harm). In *Yates*, the Fifth Circuit noted it is “well-established in our circuit ‘that the Eighth Amendment guarantees inmates a right to be free from exposure to extremely dangerous temperatures without adequate remedial measures.’” 868 F.3d at 360 (citation omitted). Recognizing the “serious risk of harm that excessive heat can pose in the prison context absent adequate mitigating measures,” the Fifth Circuit noted that courts have consistently found evidence of substantial risk of harm “even when certain mitigating measures were available.” *Id.* at 360–61; *see also Hinojosa v. Livingston*, 807 F.3d at 669 (5th Cir. 2015) (“the Eighth Amendment guarantees inmates a right to be free from exposure to extremely dangerous temperatures without adequate remedial measures.”); *Webb v. Livingston*, 618 Fed. App’x 201 at 207 (5th Cir. 2015); *Blackmon v. Garza*, 484 Fed. App’x 484 Fed. App’x 866 at 869–72 (finding Eighth Amendment violation where “extreme heat in [plaintiff’s] dorm caused substantial health risks” and that remedial measures were inadequate); *see also McCollum v. Livingston*, 2017 WL 608665, at \*19 (collecting cases and concluding that “extreme heat constitutes an Eighth Amendment violation”); *Tiede v. Collier*, No. 1:23-CV-1004-RP, ECF No. 17, at 4–5 (W.D. Tex. Sept. 13, 2023) (granting temporary restraining order due to the plaintiff’s enhanced risk of injury or death from extreme heat); *see also Walker v. Schult*, 717 F.3d 119, 127–28

(2d Cir. 2013) (holding “it is well settled that exposing prisoners to extreme temperatures without adequate ventilation may violate the Eighth Amendment” and finding sufficient plaintiff’s allegations that he was housed for twenty-eight months in a cell that lacked air conditioning and was so hot he had trouble breathing); *Hamilton*, No.

621CV06016SOHBAB, 2023 WL 2950638, at \*6 (W.D. Ark. Jan. 24, 2023) (extreme cell temperatures can rise to the level of an Eighth Amendment violation, particularly if an inmate suffers from a medical condition or conditions making him vulnerable to temperature-related injury). This robust body of developing caselaw makes clear that forcing prisoners to endure unmitigated extreme heat is “incompatible with ‘the evolving standards of decency that mark the progress of a maturing society.’” *Estelle*, 429 U.S. at 102 (quoting *Trop v. Dulles*, 356 U.S. 86, 101 (1958)).

Petitioners have been and will soon again be at risk of exposure to prolonged periods of extreme heat that surpasses the hazardous threshold marked by a heat index of 88° Fahrenheit. Exposure to this level of heat is likely to cause significant damage to people of all ages and health levels. *See* Vassallo Report at ¶¶ 31 and 65, attached as Exhibit 1; *see also* *Ball*, 988 F. Supp. 2d at 655 (M.D. La. 2013); *Cole v. Collier*, 2017 WL 3049540, at \*14 n.16, \*47 (S.D. Tex. July 19, 2017). Indeed, Dr. Vassallo concluded here, “the people subjected to the heat as it is at the Algoa prison, are at substantial risk of serious harm due to heat related illnesses and worsening of underlying conditions.”

Vassallo Report at ¶ 108, attached as Exhibit 1. Courts have repeatedly relied on Dr.

Vassallo’s expert testimony in concluding that heat conditions put incarcerated people at substantial risk of serious harm. *See e.g. Voice of the Experienced*, No. CV 23-01304-BAJ-EWD, 2024 WL 3279899, at \*24 (M.D. La. July 2, 2024) (collecting cases); *see*

also *Tiede*, 1:23-cv-01004-RP (W.D. Tex. Mar. 26, 2025). When considering the health and safety of all people detained in Texas prisons, including the healthy ones, a federal court recently determined that extreme heat poses a substantial risk of serious harm for all inmates. *Tiede*, 1:23-cv-01004-RP (W.D. Tex. Mar. 26, 2025). Here, Petitioners and the class members they represent of the Heat Sensitive Class and Solitary Confinement Class are at enhanced risk of injury or death from extreme heat. See Vassallo Report, attached as Exhibit 1, at ¶ 107.

Petitioners Kay and Taylor and the putative members of the Solitary Confinement Class face an even higher risk of serious harm because of the extremely restrictive and oppressively hot conditions in which they are forced to live. They are unable to leave their cells, are ignored during medical emergencies, and have access to even fewer options for relief from the heat. Similar conditions were at issue in *Ball*, where the Plaintiffs were confined to very hot cells for 23 hours a day without sufficient access to heat-relief measures. *Ball*, 792 F.3d 584, 590 (5th Cir. 2015). The Fifth Circuit affirmed the district court's conclusion that such conditions rendered plaintiffs extremely vulnerable to serious heart-related injury in violation of the Eighth Amendment. *Id.* at 596.

