

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF INDIANA  
TERRE HAUTE DIVISION**

PATRICK R. SMITH and BRANDON S. HOLM,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 2:20-cv-00630-JMS-DLP
	)	
WILLIAM P. BARR, et al,	)	
	)	
Defendants.	)	

DECLARATION OF RICK WINTER

I, Rick Winter, do hereby declare and state as follows:

1. I am employed by the United States Department of Justice, Federal Bureau of Prisons (“BOP”), as Regional Counsel for the BOP’s North Central Region. I have held this position since October 2016. I have been employed by the BOP since 1994. I am also involved in functions related to the BOP’s role in effectuating executions.
2. The statements I make hereinafter are made on the basis of my review of the official files and records of the BOP, my own personal knowledge, or on the basis of information acquired by me through the performance of my official duties.
3. I am aware that Yusuf Ahmed Nur provided a declaration regarding the execution of Orlando Hall in the above referenced lawsuit. [Dkt 29-6] Specifically Mr. Nur, Hall’s Minister of Record (MOR), claims staff members inside the execution facility were not wearing masks.
4. I witnessed the execution on November 19, 2020, from a room adjacent to the execution room. I could see the entirety of the execution process through a large window which was not covered at any point. The audio from the execution room was broadcast to the room I was in throughout the entire process.
5. In his declaration, Mr. Nur claims that the two executioners were not wearing masks. Dkt

29-6 ¶ 6. From the context of the statement, it appears he is referring to the United States Marshals' representative, and the BOP's government official in the execution room.

6. I observed both the United States Marshals' representative, and the BOP's government official throughout the execution process. I saw them to both be wearing masks up until the point in the execution process when the curtains were raised for witnesses to be able to view the proceeding.
7. When the curtains raised, the Marshals' representative and BOP official needed to communicate clearly to each other and to the witnesses in the various witness rooms. Specifically, the BOP official needed to ask Hall if he wished to make a last statement, read his sentencing information aloud, and ask the U.S. Marshals' representative to check for impediments to the execution. The U.S. Marshals' representative asked, via phone, whether there were impediments to proceed, and communicated the response to the BOP official. Given the critical importance of these communications, both individuals removed their masks for a brief period of time so that they could clearly communicate. As soon as the execution was completed and time of death announced, both individuals put their masks back on.
8. Incident to the November execution, six members of the BOP execution took COVID-19 tests at Terre Haute. All six team members who tested at Terre Haute received negative results. However, additional team members tested positive for COVID-19, upon returning to their homes. Specifically, six team members tested positive within approximately one week from their return home. An additional two staff members tested positive more than one week after returning home.
9. In deciding when to return to work, these individuals followed the applicable Center for Disease Control (CDC) guidelines. The CDC advises that individuals who had COVID-19 can be around others after 10 days since symptoms first appeared and 24 hours with no

fever without the use of fever-reducing medications, and if other symptoms of COVID-19 are improving. For individuals who had COVID-19, but were asymptomatic, the CDC advises they can be around others after ten days have passed since their positive test. See <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/end-home-isolation.html>.

Accordingly, five of the team members who tested positive after the November 19 execution plan to travel to Terre Haute for the upcoming December executions. One additional team member could return to work in accordance with CDC guidelines, but cannot attend the December executions for personal reasons. The two team members who tested positive more recently do not plan to attend the December executions.

I declare, under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct. Executed this 7th day of December, 2020.

**RICHARD  
WINTER**

Digitally signed by  
RICHARD WINTER  
Date: 2020.12.07  
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Rick Winter  
Federal Bureau of Prisons