CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing document will be served on

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA

ASHLEY DIAMOND,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 5:15-cv-00050-MTT-CHW
	)	
BRIAN OWENS, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

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INTRODUCTION

This case concerns the refusal of the Georgia Department of Corrections ("GDC"), by and through the named Defendants and their agents to provide Plaintiff, a transgender woman with gender dysphoria, urgently needed medical care. Despite being aware of her gender dysphoria diagnosis, seventeen-year history of hormone treatment, and ongoing need for care, Defendants have refused Plaintiff medically necessary care. Defendants have also maintained an unconstitutional "freeze frame policy" that categorically prohibits prison healthcare officials from initiating gender dysphoria treatment to inmates in need. Defendants have also subjected Plaintiff to punishment for expressing her female gender identity and "pretending to be a woman," in deliberate indifference to her serious medical needs.

Plaintiff seeks a preliminary injunction because she is suffering severe and irreparable physical and psychological harm, based on Defendants' refusal to provide care. Plaintiff's body has been violently transformed by the withdrawal of hormone therapy; she has effectively been forced to transition back to a man from a woman. Plaintiff has also attempted suicide, self-harm, and auto-castration multiple times, and continues to experience a compulsion to castrate herself and end her life — harms that would be remedied with proper gender dysphoria treatment.

Because Plaintiff remains at a substantial risk of irreparable harm, including ongoing mental anguish, bodily injury or death, Plaintiff moves for a preliminary injunction (1) enjoining Defendants from enforcing the policies that operate as a moving force behind their constitutional violations; and (2) requiring Defendants to provide Plaintiff with medically adequate treatment for her gender dysphoria, including, but not limited to, hormone therapy and allowing Plaintiff to express her female gender identity through grooming, pronoun use, and dress.

FACTS

I. Background on Gender Dysphoria

Gender dysphoria, also known as gender identity disorder ("GID") or transsexualism, is a condition in which a person's gender identity — innate sense of being male or female — differs from the sex assigned at birth. See Declaration of Dr. Randi C. Ettner ("Ettner Decl.") ¶¶ 13-14. Gender dysphoria appears in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition ("DSM-V"). Id. Individuals with untreated gender dysphoria experience clinically significant depression, anxiety, and mental impairment, and, when left untreated, additional serious medical problems including suicidality and the compulsion to engage in self-castration and self-harm. Id. ¶¶ 15-18. The clinically accepted standards for the treatment of gender dysphoria are the World Professional Association for Transgender Health's Standards of Care for the

The Standards of Care also recognize that hormone therapy, in particular, is fundamental to the treatment of gender dysphoria, and that the cessation of hormone treatment leads to significant deterioration and impairment in patients, including a high likelihood of depression, suicide ideation, and surgical self-treatment by auto-castration (removal of the testicles) or auto-penectomy (removal of the penis). Id. ¶¶ 22-27, 66.

II. Plaintiff's Gender Dysphoria and History of Treatment

Plaintiff has experienced gender dysphoria since childhood. Diamond Verified Complaint ("Compl.") ¶¶ 36-37. After attempting suicide and being hospitalized at the age of fifteen, Plaintiff began to receive treatment for her gender dysphoria. Id. ¶¶ 38-39. Plaintiff began living as a woman full time and adopted a female gender presentation, female pronouns, and feminine dress. Id. Plaintiff also began taking feminizing hormones, which caused her to develop breasts, soft skin, and other female secondary sex characteristics, while suppressing the development of male sex characteristics such as facial hair. Id. ¶ 40. Hormone therapy and female gender expression are the medically required treatments for Plaintiff's gender dysphoria — treatments Plaintiff has received for almost half her life — and together they provide her clinically significant relief from her gender dysphoria. Id. ¶ 41; see also Ettner Decl. ¶¶ 48-49.

III. Plaintiff's Custody in GDC and GDC's Policies on Gender Dysphoria Treatment

Plaintiff entered GDC custody on March 27, 2012 with full breasts and a feminine voice, shape, and appearance. Compl. ¶¶ 42-44. Plaintiff informed each of the Defendants that she was a transgender woman with gender dysphoria, discussed her history of medical care, and requested ongoing treatment. Id. However, Plaintiff's hormone therapy was terminated for the first time in 17 years, and her female garments were confiscated. Id. ¶ 45.