Petitioners Perry, Hamilton, Campbell and Moman and the putative members Heat Sensitive Class face significant risk of harm and suffering because of their age, medical conditions, mental illness and/or the medications they take—all of which make people more susceptible to heat related-related illness or event death, as they do in Algoa. Indeed, courts have looked at identical factors in finding that there was a substantial risk of harm in violation of the Eighth Amendment. In *Ball*, the court found people with



physiological conditions like diabetes, hypertension and cardiovascular disease have difficulty cooling down and therefore face a substantial risk of serious harm when exposed to hazardous temperatures above 88 degrees Fahrenheit. 792 F.3d at 593 (5th Cir. 2015). Other courts have held similarly. *See Hamilton*, No. 621CV06016SOHBAB, 2023 WL 2950638, at \*6 (W.D. Ark. Jan. 24, 2023) (extreme cell temperatures can rise to the level of an Eighth Amendment violation, particularly if an inmate suffers from a medical condition or conditions making him vulnerable to temperature-related injury); *Tiede*, No. 1:23-CV-1004-RP, ECF No. 17, at 2 (W.D. Tex. Sept. 13, 2023) (granting temporary restraining order due to the plaintiff's enhanced risk of injury or death from extreme heat).

And in *Gates*, the Court observed that “[t]he probability of heat-related illness...is dramatically more so for mentally ill inmates who often do not take appropriate behavioral steps to deal with the heat.” 376 F.3d at 334 (5th Cir. 2004). It added that “the medications often given to deal with various medical problems interfere with the body’s ability to maintain a normal temperature.” *Id.* Petitioners representing the Heat Sensitive Class face a substantial risk of serious harm akin to that of the medically vulnerable plaintiffs in *Ball* and *Gates* as they, too, suffer from serious medical conditions and take medications that impact their ability to thermoregulate, as well as mental illness that impacts their ability to seek help when experiencing heat-related symptoms.

The remedial measures at Alcoa are ineffective in providing relief from the heat and fail to meet the constitutional bar set by other courts. In *Ball*, the Court held that intermittent access to ice (controlled by guards), open windows, access to warm showers, and fans that do not produce a detectable cooling effect was not sufficient to mitigate the

heat. 792 F.3d at 595–96 (5th Cir. 2015). In *Gates*, the Fifth Circuit held that mitigation efforts more robust than those at Algoa were still constitutionally inadequate. *See* 376 F.3d at 339–40 (5th Cir. 2004). Those efforts included: access to cool showers at least once a day, ample supplies of cold drinking water and ice *at all times*, free personal ice containers, individual fans, diversion of cool air from the guards’ pods into the living quarters, and installation of additional ice machines. The Court in *Gates* held that this was not enough to mitigate the heat and, in combination with extreme heat, constituted a violation of incarcerated people’s Eighth Amendment rights. *Id.*

Most recently in *Tiede*, a federal district court deemed the Texas Department of Corrections’ heat mitigation policy deficient and found that the plaintiffs had established they would likely succeed on the merits of their Eighth Amendment claim. 1:23-cv-01004-RP at 69-85 (W.D. Tex. March 26, 2025). The policy at issue in *Tiede* provided for the provision of air-conditioned respite rooms, cold showers, fans, ice water, and a reusable cup to use to drink from and refill with water—all of which was insufficient to mitigate exposure to heat indices above 88 degrees Fahrenheit. *Id.* at 40. The remedial measures at Algoa are far weaker than those at issue in *Tiede* and are ineffective at providing any relief from the heat. *See, e.g.*, Declaration of Patrick Gilbert at ¶ 14, attached as Exhibit 16; Declaration of Lawrence Dering at ¶ 19, attached as Exhibit 13; Declaration of Anthony Hill at ¶ 6, attached as Exhibit 18; Declaration of Timothy Campbell at ¶¶ 7, 17, attached as Exhibit 7; Declaration of Myron Nelson at ¶ 11, attached as Exhibit 21; Declaration of Anthony Russell at ¶ 16, attached as Exhibit 23.

In sum, due to extreme, unmitigated heat exposure, conditions at Algoa pose a substantial risk of physical and psychological harm for Petitioners and members of the

Heat Sensitive and Solitary Confinement classes, satisfying the objective prong of the Eighth Amendment.

## II. PETITIONERS MEET THE SUBJECTIVE STANDARD

The subjective prong of the Eighth Amendment, and therefore under Article I, § 21 of the Missouri Constitution, is satisfied when officials: (i) have knowledge—either actual or inferred—that a substantial risk of serious harm exists; and (ii) fail to act reasonably to abate the risk of serious harm. *Farmer*, 511 U.S. at 837. Respondents’ knowledge and failure to act here is easily demonstrated.

