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 all 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 remediated 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 — or 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 Health of Transsexual, Transgender, and Gender-Nonconforming People (the "Standards of Care"). Id. ¶¶ 20-21. The Standards of Care apply in incarcerated and non-incarcerated settings, and are recognized as the authoritative treatment protocol for gender dysphoria by medical and mental health professionals worldwide. Id.

The Standards of Care establish that persons with gender dysphoria should be individually assessed by qualified healthcare providers and referred for treatment that can consist of medical interventions including: (1) changes in gender expression and role, such as living full time in another gender role that is consistent with one's internal sense of gender identity; (2) hormone therapy to feminize or masculinize the body; and/or (3) surgery to change primary and/or secondary sex characteristics. Id. ¶¶ 22-30. Counseling can also provide support for some individuals, but it is not a substitute for medical intervention, and exclusive reliance on it constitutes a gross departure from medically accepted practice. Id. ¶¶ 31-33.

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 request for hormone therapy without referring her for evaluation by a qualified professional. Id. ¶ 81. Instead, Plaintiff was informed that she forfeited the right to receive hormone therapy when she entered GDC. Id. Plaintiff then contacted Defendant Shelton, the Warden of Treatment and Care at Rutledge. Id. ¶ 82; Ezie Decl. Ex. B. Plaintiff asked Defendant Shelton for information concerning her options for treatment, but Defendant Shelton replied "the Department does not offer therapy for this at this time." Ezie Decl. Ex. C. Thereafter, Defendants Silver and Thompson informed Plaintiff once again that she would not be receiving any gender dysphoria treatment while in custody. Compl. ¶ 84.

On or about November 25, 2013, Plaintiff wrote a letter to Defendant Hatcher, the Warden of Rutledge. Id. ¶ 85. Plaintiff explained that her physical health and well-being were jeopardized by the continued denial of medical care, and asked to be referred for medical treatment. Id. Defendant Shelton responded on her and Defendant Hatcher's behalf and instructed Plaintiff to develop better coping mechanisms. Id. ¶ 86.

Thereafter, Plaintiff filed a complaint concerning the denial of appropriate care. Id. ¶ 87. In response, Defendant Hatcher placed Plaintiff in solitary confinement for almost a week for

"pretending to be a woman," and then returned her 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 Heather Harrison, GDC mental health professionals who performed individualized assessments of Plaintiff, and concluded that she should be receiving hormone therapy as treatment and noted her high risk of suicide and auto-castration. Id. ¶¶ 96-97. Dr. Moody sought to commence hormone therapy; however, the request was denied based on GDC's Freeze Frame Policy, which bars the "initiation" of hormone therapy. Id.

In February 2014, and again in May 2014, Plaintiff contacted Defendants McCracken and Owens, the Commissioner of GDC, concerning her gender dysphoria and need for care. Id. ¶¶

100-04; Ezie Decl. Exs. F, G. Plaintiff explained that she had been harmed by GDC's refusal to provide her with treatment, but Defendants Owens and McCracken refused to authorize treatment, even though treatment had been recommended by Drs. Moody, Harrison, and Sloan, and continued to enforce the Freeze Frame Policy. Compl. ¶¶ 103, 107-09.

In April and again in May 2014, Plaintiff contacted Defendant Allen, the Valdosta Warden, regarding her gender dysphoria and need for medical treatment. Id. ¶¶ 105, 110. Plaintiff requested that Defendant Allen refer her for treatment for her gender dysphoria, but Defendant Allen refused and instead began subjecting Plaintiff to harassment and reprimand for her gender identity and feminine mannerisms. Id. ¶¶ 110-11. Defendant Allen began referring to Plaintiff as a "he-she-thing," and informed her that she was expected to look and dress as a man. Id. Defendant Allen encouraged his staff to ridicule Plaintiff and instruct her to act male. Id.

Plaintiff complained about Defendant Allen's conduct, and explained that female grooming, expression, and identification were components of the treatment for her gender dysphoria. Id. ¶ 112; Ezie Decl. Ex. H. Plaintiff's complaint was reviewed and rejected on grounds that Plaintiff was "clearly a man, not a woman." Ezie Decl. Ex. H. Plaintiff was also told there was "no medically indicated reason" for her female gender presentation, even though female gender expression is a form of medical treatment under the Standards of Care. Id.; Ettner Decl. ¶ 28. Finally, Plaintiff was warned that she would remain subject to continued discipline for her female gender expression, because "[her] gender was male." Ezie Decl. Ex. H.