A. GDC Personnel Initially Confirm Plaintiff's Need for Hormone Therapy

Plaintiff has repeatedly been diagnosed with gender dysphoria by GDC personnel, who have noted her need for continued treatment, and the fact that the withdrawal of care was causing Plaintiff to attempt suicide, auto-castration, auto-penectomy, and other forms of self-harm. Compl. ¶¶ 44, 73-76, 95-96, 116-17; Ettner Decl. ¶¶ 47, 63. In early 2013, Plaintiff's need for hormone therapy and access to female grooming standards as medically necessary care was also confirmed by Dr. Steven Sloan, a GDC psychologist qualified and experienced in the treatment of gender dysphoria. Compl. ¶¶ 75-76. Dr. Sloan performed an individual assessment of Plaintiff and concluded that hormone therapy and female gender expression were the medically necessary treatments under the Standards of Care. Id. Dr. Sloan also concluded that GDC's failure to provide these treatments was jeopardizing Plaintiff's physical and psychological health. Id. Dr. Sloan recommended that GDC resume hormone therapy as treatment for Plaintiff. Id.

The treatment of gender dysphoria within GDC is guided by the Standard Operating Procedure on the Management of Transsexuals ("Transgender SOP" or "Freeze Frame Policy"). Id. ¶ 46. The Transgender SOP recognizes that gender dysphoria is a serious medical need requiring the treatments outlined by the Standards of Care — including hormone therapy, changes in gender role and expression, and at times sex reassignment surgery. Id. ¶ 47; Declaration of A. Chinyere Ezie ("Ezie Decl.") Ex. A. However, as a "freeze frame policy," the policy deviates from the Standards of Care by preventing healthcare personnel from initiating treatment they believe in their judgment to be medically necessary unless (1) inmates are identified during diagnostic intake screenings; and (2) a history of prior treatment can be shown. Compl. ¶¶ 48-50; Ezie Decl. Ex. A. Pursuant to this policy, Dr. Sloan's recommendation that Plaintiff receive hormone therapy as medically necessary care was rejected by Defendant Lewis and Plaintiff was transferred out of Dr. Sloan's care. Compl. ¶ 76.

B. Defendants Repeatedly Refuse to Provide Plaintiff Medically Necessary Care

Plaintiff was next placed at a GDC facility called Rutledge State Prison, and Rutledge personnel received records detailing Plaintiff's gender dysphoria diagnosis, history of hormone treatment, past attempts at self-harm, and requests for ongoing care. Compl. ¶¶ 77-78. Plaintiff also filed petitions regarding her need for medical treatment and eventually met with Defendants Thompson and Silver, GDC healthcare providers, with whom she discussed her 17-year history of receiving hormone therapy, Dr. Sloan's assessment, and her current condition. Id. ¶¶ 79-80.

Defendants Silver and Thompson told Plaintiff they were not qualified in the treatment of gender dysphoria, but denied her requests for hormone therapy without referring her for evaluation by a qualified professional. Id. ¶ 81. Instead, Plaintiff was informed that she forfeited

"pretending to be a woman," and then returned to solitary or ten more days when she was visited by attorneys who learned of her mistreatment. Id. ¶¶ 88-89.

When Defendant Hatcher visited Plaintiff in solitary confinement, Plaintiff explained that she was not simply "pretending to be a woman," but had serious medical needs requiring treatment, and was suicidal based on the denial of care. Id. ¶ 89. Defendant Hatcher nonetheless continued to punish Plaintiff for her female gender identity and refused to refer her for treatment. Id. ¶ 90. Distraught, Plaintiff attempted to remove her penis and end her life and was hospitalized on an emergency basis. Id.; Ezie Decl. Ex. D. Thereafter, Defendant Lewis wrote to inform Plaintiff that she had reviewed the actions of the GDC personnel who refused to provide her gender dysphoria treatment, and determined that they handled matters appropriately. Compl. ¶ 91; Ezie Decl. Ex. E.

On December 31, 2013, Plaintiff was transferred to a GDC facility called Valdosta State Prison. Compl. ¶ 92. Upon her arrival, GDC personnel received records detailing Plaintiff's medical history, including her gender dysphoria diagnosis and need for medical treatment. Id. Plaintiff requested an appointment with GDC healthcare staff regarding her medical condition and need to resume treatment. Id. ¶ 95. Plaintiff was evaluated by Drs. Raymond Moody and

100-04; Ezie Decl. Exs. F, G. Pl

"being forced to transform from a woman back to a man" as a result of her continued denial of medical care. Id. In August and September 2014, Plaintiff was also evaluated by GDC healthcare personnel who noted that Plaintiff's condition was deteriorating, that Plaintiff was experiencing physiological side effects from the withdrawal of hormones, manifesting hopelessness, and engaging in further attempts at self-castration and self harm. Id. ¶ 117. The professionals noted that Plaintiff had a history of hormone therapy and was requesting ongoing treatment, but stated that hormone therapy was not being provided to Plaintiff because Defendants Lewis and Owens had refused to authorize it. Id.

