

Winston & Strawn Houston Office Team Secures Groundbreaking Permanent Injunction Requiring COVID-19 Testing & Increased Safety Measures for Geriatric Prisoners

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On September 29, a team of pro bono lawyers from Winston & Strawn and Edwards Law, secured the country's first permanent injunction requiring a prison to provide robust COVID-19 protections—including testing all inmates on a weekly basis—for inmates at the Wallace Pack Unit (a geriatric prison in Texas). The team was led by Winston Partners Denise Scofield, Michael Murphy, Of Counsel Brandon Duke, as well as Jeff Edwards from Edwards Law. Winston's full team included Associate Attorney Kyle Terao.

To date, this is the longest-running pro bono trial Winston & Strawn has ever conducted.

In addition to more frequent testing, the case, *Valentine v. Collier*, insures that vulnerable elderly and disabled prisoners will be granted more access to hand soap (and hand sanitizer for the mobility-impaired), masks, and other PPE. The prison's shared surfaces will be more frequently and thoroughly cleaned, and the prison will enforce social distancing for inmates and staff.

The case resulted in two Fifth Circuit rulings and an eight-page statement from the Supreme Court. The latest decision comes after a 4-week trial conducted in Houston federal court before U.S. District Judge Keith P. Ellison. The district court found the prison inmates were more credible than the warden and the executive officials at the Texas Department of Criminal Justice (TDCJ), the defendants were deliberately indifferent to the risks and harm to the inmates, and that their conduct violated both the Eighth Amendment and the Americans with Disabilities Act.

Informed of the trial court's decision, one of the represented inmates said "we don't have advocates in here. We're really thankful we had you for this."

After a preliminary injunction was stayed by the Fifth Circuit pending appeal, that ruling was appealed and Justice Sotomayor (joined by Justice Ginsburg) issued a statement to "highlight the disturbing allegations presented" and emphasize that during the COVID-19 pandemic "inmates everywhere have been rendered vulnerable and often powerless to protect themselves from harm."

Describing the impact of this landmark decision, Michael Murphy explained "all people deserve basic and realistic protections from the risks of serious illness or death stemming from COVID-19. They can't be ignored simply because they are in prison."

The case has been one of the most closely watched and active prison litigations during the COVID-19 pandemic, and has been widely covered in [*The New York Times*](#), [*Law360*](#), [*Texas Tribune*](#) and [*Houston Chronicle*](#). The team was also recognized as a [*National Law Journal Crisis Leadership Trailblazer*](#) for their work on this case and in [*The American Lawyer*](#)'s Litigator of the Week column.

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