C. GDC Healthcare Professionals and a Gender Dysphoria Expert Confirm Plaintiff's Urgent Need for Hormone Therapy

In May and June 2014, Plaintiff was reevaluated by Dr. Harrison, who had previously recommended hormone therapy for Plaintiff. Compl. ¶ 116. Dr. Harrison noted that Plaintiff was

"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 dysphoria. Ettner Decl. ¶ 34. Dr. Ettner confirmed that Plaintiff suffers from severe and persistent gender dysphoria, and that hormone therapy and female gender expression are the medically necessary treatment. Id. ¶¶ 46-49. Dr. Ettner also determined that Plaintiff was experiencing severe physical and psychological harm due to her lack of appropriate treatment, including clinically significant depression, suicidality, hopelessness, anxiety, desperation, and a regression of hormonally-induced physical effects. Id. ¶¶ 52-60, 67. Dr. Ettner noted that Plaintiff had attempted suicide and auto-castration multiple times and expressed an intention to end her life if forced to continue living as male. Id. ¶¶ 52-53,

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 also concluded that attempting to treat Plaintiff's gender dysphoria with psychotherapy or anti-psychotics instead of hormone therapy would be a gross departure from accepted medical practice and would place Plaintiff in ongoing peril. Id. ¶¶ 69-71.

D. Consequences of Defendants' Refusal to Provide Treatment

Plaintiff continues to experience severe anxiety, depression, and mental anguish. Compl. ¶¶ 137-140. Plaintiff has engaged in self-harm and attempted suicide and self-castration on multiple occasions, prompting emergency hospitalizations. Id. ¶ 139; Ezie Decl. Ex. D. Plaintiff's suicide ideation and her compulsion to engage in self-harm, which would be remediated with proper treatment for her gender dysphoria, persist to this day. Compl. ¶ 123; Ettner Decl. ¶¶ 57, 67-69. Plaintiff has also lost breast tissue, her female secondary sex characteristics have diminished, and she continues to experience physical injury in the form of chest pain, muscle spasms, heart palpitations, vomiting, dizziness, hot flashes, vascular dilation, withdrawal symptoms, weight loss, diarrhea, fatigue, and hyperhidrosis. Compl. ¶¶ 138-39.

ARGUMENT

A preliminary injunction should issue here because Plaintiff meets all four of the traditional factors considered in the Eleventh Circuit: "(1) [she] has a substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest." KH Outdoor, LLC v. City of Trussville, 458 F.3d 1261, 1268 (11th Cir. 2006).

I. Plaintiff Is Substantially Likely To Succeed On the Merits

"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)). "[D]eliberate indifference to serious medical needs of prisoners violates the [Eighth] Amendment because it constitutes the unnecessary and wanton infliction of pain contrary to contemporary standards of decency." Helling v. McKinney, 509 U.S. 25, 32 (1993) (citing Estelle, 429 U.S. at 104 (quotation marks omitted)). To prevail, a plaintiff must demonstrate "an objectively serious [medical] need, an objectively insufficient response to that need, subjective awareness of facts signaling the need, and an actual inference of required action from those facts." Kuhne, 745 F.3d at 1094 (citations omitted). Each of these elements has been met here.

A. Plaintiff's Gender Dysphoria and Risk of Self-Harm Are Objectively Serious Medical Needs

It is well-established that gender dysphoria (traditionally referred to as "gender identity disorder" or "GID") constitutes a serious medical need. See O'Donnabhain v. Comm'r, 134 T.C. 34, 61-62 (2010) (noting consensus exists among "every U.S. Court of Appeals that has ruled on the question," and collecting cases); see also Kothmann v. Rosario, 558 F. App'x 907, 910 n.4 (11th Cir. 2014) (assuming gender dysphoria as serious medical need for purposes of appeal).[1] Gender dysphoria has all of the hallmarks of a serious medical need: it is a diagnosable condition, codified in the DSM-V, that requires medical treatment, and one where treatment