In recent months, Dr. Sloan has reevaluated Plaintiff and renewed his concerns about the negative effect of GDC's failure to provide gender dysphoria treatment. Ezie Decl. Ex. I. Dr. Sloan noted that suicide is "a persistent thought" for Plaintiff, and that she is once again binding her testicles, in an attempt to castrate herself. Id. Dr. Sloan also repeated his recommendation that Plaintiff receive hormone therapy in accordance with the Standards of Care. Id. However, Dr. Sloan's treatment recommendations have once again been ignored.

In January 2015, Plaintiff was assessed by Dr. Randi C. Ettner, a forensic psychologist who is an expert in the diagnosis and treatment of gender dysphor

67. Dr. Ettner concluded that unless hormone therapy for Plaintiff was resumed, Plaintiff would stand an extremely high risk of continued decompensation and suicide. Id. ¶¶ 67-75. Dr. Ettner

"The Eighth Amendment's prohibition against cruel and unusual punishments protects a prisoner from deliberate indifference to serious medical needs." Kuhne v. Fla. Dep't of Corr., 745 F.3d 1091, 1094 (11th Cir. 2014) (citing Estelle v. Gamble, 429 U.S. 97, 104 (1976)).

of fact subject to demonstration in the usual ways, including inference from circumstantial evidence." Farmer v. Brennan, 511 U.S. 825, 842 (1994). Here, the record is replete with evidence that Defendants had actual knowledge of Plaintiff's gender dysphoria, suicidality, and attempts at self-harm, need for hormone treatment, and her substantial risk of continued harm if medical treatment was withheld. Compl. ¶¶ 42-44, 73-76, 95-97, 103-04, 107-10, 116-18; Ezie Decl. Ex. D. Defendants knew that gender dyspho

defendants were aware of his HIV and hepatitis diagnosis (“to completely withdrew the prescribed treatment”); Estelle, 429 U.S. at 104-05 (prison officials show deliberate indifference by “intentionally denying or delaying access to medical care”); H.C. v. Jarrard, 786 F.2d 1080, 1086 (11th Cir. 1986) (officials sh

429 U.S. at 104-05).

b. Defendants Maintained an Unconstitutional Freeze Frame Policy that Disregards Individualized Medical Judgment

In refusing to provide Plaintiff medically necessary care, Defendants also enforced a Freeze Frame Policy that unconstitutionally forecloses gender dysphoria care to certain inmates without regard to their medical needs. C

Eighth Amendment); Allard v. Gomez, 9 F. App'x 793, 795 (9th Cir. 2001) (blanket rule restricting hormone therapy violates Eighth Amendment); Barrett v. Coplan, 292 F. Supp. 2d 281, 286 (D.N.H. 2003) (same).

GDC's Freeze Frame Policy likewise is constitutionally infirm because it forbids the initiation of hormone treatment even where, as here, it is medically indicated. Ettner Decl. ¶¶ 48-49; Ezie Decl. Ex. I. As this Court previously held, the line that the Freeze Frame Policy attempts to draw — between (1) inmates with gender dysphoria, identified during their intake health screening, who received medically-supervised hormone therapy prior to their incarceration, and (2) everyone else — is not defensible. See Lynch v. Lewis, No. 7:14-CV-24

910-11; accord Estelle, 429 U.S. at 103-06. “Deliberate indifference may be established by a showing of grossly inadequate care as well as by a decision to take an easier but less efficacious course of treatment,” Brown, 387 F.3d at 1351 (citation omitted). Here, counseling and anti-psychotic medications are grossly inadequate and ineffective treatments for Plaintiff’s gender dysphoria — according to experts, and the very GDC healthcare professionals charged with providing such care. Ezie Decl. Ex. I (GDC mental health counselor, stating “[Plaintiff] continues to require hormone therapy and gender role change if she is to receive adequate care”); Ettner Decl. ¶¶ 49, 71. Defendants also failed to abate Plaintiff’s risk of suicide, auto-castration, and self-harm — harms that would be abated with adequate gender dysphoria care. See Ettner Decl. ¶¶ 61-71; Ezie Decl. Ex. I; Konitzer v. Frank, 711 F. Supp. 2d 874, 908 (E.D. Wis. 2010)

confinement where its duration “was not sufficient for this litigation to be concluded, and may not be sufficient for another similar lawsuit, should he be returned”).

