

STATE OF MAINE

SUPREME JUDICIAL COURT
Docket No. SJC-23-2

ANGELINA DUBE PETERSON et al.,

Petitioners

v.

PETER A. JOHNSON, in his capacity as
AROOSTOOK COUNTY SHERIFF,

Respondent

**ORDER ON REQUEST FOR
WRIT OF HABEAS CORPUS**

and

STATE OF MAINE,

Party in Interest

Attorneys Rory McNamara and Robert Ruffner filed this petition for writ of habeas corpus (Petition) on September 20, 2023, pursuant to 14 M.R.S. §§ 5501-5546, “in the name of the State of Maine” and on behalf of Angela Dube Peterson¹ and “[a]n unknown number of persons [who] are currently in jail or otherwise face restrictions on their liberty while their criminal cases pend in Maine state courts, despite the fact that, though they are entitled to it, these individuals have not been provided counsel to represent them.” Pet. at 1.

The Petition names the following as respondents: Peter A. Johnson, Aroostook County Sheriff, and William L. King, York County Sheriff, in their

¹ Since the filing of this action, Peterson has been assigned counsel and released from custody.

official capacities; “Unknown Jailers, all in their official capacities”; Hon. Sarah Gilbert and Hon. Carrie Linthicum, Judges of the Maine District Court, in their official capacities; and “Unknown Judges and Justices of the Maine Unified Criminal Docket, all in their official capacities.” *Id.*

The Petition requests, among other things, that this Court “should expeditiously order discovery of the data necessary to identify persons entitled to relief” as requested therein, “convene any evidentiary hearing necessary to decide this petition on its merits,” “order that the Respondents immediately release from imprisonment those persons subject to relief,” and “order that the Respondents immediately vacate any liberty restrictions – including bail conditions of any degree – imposed against person subject to relief.” *Id.* at 10-11.

An initial status hearing was held on October 16, 2023, following which an amended petition for writ of habeas corpus (Amended Petition) was filed. The Amended Petition “incorporate[s] none of their prior allegations or arguments unless specifically noted”; withdraws all claims against the judges, named and unnamed; identifies eight additional individuals on whose behalf relief is sought;² asserts “next friend” standing by Attorneys McNamara and

² The eight additional detainees named in the Amended Petition are: Joseph Maile, Tiffany Soucy, Benjamin Stewart, Bruce Hoyt, Jr., William Ofria, Randy Lavoie, Christopher Hecker, and Timothy York. As of the November 2 status hearing, five of the eight—Maile, Soucy, Stewart, Hoyt, and Hecker—have

Ruffner (who therefore claim to be the “petitioners”) on behalf of the named individuals as well as any other person “imprisoned or restrained” of his or her liberty; and seeks the same relief prayed for in the initial Petition as well as a judgment declaring pursuant to 14 M.R.S. § 5953 that “[a]nyone entitled to counsel pursuant to a Maine state-court criminal prosecution pending without conviction, but who has not received the actual assistance of counsel other than so-called ‘lawyers for the day,’ shall not be subject to imprisonment greater than seven days after such an entitlement has inhered.” Am. Pet. at 12-13.

All Respondents filed responses and legal memoranda. Respondents King and Johnson filed motions to dismiss.³ After having received and reviewed the memoranda and other materials filed, and after hearing from the parties at a second status hearing on November 2, 2023, and consistent with the Court’s rulings from the bench at that time, it is hereby ORDERED as follows.

1. Collectively, Respondents assert that Attorneys McNamara and Ruffner lack standing as petitioners to bring this action on behalf of named and

been assigned counsel. As noted above, Ofria, Lavoie, and York remain in custody at the Aroostook County Jail and have yet to be assigned counsel.

³ Sheriff Johnson argues that he should be dismissed because he is “merely a custodian” and has no authority to release the detainees; the Amended Petition fails to allege particularized facts regarding the unnamed detainees; the habeas statute, 14 M.R.S. § 5512(1), is unavailable to persons suspected of felonies being held on pretrial detention; and the “discovery” sought by Petitioners is unavailable in a habeas action. Sheriff King seeks dismissal on several grounds as well, including that none of the named detainees are in his custody. The Attorney General seeks dismissal of judges and justices on the ground that the Amended Petition withdrew all claims against them.

unnamed individuals. All parties agree, however, that the real parties in interest in this action are the individuals who have been criminally charged, made an initial appearance, remain in custody, and have yet to be assigned counsel.

2. Accordingly, the Court hereby designates the named detainees in the Petition and Amended Petition as the “Petitioners” in this matter, and therefore need not address the issue of standing of Attorneys McNamara and Ruffner.
3. As of the November 2, 2023, hearing, of the nine named individuals in this matter (Petitioners) only William Ofria, Randy Lavoie, and Timothy York remain in custody and have not been appointed counsel. Ofria, Lavoie, and York are incarcerated at the Aroostook County Jail. *See supra* n.2.
4. The Court hereby appoints Attorney McNamara and Attorney Ruffner to represent Petitioners William Ofria, Randy Lavoie, and Timothy York for purposes of this proceeding.
5. The request for an evidentiary hearing is granted with respect to William Ofria, Randy Lavoie, and Timothy York.
6. Respondent Peter A. Johnson, currently the custodian of William Ofria, Randy Lavoie, and Timothy York, shall produce them for hearing, and

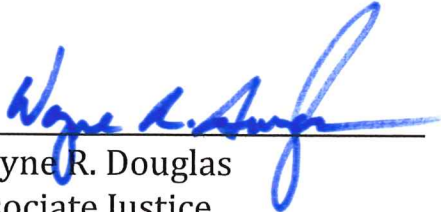
they shall appear, via Zoom at the Cumberland County Courthouse, 142 Federal Street in Portland, for an evidentiary hearing on November 14, 2023, at 1:30 p.m.

7. Any other witnesses may also appear for said hearing via Zoom. The parties shall exchange witness lists, and provide the Court with copies, no later than 4:00 p.m. on November 9, 2023.
8. Respondent Peter A. Johnson's motion to dismiss is denied because he remains the current custodian of Ofria, Lavoie, and York.
9. Respondent William L. King's motion to dismiss is granted, and he is dismissed from this action. None of the remaining named Petitioners are in the custody of the York County Sheriff.
10. Respondents Hon. Sarah Gilbert, Hon. Carrie Linthicum, and "unknown judges and justices of the Maine Unified Criminal Docket" are dismissed by agreement of the parties.
11. Although this action was initially brought on behalf of the Petitioners "in the name of the State of Maine" pursuant to M.R. Civ. P. 17(a) ("[W]hen a statute so provides, an action for the use or benefit of another shall be brought in the name of the State of Maine."), the habeas corpus statute does not provide that actions may be brought for the benefit of others in the name of the State of Maine. Title 14 M.R.S.

§ 5522 does provide, however, that a petitioner “imprisoned on any criminal accusation” shall not be released “until sufficient notice has been given to the Attorney General or other attorney for the State that he may appear and object, if he thinks fit.” Here, the Attorney General has requested to remain in the case as an interested party pursuant to section 5522. *See also* 5 M.R.S. § 191(3) (“The Attorney General or a deputy, assistant or staff attorney shall appear for the State . . . in all civil actions and proceedings in which the State is a party or interested . . .”). The request is granted over objection of Petitioners; and the State of Maine is designated as a party in interest and shall appear through counsel at the November 14, 2023, hearing.

12. The Court defers final ruling at this time on any other issues presented.

Dated: November 6, 2023



Wayne R. Douglas
Associate Justice
Maine Supreme Judicial Court

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