[1] Indeed, courts to consider the issue have uniformly reached this conclusion. See, e.g., Battista v. Clarke, 645 F.3d 449 (1st Cir. 2011); Fields v. Smith, 712 F. Supp. 2d 830, 862 (E.D. Wis. 2010), aff'd, 653 F.3d 550 (7th Cir. 2011); Konitzer v. Frank, 711 F. Supp. 2d 874, 905 (E.D. Wis. 2010); Cuoco v. Moritsugu, 222 F.3d 99, 106 (2d Cir. 2000); Brown v. Zavaras, 63 F.3d 967, 970 (10th Cir. 1995); White v. Farrier, 849 F.2d 322, 325 (8th Cir. 1988); Phillips v. Mich. Dep't of Corr., 731 F. Supp. 792, 799 (W.D. Mich. 1990).

delays "worsen[] the condition" by leading to clinically significant impairment and distress. Kuhne, 745 F.3d at 1096 (defining serious medical need for purposes of Eighth Amendment); see also Ettner Decl. ¶¶ 14-30 (discussing gender dysphoria and protocol for medical treatment).

Plaintiff's suicidality and propensity to engage in auto-castration as a result of her denial of care are likewise serious medical needs. See Belcher v. City of Foley, Ala., 30 F.3d 1390, 1396 (11th Cir. 1994) ("prisoners have . . . a right to be protected from self-inflicted injuries, including suicide.") (citations omitted); see also De'lonta v. Angelone, 330 F.3d 630, 634 (4th Cir. 2003) (transgender inmate's "compulsive, repeated self-mutilation of her genitals" following the termination of hormone therapy constituted a serious medical need). Accordingly, Plaintiff has two objectively serious medical needs: gender dysphoria and an attendant "need for protection against continued self-mutilation." De'lonta, 330 F.3d at 634.

B. Defendants Have Shown Deliberate Indifference to Plaintiff's Serious Medical Needs

Prison officials act with deliberate indifference when they fail to provide inmates medically necessary care, "whether the indifference is manifested by prison doctors in their response to the prisoner's needs . . . or by prison guards in intentionally denying or delaying access to medical care . . . or intentionally interfering with treatment once proscribed." Brown v. Johnson, 387 F.3d 1344, 1351 (11th Cir. 2004) (citing Estelle, 429 U.S. at 104-05). Defendants in this case have shown deliberate indifference because they (1) had subjective knowledge of Plaintiff's risk of serious harm if treatment were denied; and (2) disregarded that risk "by conduct that is more than mere negligence." Id.

1. Defendants Had Subjective Knowledge of Plaintiff's Risk of Serious Harm.

"Whether a prison official had the requisite knowledge of a substantial risk is a question

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 dysphoria was a serious medical need requiring treatment under the Standards of Care, based on GDC's own policies which discuss the treatment regimen outlined by the Standards of Care, and the importance of providing continuity of treatment. Compl. ¶¶ 46-48; Ezie Decl. Ex. A. Plaintiff has also been repeatedly diagnosed with gender dysphoria by GDC's own staff who repeatedly noted her history of hormone therapy, her compulsion to engage in self-harm, and ongoing need for hormone therapy in accordance with the Standards of Care. Compl. ¶¶ 73-76, 95-97, 116-18; Ezie Decl. Ex. I. The subjective knowledge requirement has been more than met on these facts.

2. Defendant's Disregarded Plaintiff's Risk of Harm by Conduct that Is More Than Mere Negligence

a. Defendants Knowingly Refused to Provide Plaintiff Medically Necessary Care

"The knowledge of the need for medical care and intentional refusal to provide that care has consistently been held to surpass negligence and constitute deliberate indifference." Ancata v. Prison Health Servs., Inc., 769 F.2d 700, 704 (11th Cir. 1985). Here, despite knowing of Plaintiff's medical needs, Defendants terminated her gender dysphoria treatment and delayed, deferred, and denied her requests for care or a referral to healthcare providers qualified in the treatment of gender dysphoria. These are textbook examples of deliberate indifference. See, e.g., Brown, 387 F.3d at 1351 (finding inmate stated claim under Eighth Amendment where

defendants were aware of his HIV and hepatitis diagnosis "but 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 show deliberate indifference by refusing to refer inmates with serious medical needs for diagnostic treatment or specialty care); Ancata, 769 F.2d at 704 (same).