II. Plaintiff Will Suffer Irreparable Injury Absent an Injunction

Plaintiff has suffered and is likely to continue to suffer irreparable harm in the absence of an injunction. Defendants’ refusal to provide Plaintiff hormone therapy has reversed the therapeutic effects of her 17-year history of gender dysphoria treatment. Plaintiff’s body has been violently transformed due to the denial of hormone therapy. Compl. ¶ 138 (discussing physical effects). Plaintiff is also suffering from severe depression, and has attempted suicide and auto-castration on multiple occasions in an effo

continued deprivation of her constitutional rights. "The existence of a continuing constitutional violation constitutes proof of an irreparable harm." Laube v. Haley, 234 F. Supp. 2d 1227, 1251 (M.D. Ala. 2002) (citations omitted); accord Mills v. District of Columbia, 571 F.3d 1304, 1312 (D.C. Cir. 2009). Because Defendants have made clear their intention to continue refusing Plaintiff medically necessary care, an injunction is warranted to protect Plaintiff from continued denial of her constitutional right to be free from cruel and unusual punishment.

III. The Balance of Harms Strongly Favors Plaintiff

The balance of harms substantially weighs in favor of granting injunctive relief. Defendants' refusal to provide Plaintiff medically necessary care has placed Plaintiff's mental health and physical health in extreme peril. Plaintiff has repeatedly attempted suicide, auto-castration, and self-harm, and remains at a substantial, ongoing, risk of permanent physical injury or death. See Gammett, 2007 WL 2186896, at *15-16 (finding balance of harms "sharply" favored plaintiff, who would experience suicidality and mental harm without gender dysphoria treatment). Defendants, in contrast, will not suffer any harm — much less irreparable harm — from complying with their legal obligation to provide inmates constitutionally adequate care. See generally Scott, 612 F.3d at 1297 (injunctions that target unconstitutional laws or conduct do not harm the state but serve the public interest); KH Outdoor, LLC, 458 F.3d at 1272 (same).

IV. An Injunction Is In the Public Interest

The public interest also favors injunctive relief here because Plaintiff seeks to vindicate her right to medically adequate treatment secured by the Eighth Amendment's prohibition on cruel and unusual punishment. The public interest is always served when constitutional rights are vindicated. See, e.g., League of Women Voters of Fla. v. Browning, 863 F. Supp. 2d 1155, 1167 (N.D. Fla. 2012) ("The vindication of constitutional rights and the enforcement of a federal

statute serve the public interest almost by definition."); KH Outdoor, LLC, 458 F.3d at 1272 (injunctions targeting unconstitutional policies or conduct are "plainly [] not adverse to the public interest"); accord Phillips, 731 F. Supp. at 800-01 (finding "the public interest will be served by safeguarding Eighth Amendment rights" of prisoners with gender dysphoria). The public interest is likewise served by enjoining enforcement of the Freeze Frame Policy, which hampers the provision of medically adequate care to inmates, because "the public . . . has no interest in enforcing an unconstitutional law." Scott, 612 F.3d at 1297.

CONCLUSION

For the foregoing reasons, this Court should issue a preliminary injunction (1) directing Defendants to provide Plaintiff with medically appropriate treatment for her gender dysphoria

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing document will be served on the Defendants in this action, along with copies of the Summons and Complaint. Plaintiff agrees to file a notice with the Court upon completion of Service.

Dated: February 20, 2015

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6. I have published three books concerning gender dysphoria, including the medical text entitled Principles of Transgender Medicine and Surgery (Ettner, Monstrey, & Eyler; Routledge, 2007). I also have authored numerous articles in peer-reviewed journals regarding the provision of health care to this population.

7. I am a member of the Board of Directors of the World Professional Association for Transgender Health (“WPATH”) (formerly the Harry Benjamin International Gender Dysphoria Association), and an author of the WPATH Standards of Care for the Health of Transsexual, Transgender and Gender-Nonconforming People (Seventh Version, 2012) (the “Standards of Care”). The Standards of Care are the internationally recognized guidelines for the treatment of persons with gender dysphoria and serve to inform medical treatment in the United States and throughout the world.

8.

12. A true and correct copy of my Curriculum Vitae is attached hereto as Appendix A. A bibliography of the resources I reviewed in connection with this declaration is attached hereto as Appendix B.

Background on the Diagnosis and Treatment of Gender Dysphoria

13. Gender dysphoria (previous nomenclature was gender identity disorder) is a serious medical condition that is codified in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition ("DSM-V"), and the World Health Organization's International Classification of Diseases, Tenth Edition.

14. Individuals with gender dysphoria, who are frequently referred to as "transsexual" or "transgender," experience incongruence between their gender identity and assigned birth sex, along with clinically significant distress or impairment of functioning. The suffering that arises from gender dysphoria has often been described as "being trapped in the wrong body." "Dysphoria" is also the psychiatric term used to describe the severe unremitting emotional pain associated with the condition.

