

The Honorable Benjamin H. Settle

WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

THE GEO GROUP, INC.,

Plaintiff,

v.

JAY R. INSLEE, in his official capacity as  
Governor of the State of Washington; ROBERT  
W. FERGUSON, in his official capacity as  
Attorney General of the State of Washington,

Defendants.

No. 3:23-cv-05626

GEO GROUP, INC.'S RESPONSE TO  
DEFENDANTS'  
CROSS-MOTION FOR  
LEAVE TO FILE UPDATED  
NANTO DECLARATION AND REPLY IN  
SUPPORT OF IT'S MOTION FOR LEAVE  
TO FILE UPDATED DECLARATION OF  
BRUCE SCOTT

Note on Motion Calendar: November 8,  
2023

The GEO Group, Inc. ("GEO") submits this Reply in support of its Motion to File an Updated Declaration in support of its Motion for a Preliminary Injunction ("GEO's Motion"), and this Response to the Defendants' Cross Motion for Leave to File an Updated Nanto Declaration ("Cross-Motion"). Since the filing of GEO's Motion, the Washington Department of Health ("DOH") has made another attempt on November 27, 2023 to gain access to the Northwest ICE Processing Center ("NWIPC") pursuant to House Bill 1470 ("HB 1470"). A Second Updated Declaration of Bruce Scott is attached to this Reply and Response to reflect these facts that are relevant to motions pending before the Court.

Defendants' "Response" does not oppose GEO's Motion, but instead presents misleading and inaccurate statements regarding the Washington Department of Health's ("DOH") repeated attempts to gain access to the Facility and GEO's Complaint, while also presenting untimely

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arguments regarding standing. (*See* Dkt. #29 pp. 1-2).

First, Defendants incorrectly argue that GEO's complaint only "takes issue with Sections 2 and 4 of HB 1470." (Dkt. #29 p.1). This is false. GEO's Complaint clearly seeks declaratory relief finding all of House Bill 1470 is unconstitutional, and a preliminary and permanent injunction enjoining Defendants from the enforcement of any portions of House Bill 1470. *See* Dkt. #1, ECF 1 ¶¶ 73, 83, 95, 99, 106 & pp. 27-28.

Similarly, Defendants incorrectly claim that Facility Administrator "Mr. Scott twice turned away the DOH inspectors under the guise of ongoing litigation, even though this Court has not issued any preliminary injunction enjoining the State from conducting inspections as authorized under HB 1470." *See* Dkt. #29 pp. 1. This is incorrect. In an effort to correct this misperception, Mr. Scott's Second Updated Declaration clarifies that ICE directed GEO to deny DOH access to the Facility on November 14, 2023. Similarly, Mr. Scott's Second Updated Declaration notes that ICE directed GEO to deny DOH access to the Facility on November 27, 2023.

Finally, Defendants Cross-Motion presents flawed arguments regarding standing. Defendants' attempt in its Cross-Motion to reargue the substance of the standing issue should be rejected as untimely. Defendants' also mischaracterize GEO's motion. GEO's Motion simply noted that DOH's attempts to gain access to the Facility and investigate complaints under HB 1470 were relevant to questions raised by Defendants regarding standing—but GEO's Motion did not argue the standing issue. In their Motion to Dismiss, Defendants represented to the Court that "GEO cannot meet its burden of establishing standing because it cannot show that harm is 'certainly impending' and that "GEO has not alleged that any official has made a 'specific threat' of initiating proceedings under HB 1470 against it." ECF 17 at 7-8. Likewise, in its Opposition to Plaintiff's Motion for Preliminary Injunction Defendant asserts "GEO lacks pre-enforcement standing and this case is not prudentially ripe." ECF 18 at 18. GEO properly addressed and refuted these arguments in its prior briefing, but did not argue these points in GEO's Motion. *See* GEO's Reply in Support of The GEO Group, Inc.'s Mot. for Prelim. J. and Mem. of Law in Support, Dkt.

22 (August 11, 2023); THE GEO GROUP INC.'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS, Dkt. 24 pp. 2-4. Defendants' do not get to reargue the substance of the standing issues here.

Mr. Scott's Second Updated Declaration reflects the fact that on multiple occasions DOH representatives demanded access to the NWIPC to investigate complaints about alleged violations of HB 1470. Because this information is relevant to this Court consideration of the pending motions, GEO seeks leave to file the attached SECOND UPDATED DECLARATION OF BRUCE SCOTT IN SUPPORT OF THE GEO GROUP'S MOTION FOR PRELIMINARY INJUNCTION, attached hereto as Exhibit A.

DATED this 8th day of December, 2023.

I certify that this memorandum contains 614 words, in compliance with the Local Civil Rules.

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