### A. Respondents Know of the Substantial Risk of Serious Harm

First, the substantial risk of serious harm is obvious. *Farmer*, 511 U.S. at 847 (1994) (“a factfinder may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious”). Everyone who lives in Missouri during periods of extreme heat knows how dangerous extreme heat exposure can be. Knowledge of risk is even more clearly established though, Respondents have publicly responded to articles reporting concern about extreme heat at Algoa and its lack of air conditioning in the Kansas City Star, Jefferson City News Tribune, Columbia Missourian, the Beacon, and Missouri Independent—proof that they have been on notice of the hazardous threat heat poses to people incarcerated at Algoa. *See, e.g.* Ryan Pivoney, *Missouri has No Plans to Bring Air Conditioning to Algoa Correctional Center*, JEFFERSON CITY NEWS TRIBUNE (Aug. 25, 2022); available at <https://www.newstribune.com/news/2022/aug/25/missouri-has-no-plans-to-bring-ac-to-algoa/>.

Second, Respondent’s knowledge of the risk can be inferred from circumstantial evidence. *Ambrose v. Young*, 474 F.3d 1070, 1076–77 (8th Cir. 2007). This knowledge

may be shown by evidence that the risk is “expressly noted by prison officials in the past,” and “the circumstances suggest that the defendant-official” was exposed to that information. *Farmer*, 511 U.S. at 842 (1994). For example, the court in *Ball* noted that officials’ attempts to cool down the cells with awnings and water misting proved “subjective awareness of a substantial risk of serious harm.” 792 F.3d at 595 (5th Cir. 2015).

Here, as in *Ball*, Respondents clearly demonstrate subjective awareness. For example, they take significant action to protect themselves from extreme heat by installing window air conditioner units in staff offices at Algoa, units that are inaccessible to the incarcerated people in their custody who are left to swelter and suffer. *See* Declaration of Zachariah Bishop at ¶ 7, attached as Exhibit 8; Declaration of Timothy Campbell, at ¶ 8, attached as Exhibit 7; Declaration of Lawrence Dering at ¶ 5, attached as Exhibit 13; Declaration of Allen Fuller, at ¶ 7, attached as Exhibit 13. Respondents demonstrate further awareness by issuing extreme heat warnings or advisories whenever meteorologists warn of “extreme heat.” *See* MoDOC Sunshine Response re: Heat Advisory Policy and Procedures, attached as Exhibit 4; *see also* Declaration of Mark Vollet at ¶ 15(c), attached as Exhibit 25; Declaration of Timothy Campbell at ¶ 9; attached as Exhibit 7, at ¶ 9; Declaration of Zachariah Bishop at ¶ 9, attached as Exhibit 8. Respondents’ informal and meager heat guidelines and ad hoc practices, as explained above, further confirm their awareness of serious risks associated with the extreme heat. That Petitioners themselves have experienced health emergencies, and sought help, during periods of extreme heat makes Respondents’ awareness undeniable. Petitioner Moman, for example repeatedly vomited throughout summer 2024 due to heat strain, he visited medical, and he pled for

help remaining cool. Pet. at ¶ 180. Similarly, when Petitioner Campbell felt like he was about to lose consciousness from heat stroke, he attempted to visit medical and was simply turned away by nurses. Pet. at ¶ 168.

### **B. Respondents Knowingly Disregard Heat-Related Risks**

Despite knowing the substantial risk of serious harm posed by periods of extreme heat, Respondents are unable and unwilling to effectively mitigate these risks. They did nothing to abate the risk of heat-related illness for Petitioners Campbell and Moman when they told Algoa officials about their safety concerns related to the heat. *See* Pet. at ¶¶ 168, 180. Their experience is representative. *See* Russell Declaration, attached as Exhibit 23, at ¶ 16 (“Because medical has air conditioning, people sometimes try to find an excuse to go to medical during excessive heat. But if staff thinks you are doing that, they will write you up for an out of bounds violation”). Respondents refuse to record internal temperature and have failed to promulgate policies designed to mitigate heat-related harm, a practice that is common among other corrections departments.

Furthermore, to date, Petitioner Hamilton has filed Internal Resolution Requests and Grievances (“IRRs”), the steps of Missouri Department of Corrections formal grievance process, pleading that the extreme, impending heat this summer will severely impact their health, and requesting that Algoa take immediate steps to adequately mitigate this heat. *See* Pet. at ¶ 145. Petitioner Perry attempted to file an IRR, but was not permitted to do so by staff. *Id.* at ¶ 156. As the court found in *Ball v. LeBlanc*, these administrative remedy requests place Respondents on additional notice of the serious harm they are inflicting upon Petitioners. 792 F.3d at 595–96 (5th Cir. 2015).