15. Gender dysphoria is considered severe when it interferes with areas of daily living

A marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics);

A strong desire to be rid of one's primary and/or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics);

A strong desire for the primary and/or secondary sex characteristics of the other gender.

A strong desire to be of the other gender (or some alternative gender different from one's assigned gender);

A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender);

A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender).

17. Without treatment, individuals with gender dysphoria experience anxiety,

depressioo-10(c(ecau)-4(s)-5(e o)-10010>nr)3ydysphomiD2(e)4(t)-0ydmediit

Association all support treatment in accordance with the WPATH standards. (*See* American Medical Association (2008) Resolution 122 (A-08); Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline (2009); American Psychological Association Policy Statement on Transgender, Gender Identity and Gender Expression Nondiscrimination (2009) (recognizing "the efficacy, benefit and medical necessity of gender transition treatments")).

21. Like protocols for the treatment of diabetes or other medical disorders, the Standards of Care apply to the treatment of gender dysphoria in incarcerated and non-incarcerated settings, and have been recognized by the National Commission on Correctional Health Care ("NCCHC") as the clinically accepted standards for the care of inmates with gender dysphoria. (NCCHC Policy Statement, Transgender Health Care in Correctional Settings (October 18, 2009), http://www.ncchc.org/transgender-health-care-in-correctional-settings).

22. The Standards of Care establish that for many individuals with gender dysphoria, hormone therapy is effective, essential, and medically necessary treatment. (Standards of Care, Section VIII.)

23. Hormone therapy 1) significantly reduces the production of hormones associated with an individual's birth sex, thus altering secondary sex characteristics, and 2) replaces those circulating sex hormones with feminizing or masculinizing hormones, using the principles of hormone replacement treatment developed for hypogonadal patients (*i.e.*, males born with insufficient testosterone or females born with insufficient estrogen). (*See* Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline (2009)).

24. Hormone therapy is profoundly effective in that it has two therapeutic effects: first, with hormonal treatment, the patient acquires congruent sex characteristics, i.e. for

transgender women, breast development, redistribution of body fat, cessation of male pattern baldness, and reduction of body hair; second, hormones act directly on the brain, via receptors sites for sex steroids, which promotes a sense of well-being and attenuates the dysphoria and attendant psychiatric symptoms, including suicidality, anxiety, depression, and impulses to engage in auto-castration or other acts of self-harm. (See, e.g., Cohen-Kettenis & Gooren, 1992).

25. The efficacy of hormone therapy to treat gender dysphoria is observed clinically and well documented in the literature. For example, in one study, researchers compared 187 transsexual patients who had received hormone therapy to others who had not. Untreated patients showed much higher levels of depression, anxiety, and social distress. (Rametti, et al., 2011; see also Colizzi, et al. 2014; Gorin-Lazard et al., 2011).

26. The American Medical Association, the Endocrine Society, the American Psychiatric Association and the American Psychological Association also all agree that hormone

28. The WPATH Standards of Care also inform clinical guidance as to the importance of the social signifiers of gender expression in treatment. Clothing and grooming that affirms one's gender, and the use of pronouns consistent with an individual's gender identity, are an important component of treatment protocols. (Greenberg and Laurence, 1981; Ettner, 1999; Devor, 2004; Bockting, 2007).

29. The WPATH Standards also recognize that while many individuals with gender dysphoria can experience profound relief with hormone therapy and changes in gender expression alone, for others, relief from gender dysphoria cannot be achieved absent sex reassignment surgery, or surgical interventions such as [illegible] or chest reconstruction that change primary or secondary sex characteristics, the safety and efficacy of which are well documented in the medical literature. (Pfafflin & Junge, 1998; Smith, et al., 2005; Jarolim et al., 2009, Standards of Care). Individuals with gender dysphoria are referred for surgery when they meet the eligibility and readiness criteria set forth in the Standards of Care. (Standards of Care, Section XI.)

30. Once a diagnosis of gender dysphoria is established, individualized treatment should be initiated. The Standards of Care specify the qualifications professionals must meet in

significant medical risk. (Standards of Care, Section VIII).

31. Psychotherapy can provide support with the many issues that arise in tandem with gender dysphoria. Counseling however, is not a substitute for medically indicated treatment. By analogy, in diabetes, counseling might provide psychoeducation about living with a chronic condition, but it does not replace the need for insulin.