In Phillips v. Michigan Department of Corrections, the court held that prison officials who terminated a plaintiff's hormone therapy, made her "the subject of ridicule and offensive remarks," and "reversed the therapeutic effects of previous treatment" violated the Eighth Amendment. 731 F. Supp. 792, 800 (W.D. Mich. 1990), aff'd, 932 F.2d 969 (6th Cir. 1991). Here, too, instead of continuing Plaintiff's gender dysphoria treatment, Defendants have subjected her to degradation and punishment for her condition, in disregard to her serious medical needs, and the suicidality and physical and mental anguish she is experiencing. Compl. ¶¶ 85-90, 110-13. See Belcher, 30 F.3d at 1396 ("Prison guards who display . . . deliberate indifference to a 'strong likelihood' that a prisoner will take his own life, violate the Eighth Amendment").

Tellingly, this is not a case in which competing medical judgments exist about Plaintiff's need for hormone therapy. To the contrary, when Plaintiff was finally evaluated by GDC healthcare providers experienced in the treatment of gender dysphoria, they unanimously confirmed her medical need for hormones. Compl. ¶¶ 95-97; Ezie Decl. Ex. I. Defendants have simply ignored these recommendations and continued to deny care, without any exercise of individualized medical judgment whatsoever. See Brown, 387 F.3d at 1351 (deliberate indifference includes "intentionally interfering with treatment once proscribed") (citing Estelle,

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. Constitutionally adequate care under the Eighth Amendment is care that is "based on an individualized assessment of an inmate's medical needs in light of relevant medical considerations." Soneeya v. Spencer, 851 F. Supp. 2d 228, 242 (D. Mass. 2012); accord De'lonta, 330 F.3d at 634. Prison policies which prevent inmates from receiving individualized medical care thus inflict cruel and unusual punishment in violation of the Eighth Amendment. See, e.g., Colwell v. Bannister, 763 F.3d 1060, 1068-70 (9th Cir. 2014) (prison policy which categorically denied cataract surgery to inmates who had at least one "good eye" violated the Eighth Amendment); Roe v. Elyea, 631 F.3d 843, 862 (7th Cir. 2011) (prison policy which conditioned treatment for Hepatitis C on administrative factors such as an inmate's expected length of incarceration violated the Eighth Amendment).

These principles apply fully in the context of gender dysphoria treatment. In Fields v. Smith, the Seventh Circuit struck down as unconstitutional on its face a state law that barred prison officials from providing hormone therapy or sex reassignment surgery to inmates with gender dysphoria. 653 F.3d 550, 559 (7th Cir. 2011). Similarly, in De'lonta v. Angelone, the Fourth Circuit found that a prisoner with gender dysphoria stated a claim under the Eighth Amendment to the extent prison officials withheld hormone therapy pursuant to prison policy. 330 F.3d at 634-35. Other courts to consider the issue have concluded the same. See, e.g., Soneeya, 851 F. Supp. 2d at 249 (prison policy precludes exercise of medical judgment violates

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 (HL), 2014 WL 1813725, at *2-3 (M.D. Ga. May 7, 2014) (Eight Amendment violation to deny gender dysphoria treatment because inmate was not receiving it prior to incarceration); accord Brooks v. Berg, 270 F. Supp. 2d 302, 312 (N.D.N.Y. 2003) (holding prison officials cannot limit treatment for gender dysphoria to inmates who received medical treatment prior to their incarceration), vacated in part on other grounds, 289 F. Supp. 2d 286 (N.D.N.Y. 2003). Simply put, "there is no exception to [the Eighth Amendment] for serious medical needs that are first diagnosed in prison." Brooks, 270 F. Supp. 2d at 312. Therefore, GDC's Freeze Frame Policy is unconstitutional on its face and as applied to Plaintiff, whose serious medical needs remain untreated as a result.

c. Any Care Plaintiff Received Was Constitutionally Inadequate

Defendants may claim they complied with their constitutional obligations by offering Plaintiff anti-psychotic medications and counseling sessions, but the relevant inquiry under the Eighth Amendment is whether an inmate was provided "constitutionally adequate medical treatment," not whether she was denied all treatment whatsoever. Kothmann, 558 F. App'x at

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) (treatment is "arguably inadequate" where an inmate "keeps exhibiting the behavior seen in [gender dysphoria] sufferers, repeated castration attempts"); see also Greeno v. Daley, 414 F.3d 645, 655 (7th Cir. 2005) (prison officials show deliberate indifference when they "doggedly persist[] in a course of treatment known to be ineffective.").