Respondents’ choice to deny these IRRs without further action further demonstrates their



deliberate indifference to the serious harms Petitioners face. In short, Respondents have utterly failed to take any sort of reasonable steps to address the known threats associated with exposure to extreme heat at Algoa, satisfying the subjective prong.

### **CONCLUSION**

Absent emergency habeas relief requiring Respondents to maintain safe indoor temperatures and develop an expert-informed heat mitigation plan, people will get sick, and some may die, when the extreme heat arrives at Algoa. It is not a question of if, it is only a question of when. Petitioners respectfully request that this Court grant their emergency habeas relief, as specifically set forth below.

### **PRAYER FOR RELIEF**

A. Issue writs of habeas corpus granting Petitioners relief from their unconstitutional conditions and ordering Respondents to:

1. Develop and execute a plan, consistent with public health standards and in consultation with public health and environmental experts, that protects the health and safety of the Petitioners and class members and prevents cruel and unusual suffering from exposure to extreme heat at Algoa;
2. Maintain a safe indoor temperature between 65 to 85 degrees Fahrenheit inside each of Algoa's housing units, or enter other injunctive relief sufficient to protect the health and safety of incarcerated people at Algoa and to prevent cruel and unusual suffering from extreme heat conditions;
3. In the alternative, order release pursuant to writs of habeas corpus for Petitioners David Hamilton, Anthony Moman, and Elon Perry;

B. Permit Petitioners an opportunity to brief and argue the issues presented in this petition;

C. Afford Petitioners an opportunity to reply to any responsive pleading filed by Respondent; and

D. Grant such further relief as may be just and proper under the circumstances.

Respectfully submitted this 9th day of May, 2025.

/s/ Shubra Ohri

**Roderick & Solange MacArthur Justice Center**

Shubra Ohri, #74116

Megan Crane, #71624

Leah Fessler, #76824

Amy Malinowski, #65499

Susannah Porter Lake, #68758

906 Olive Street, Suite 420

Saint Louis, Missouri 63101

Phone: (314) 254-8540

shubra.ohri@macarthurjustice.org

Megan.Crane@macarthurjustice.org

*Attorneys for Petitioners*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9th of May, 2025, a true and correct copy of the foregoing petition, suggestions, and attached exhibits were electronically filed using the Court's online case filing system, and that a copy of the petition, suggestions, and exhibits were also sent to the Office of the Missouri Attorney General via email at attorney.general@ago.gov.

/s/ Shubra Ohri

One of Petitioner's Attorneys

**IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI**

DAVID HAMILTON, ELON PERRY,  
ANTHONY MOMAN, TIMOTHY  
CAMPBELL, RICHARD KAY, and  
JERAMY TAYLOR, Individually and on  
behalf of a class of similarly situated  
persons,

Petitioners,

v.

TREVOR FOLEY, in his official capacity  
as Director of the Missouri Department of  
Corrections (“MoDOC”), MYLES STRID,  
in his official capacity as Director of  
Division of Adult Institutions, and CRAIG  
CRANE, in his official capacity as warden  
of Algoa Correctional Center (“Algoa”),

Respondents.

Case No. \_\_\_\_\_

Division: \_\_\_\_\_

**Index of Exhibits for Writ of Habeas**

Exhibit 1: Expert Report of Susi Vassallo, M.D.

Exhibit 2: Expert Report of Dr. Ufuoma Ovienmhada

Exhibit 3: Algoa Heat Guidelines

Exhibit 4: MoDoc Sunshine Response Regarding Policy and Procedure for Heat Mitigation

Exhibit 5: MoDoc Sunshine Response Regarding Temperature Checks

Exhibit 6: Declaration of Kenneth Barrett

Exhibit 7: Declaration of Timothy Campbell

Exhibit 8: Declaration of Zachariah Bishop

Exhibit 9: Declaration of John Whitney

Exhibit 10: Declaration of Mitchell Warren

Exhibit 11: Declaration of Jeffrey Constantinou

Exhibit 12: Declaration of Robert Crowley

Exhibit 13: Declaration of Lawrence Dering

Exhibit 14: Declaration of Jeffrey Lyon

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Exhibit 22: Declaration of Willis Penrose

Exhibit 23: Declaration of Anthony Russell

Exhibit 24: Declaration of Matthew Smith

Exhibit 25: Declaration of Mark Vollet

Exhibit 26: Declaration of Donald Bowen

Exhibit 27: Declaration of Hayden Baugh

Exhibit 28: Declaration of Leah Fessler