32. Similarly, treatments aimed primarily at the symptoms of anxiety or depression—e.g. anxiolytics, selective serotonin reuptake inhibitors, or mood-stabilizing psychotropic medication—do not provide relief from gender dysphoria and are not a substitute for appropriate treatment.

33. Providing only counseling and psychotropic medication to a severely gender

35. As part of this clinical assessment, I conducted a complete sex and gender history of Ms. Diamond and obtained family, demographics, physical, education, and social information.

Relevant Background & History

36. Ms. Diamond grew up in the small town of Rome, Georgia, where she was the second of four children, and had several step-siblings.

37. From a young age, Ms. Diamond was very aware that she was unlike other boys. She would frequently dress in her mother's clothing, and admire how "pretty" she looked. Her

Clinical Assessment

46. Ashley Diamond has persistent, severe gender dysphoria. She meets, and exceeds, full criteria for the DSM-V diagnosis of Gender Dysphoria in Adolescents and Adults, 302.85. Historically, she had Gender Identity Disorder in Childhood, 302.6, which persisted. Ms. Diamond has the diagnostic feature often referred to as a “primary” transsexualism. In these rare cases, the feeling of “being trapped in the wrong body” is so severe that the adolescent never even attempts to live in the birth-assigned gender.

47. A review of records indicates that a series of mental health professionals from the Georgia Department of Corrections have confirmed Ms. Diamond’s gender dysphoria diagnosis — though at times, using the former nomenclature “gender identity disorder.” A cursory physical examination of Ms. Diamond would have also made her gender dysphoria diagnosis and treatment history irrefutable to corrections personnel, given the changes that occur to the body habitus subsequent to hormonal reassignment. To wit, Ms. Diamond had significant breast development (or gynecomastia), greatly decreased testicular size with reduction in size of external genitalia (and prostate), fat on the hips and buttocks, diminished upper body mass in chest and extremities, and very limited facial and body hair—a markedly atypical male phenotype.

48. The medically indicated treatment for Ms. Diamond’s disorder consists of hormone therapy and the ability to live consistent with her affirmed gender, i.e. as a female. Indeed, this prescribed course of treatment had been in effect for the past seventeen years, and renders Ms. Diamond eligible for surgery, in accordance with the WPATH Standards of Care. When hormonal therapy is initiated at such a young age (presumably Tanner stage 4), secondary sex characteristics are readily established.

49. Psychotherapy is not a necessary or appropriate treatment modality for Ms. Diamond. She requires medical treatment, i.e. cross-sex hormones.

50. Ms. Diamond meets the criteria for posttraumatic stress disorder ("PTSD") a diagnosis which has been confirmed by healthcare professionals in the Georgia Department of Corrections. Ms. Diamond presents with a classic posttraumatic response set, indicative of chronic response to events in the past. Specifically, she exhibits symptomotology of intrusive and unwanted thoughts of traumatic experiences (B cluster in 309.81 DSM-IV). These include nightmares, flashbacks, upsetting memories easily triggered by current events, and repetitive thoughts of unpleasant experiences that intrude into awareness. Often this leads to feeling out of control. When anxiety is similarly elevated, as it is in this case, it signals autonomic hyperarousal. There is an attempt to deal with these symptoms by pushing them out of the mind, or to avoid places and events that stimulate painful memories (subsumed under the C group of PTSD symptoms).

51. In addition to the other severe and chronic psychological sequelae of trauma, sexual assaults, which Ms. Diamond has experienced since her incarceration, result in irremediable impairment in sexual health, including loss of libido and impaired self-reference.

Current Status

52. The termination of treatment—specifically hormone therapy and gender

53. Ms. Diamond's attempts at auto-castration and suicide are a priori evidence of

or higher. Clinicians are therefore advised to monitor patients describing moderate to severe levels of hopelessness for suicide potential (Simon & Gold, 2012). Ms. Diamond scored a 15 on this

established. Ashley Diamond meets, and exceeds, the diagnostic criteria for gender dysphoria. Once a diagnosis is established, medical treatment options are initiated. The Standards of Care state that individuals "should receive prompt and attentive evaluation, with the goal of alleviating their gender dysphoria and providing them with appropriate medical services."

62. Ashley Diamond did not receive the care proscribed by the Standards of Care. She received a diagnosis, but no assessment or medically indicated treatment under the Standards of Care. She was placed at considerable physical risk when her hormone treatment was terminated. She remains at risk for psychological decompensation, self-harm, and suicide.

63. The records I reviewed clearly corroborate my clinical assessment. The psychotherapist who is treating Ms. Diamond concurs that she requires medical t

70. Integral to successful treatment of gender dysphoria is the ability to present as a female. Ms. Diamond should be allowed to wear clothing and have a hair style that reflects her gender identity. She should be referred to with congruent gender pronouns "she" and "her."