Courts have repeatedly held that limiting treatment for gender dysphoria to psychotherapy where hormone therapy is medically indicated violates the Eighth Amendment. In Kothmann, the Eleventh Circuit held that prison officials could be held liable where they refused to provide an inmate with gender dysphoria medically necessary hormone therapy, but administered treatments consisting of "anti-anxiety and anti-depression medications, mental health counseling, and psychotherapy." 558 F. App'x at 910-11. Similarly, in Fields, the Seventh Circuit found that a state hormone therapy ban violated the Eighth Amendment even though prisoners were still given access to "psychotherapy as well as antipsychotics and antidepressants." 653 F.3d at 556.

GDC's purported treatments for Plaintiff also constitute a substantial departure from the medically accepted Standards of Care — and one that has put Plaintiff at a substantial risk of suicide and physical and mental anguish. See Ettner Decl. ¶¶ 31-33, 71; see also Steele v. Shah, 87 F.3d 1266, 1269 (11th Cir. 1996) ("[T]he quality of psychiatric care one receives can be so substantial a deviation from accepted standards as to evidence deliberate indifference to those psychiatric needs.").

C. Plaintiff's Request for Relief Is Not Moot

Plaintiff's request for injunctive relief is ripe for review because she remains in GDC custody under the control of Defendants Lewis and Owens, and because this case presents issues that are "capable of repetition, yet evading review" with respect to the remaining defendants. Strickland v. Alexander, 772 F.3d 876, 887 (11th Cir. 2014) (discussing doctrine). In a three year span, Plaintiff has been transferred between GDC facilities five times, returned to the same facility on two occasions, and is currently scheduled to remain in GDC custody for eight more years. Compl. ¶ 16. Defendants have also indicated their intention to continue to enforce the Freeze Frame Policy and to continue denying Plaintiff medically necessary care. See generally Compl. Therefore, there is "a reasonable expectation that the same complaining party would be subjected to the same action again" — absent injunctive relief. Strickland, 772 F.3d at 887 (citation omitted). Given Defendants' repeated transfer of Plaintiff — and the exhaustion requirements which are prerequisites to filing suit —the challenged conduct here is also "too short to be fully litigated prior to its cessation or expiration," id., or more specifically, before Plaintiff's receipt of another housing transfer. Thus, the capable of repetition, yet evading review doctrine is plainly applicable here. See Spellman v. Hopper, 142 F. Supp. 2d 1323, 1325 n.1 (M.D. Ala. 2000) (applying doctrine to inmate challenging conditions of his administrative

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 effort to end her pain and mental anguish at being forced to transition back from female to male. See generally Compl.; Ettner Decl. ¶¶ 52-57. Plaintiff's suicide ideation and compulsion to engage in self-harm and auto-castration persist to this day and place her at an exceedingly high risk of death or serious bodily injury absent an injunction. See Ettner Decl. ¶¶ 56-57(noting that hopelessness and prior suicide attempts are strong predictors of fatal suicide attempts). These are not harms that can be "undone through monetary remedies." Scott v. Roberts, 612 F.3d 1279, 1295 (11th Cir. 2010). Rather, they are the very definition of irreparable injury; thus, courts have repeatedly issued injunctions enjoining the conduct at issue here. See, e.g., Fields, 653 F.3d at 559 (enjoining enforcement of a state law ban on hormone therapy); Gammett v. Idaho State Bd. of Corr., No. CV05-257-S-MHW, 2007 WL 2186896, at *18 (D. Idaho July 27, 2007) (requiring that hormone therapy be provided to inmate with gender dysphoria); Phillips, 731 F. Supp. at 800 (stating that irreparable harm was clear because the denial of hormone therapy would "wreak havoc on plaintiff's physical and emotional state," and "[s]uch harm is neither compensable nor speculative.").

