

3. In order to be present at the evidentiary hearings, the Court will normally issue a Transport Order to the Office of the Brevard County Sherriff and the Department of Corrections where the Office of the Brevard County Sheriff will make necessary arrangements for my transport.

4. In making the necessary arrangements for transport, the Office of the Brevard County Sherriff will normally contract with a private transport company to transport me to the Brevard County Jail.

5. However, after considering the below facts, caselaw, and arguments, I respectfully request this Court to issue a transport order preventing the Office of the Brevard County Sheriff from utilizing the private transport company, requiring the Office of the Brevard County Sherriff to transport me in their own vehicle while in compliance with law.

ARGUMENT

The conditions while being transported by a private transport company are inhumane. There are two vehicle the transport company uses; one is a van, the other is a small bus. Both of which violate clearly established law and the Eighth Amendment of the United States Constitution. Florida Statute § 944.597(c) provides: “That the transport company shall adhere to standards which provide humane treatment of prisoners while in the custody of the transport company.” The violation of this law is done in two ways: (1) inadequate access to restrooms; and (2) a very serious issue of over crowdedness.

A standard trip, at least for me, in a transport vehicle is a minimum of 12-18 hours in the transport van, and normally 3 days in the transport bus. The vehicles will stop approximately every 10 hours for restroom breaks.

This inadequate access to the restrooms have caused serious issues to me and others while being transported. It is obviously very painful having to keep yourself from going to the restroom when you have to go and none are available. I have been virtually stacked on top of other transportees who have defecated, urinated, and vomited on themselves and the rest of us as a result of the transport vehicle not stopping for a restroom despite repeated requests. Then, there is the issue of having to sit in such filth for the remainder of the trip. The overcrowdedness makes all of this much worse.

To give an idea, the transport van is a full size van with a box built inside. Within this box, there is a divider wall down the center running from front to back with metal bench seats on both outer walls of the inside of the box facing toward the divider. These boxes are designed to seat 4 people on each side, shoulder to shoulder with no room between transportees.

On every transport I have been on, I have been shackled and cuffed with chain around my waste holding my hands down, and a chain running from my feet to my hands. Then a black box is attached keeping me from moving my arm. My knees are drawn up and pressed against the divider and with four (4) people to a side there is very little one can do to adjust himself. However, 5 people have always been forced to ride to a side which means that we literally half sitting on top of each other. I have to ride like this for up to 10 hours needing to use the restroom and a minimum of 12-18 hours before being let off at my destination. This alone is bad enough, but combine it with my Asthma and Claustrophobia and it is a nightmare.

The damage that I suffer as a result of each transport is, severe headaches, stiff neck, sore joints, severe bruising where the shackles, cuffs, and chains are attached on me, this includes heavily swollen ankles and wrists so bad that my watch will not fit around my wrist. These

conditions last at least 2 weeks after each transport. And God forbid I get transported back and forth within a week like last time.

I have considered filing for an injunction and/or civil rights action for the violation of the Eighth Amendment and statutory law in order to prevent from being transport via private transport company, because it is well settled that the Eighth Amendment govern the conditions under which convicted prisoners are confined and the treatment they receive while in prison. *Farmer v. Brennan*, 511 U.S. 825, 832, 114 S.Ct. 1970, 1976, 128 L.Ed.2d 811 (1994). Although this Amendment does not require comfortable prisons, it *prohibits inhumane* ones. *Id.* A prisoner “need not await a tragic event” and to be harmed before asking a court to intervene, though he must show that a condition “pose[s] an unreasonable risk ... to his future health or safety and deprive[s] [him] of the minimal civilized measure of life’s necessities.” *Chandler v. Crosby*, 379 F.3d 1278, 1289-90 (11th Cir. 2004). Stated differently, the prisoner must show a condition that “today’s society chooses [not] to tolerate” *Id.* at 1290.

Both conditions stated herein constitute a violation of the Eighth Amendment. For example, see *Palmer v. Johnson*, 193 F.3d 346, 352 (5th Cir. 1999) (holding inadequate access to toilet facilities for prisoners in a small area violates the Eighth Amendment); and, *Tillery v. Owens*, 907 F.2d 418, 427-28 (3d Cir. 1990) (holding that overcrowding violates the Eighth Amendment).

The issuance of an injunction would also prove to be an adequate remedy since I can show a likelihood of immediate irreparable injury. See e.g. *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996) (stating that there is a “presumption of irreparable injury that flows from a violation of constitutional rights.”) and *Ross v. Meese*, 818 F.2d 1132, 1135 (4th Cir. 1987) (noting that even a temporary deprivation of a constitutional right amounts to irreparable harm) .

Or, the issuance of injunction could be proper because the private transport company is violating statutory law as well as my constitutional rights. That statutory law being § 944.597(c) where the company is to “provide humane treatment of prisoners.” See e.g. *Hialeah v. BEG Horse Transp. Inc.*, 368 So.2d 930 (Fla. 3d DCA 1979) (where the Court issued an injunction on the transport company because it was transporting in violation of a Florida Statute).

However, in order to preserve judicial economy and save its resources for other matters, I bring this situation to this Court’s attention within the instant motion, not in a petition for injunction or civil action because I am not requesting anything other than a transport order preventing the use of a private transport company of my, hopefully, last trip to county jail to resolve my criminal case. My only desire is to not go through such an inhumane situation again, not to sue or cause other inconvenience to others.

Wherefore, I respectfully pray this Court will enter an order to transport me to the next scheduled hearings on my recently filed motions, and include in this order a preventive order directed to the Office of the Brevard County Sherriff preventing them from contracting my transport with a private transport company, and ordering them to providing my transport in a humane manner in one of their own vehicles.

Respectfully submitted on this ____ day of _____ 2012.

CHRISTOPHER J. WOOD, pro se
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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that I placed an original and true and correct copies of this document in the hands of Mailroom Personnel, at Franklin Correctional Institution on this 17th day of July 2012 for mailing via prepaid first class United States mail to: **(1)** The Clerk of Court, 400 South St., 2nd Floor, P. O. Box 999, Titusville, Florida 32781; **(2)** The Office of the State's Attorney, 400 South St., Titusville, Florida 32780; **(3)** The Honorable Charles M. Holcomb, the Moore Justice Center, 2825 Judge Fran Jamieson Way, Viera, Florida 32940; and **(4)** The Honorable Charles M. Holcomb, P.O. Box 236564, Cocoa, Florida 32923.



CHRISTOPHER J. WOOD, pro se