71. The treatment of Ms. Diamond's disorder with psychotherapy and/or psychotropic drugs is a gross departure from the evidence-based Standard of Care, and is medically negligent. It places her at risk for self-harm or suicide.

72. Medically appropriate treatment — i.e., hormones and female grooming accoutrements — do not heighten an inmate's risk of victimization. Throughout the country, even in maximum security facilities, female identified gender dysphoric inmates live and appear as women.

73. The Standards of Care state: "Housing for transsexual, transgender, and gender-nonconforming people living in institutions should take into account their gender identity and role, physical status dignity and personal safety. Institutions where transsexual, transgender, and gender non-conforming people reside and receive health care should monitor for a tolerant and positive climate to ensure that residents are not under attack by staff or other residents." (Standards of Care, Section XIV.)

74. Housing Ms. Diamond in accordance with the Standards of Care can help prevent exacerbation of her PTSD. Ms. Diamond should also be treated with a selective serotonin re-uptake inhibitor (SSRI) medication to see if the symptoms associated with her PTSD improve.

75. There are no contraindications to the implementation of an appropriate treatment plan for this inmate. The consequences of continuing to deny treatment, however, are predictable and dire.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 19, 2015

Respectfully submitted,

Dr. Randi C. Ettner

APPENDIX A

RANDI ETTNER, PHD

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POSITIONS HELD

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Forensic Psychologist

Fellow and Diplomate in Clinical Evaluation, American Board of Psychological Specialities

Fellow and Diplomate in Trauma/PTSD

President, New Health Foundation Worldwide

Board of Directors, World Professional Association of Transgender Health (WPATH)

Chair, Committee for Incarcerated Persons, WPATH

University of Minnesota Medical Foundation: Leadership Council

Psychologist, Chicago Gender Center

Adjunct Faculty, Prescott College

Editorial Board, International Journal of Transgenderism

Television and radio guest (more than 100 national and international appearances)

Internationally syndicated columnist

Private practitioner

Medical staff privileges attending psychologist Advocate Lutheran General Hospital

EDUCATION

PhD, 1979 Northwestern University (with honors)
Evanston, Illinois

MA, 1976 Roosevelt University (with honors)
Chicago, Illinois
Major: Clinical Psychology

BA, 1969-72 Indiana University (cum laude)
Bloomington, Indiana
Major: psychology, Minor: sociology

1972 Moray College of Education

LECTURES AND HOSPITAL GRAND ROUNDS PRESENTATIONS

Healthcare for transgender inmates

Psychosocial Assessment of Risk and Intervention Strategies in Prenatal Patients - St. Francis Hospital, Center for Women's Health, Evanston, Illinois, 1984; Purdue University School of Nursing, West Layette, Indiana, 1980

Psychonueroimmunology and Cancer Treatment - St. Francis Hospital, Evanston, Illinois, 1984

Psychosexual Factors in Women's Health - St. Francis Hospital, Center for Women's Health, Evanston, Illinois, 1984

Sexual Dysfunction in Medical Practice - St. Francis Hospital, Dept. of OB/GYN, Evanston, Illinois, 1980

Sleep Apnea - St. Francis Hospital, Evanston, Illinois, 1996; Lincolnwood Public Library, Lincolnwood, Illinois, 1996

The Role of Denial in Dialysis Patients - Cook County Hospital, Department of Psychiatry, Chicago, Illinois, 1977

BOOKS & PUBLICATIONS

Ettner, R. Surgical treatments for the transgender population in Lesbian, Gay, Bisexual, Transgender, and Intersex Healthcare: A Clinical Guide to Pre1 >>BDC BDC BDC BDC .u>BDC -9.

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"The Role of Psychological Tests in Forensic Settings," Chicago Daily Law Bulletin, 1997.

Ettner, R. Confessions of a Gender Defender: A Psychologist's Reflections on Life amongst the Transgendered. Chicago Spectrum Press. 1996.

“Post-traumatic Stress Disorder,” Chicago Daily Law Bulletin, 1995.

“Compensation for Mental Injury,” Chicago Daily Law Bulletin, 1994.

“Workshop Model for the Inclusion and Treatment of the Families of Transsexuals,”

LICENSE

Clinical Psychologist, State of Illinois, 1980

APPENDIX B

BIBLIOGRAPHY & MATERIALS CONSIDERED

Mental Health and Medical File of Ashley Diamond.

Georgia Department of Corrections, Standard Operating Procedure on the Management of Transsexuals (VH47-0006).

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA

ASHLEY DIAMOND,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. Action No.
	)	
BRIAN OWENS, et al.,	)	
	)	
Defendants.	)	

DECLARATION OF A. CHINYERE EZIE

I, A. Chinyere Ezie, hereby declare and state as follows:

1. I am an attorney at the Southern Poverty Law Center, and I am counsel for Plaintiff in this case.

2. I submit this declaration in support of Plaintiff's Motion for a Preliminary Injunction.

3. Attached hereto are true and correct copies of the following:

Document	Exhibit
Georgia Department of Corrections, Standard Operating Procedure on the Management of Transsexuals (VH47-0006)	A
Letter from Ashley Diamond to Ruthie Shelton, Warden of Care and Treatment at Rutledge State Prison dated November 18, 2013	B
Letter from Ruthie Shelton, Warden of Care and Treatment at Rutledge State Prison, to Ashley Diamond dated November 22, 2013	C
Georgia Department of Corrections Notification regarding Suicide Attempt and Self Injurious Behavior by Ashley Diamond	D

Georgia Department of Corrections Response to Grievance and Appeal concerning Ashley Diamond'sTreatment atRutledge State Prison

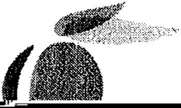
E

Letter from Ashley Diamond to Brian Owens,

V. ATTACHMENTS:

None

Functional Area:	Prev. Eff. Date:	Page 3 of
Health Services - Physical Health	12/01/96	3
	Effective Date:	Reference Number:
	9/01/01	VH47-0006



GEORGIA DEPARTMENT OF CORRECTIONS

Georgia Department of Corrections

7175 MANOR ROAD, COLUMBUS GA 31907

G2-54

Sent to Valdosta SP

Attachment 4
SOP IIB05-0001

WARDEN'S/SUPERINTENDENT'S GRIEVANCE RESPONSE

Re: Ashley Diamond

2/11/14

EXHIBIT

G

™ NATIONAL COMMISSION ON CORRECTIONAL HEALTH CARE, POSITION STATEMENT ON TRANSGENDER HEALTH CARE IN CORRECTIONAL SETTINGS (October 18, 2009) available at www.ncchc.org/transgender-health-care-in-correctional-settings

Ÿ. U.S. DEPARTMENT OF JUSTICE NATIONAL INSTITUTE OF CORRECTIONS, POLICY REVIEW AND DEVELOPMENT GUIDE: LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND INTERSEX PERSONS IN CUSTODIAL SETTINGS ‹ƒ Ž available at: https://s3.amazonaws.com/static.nicic.gov/Library/027507.pdf

ž U.S. DEPARTMENT OF JUSTICE FEDERAL BUREAU OF PRISONS, MEMORANDUM FOR CHIEF EXECUTIVE OFFICERS ‹ Ž •‹ ™ Ž available at: ZZZ JODG RUJ XSORDGV GRFV FDVHV DGDPV Y EXUHDX RI SULVRQV pdf

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EXHIBIT

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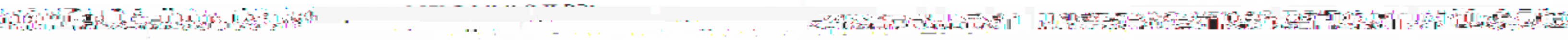

Attachment 4

G1-73

'S/SUPERINTENDENT'S GRIEVANCE RESPONSE WARDEN

Name: Ashley Dianne... Offender's

GDC #: 1000290565 Facility: Valdosta State Prison

SOP IIB05-0001

OFFENDER NAME

ID NUMBER

GRIEVANCE NUMBER

ormment It is called Gender Identity Disorder

EXHIBIT

I

GEORGIA DEPARTMENT OF CORRECTIONS

MENTAL HEALTH PROGRESS NOTE

Facility: Baldwin State Prison

Name: ASHLEY DIAMOND

ID#: 1000290565

Date: 12/11/14

Race: B Sex: Male

I. Date: Purpose: [X]Individual Counseling/Therapy [ ]Crisis [ ]Other:

Chief Complaint: FEAR OF STAFF

GEORGIA DEPARTMENT OF CORRECTIONS

Facility: Baldwin State Prison

Name: ASHLEY DIAMOND

ID#: 1000290565

Date: 1/6/15

Race: B Sex: Male

I. Data: Purpose: [X]Individual Counseling/Therapy [ ]Crisis [ ]Other: ______
Location: [ ]Private Office [ ] Cell Front [ ] Other: ______
[X] On site [ ] Tele-MH

Chief Complaint: FEAR OF STAFF

SYMPTOMS RELATED TO