Absent an injunction, Plaintiff will suffer an additional form of irreparable harm: the

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 under the Standards of Care, including, but not limited to providing Plaintiff hormone therapy and allowing her to express her female gender through grooming, pronouns, and dress; (2) enjoining Defendants' continued enforcement of the Freeze Frame Policy. The Court should require no bond or at most a nominal bond under Fed. R. Civ. P. 65(c). It is well within the discretion of the Court to require "no security at all." BellSouth Telecomm., Inc. v. MCIMetro Access Transmission Servs., LLC, 425 F.3d 964, 971 (11th Cir. 2005). Plaintiff has no ability to pay a bond under her current circumstances. That should be no bar to the relief requested.

Dated: February 20, 2015

Respectfully submitted,

/s/ James M. Knoepp
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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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Counsel for Plaintiff

**Applications for admission pro hac vice forthcoming*

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 DR. RANDI C. ETTNER

1. I, Dr. Randi C. Ettner, am a clinical and forensic psychologist with expertise concerning the diagnosis and treatment of gender dysphoria.

2. I have been retained by counsel for Ashley Diamond ("Ms. Diamond") to provide the Court with scientific information about gender dysphoria and the standard of care for treatment, and to perform a clinical evaluation of Ashley Diamond. Except where noted, I have actual knowledge of the matters stated herein and could and would so testify if called as a witness.

Qualifications and Basis of Opinion

3. I received my doctorate in psychology from Northwestern University in 1979.

4. I am currently the chief psychologist at the Chicago Gender Center, but began working with individuals with gender dysphoria nearly forty years ago, as an intern at Cook County Hospital.

5. During the course of my career, I have evaluated or treated between 2,500 and 3,000 individuals with gender dysphoria and mental health issues related to gender variance.

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. I have served as a member of the University of Chicago Gender Board, and am a member of the editorial board for the *International Journal of Transgenderism*. I have also lectured throughout North America and Europe on topics related to gender dysphoria, and frequently give grand rounds presentations on gender dysphoria at medical hospitals.

9. I have been retained as an expert in multiple federal court proceedings involving the treatment of gender dysphoria in prison settings, and have been repeatedly qualified as an expert.

10. My clinical consulting fee is $250 per hour.

11. In preparing this declaration, I relied on a clinical interview of Ashley Diamond that I conducted on January 22, 2015, the results of psychodiagnostic exams, Ms. Diamond's mental health and medical records, my extensive professional experience, and the body of medical literature, including my own, concerning gender dysphoria.

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 birth-assigned 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 and unremitting emotional pain associated with the condition.

15. Gender dysphoria is considered severe when it interferes with areas of daily living or important areas of functioning, and is accompanied by clinically significant symptoms of emotional distress.

16. The diagnostic criteria for gender dysphoria in adolescents and adults are 1) clinically significant distress or impairment in social, occupational or other important areas of functioning 2) caused by a marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months' duration, as manifested by at least two of the following:

- 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, depression, suicidality and other attendant mental health issues. (*See, e.g.*, Fraser, 2009; Schaefer & Wheeler, 2004; Ettner, 1999; Brown, 2000, DSM-V, 2013, Haas *et al.*, 2014).

18. Individuals without access to appropriate care, particularly those who are imprisoned, are often so desperate for relief that they resort to life-threatening attempts at auto-castration, the removal of one's testicles, in the hopes of eliminating the major source of testosterone that kindles the dysphoria. (Brown, 2010; Brown & McDuffie, 2009).

19. Gender dysphoria intensifies with age. Individuals commonly experience an intensification of symptoms at midlife. (Ettner & Wylie, 2013; Ettner, 2013).

20. The medically accepted standards for the treatment of gender dysphoria are set forth in the Standards of Care, first published in 1979. The Standards of Care are the internationally recognized guidelines for the treatment of persons with gender dysphoria, and inform medical treatment throughout the world. The American Medical Association, the Endocrine Society, The American Psychological Association, The American Psychiatric

Association all support treatment in accordance with the WPATH standards. (*See* American Medical Association (2008) Resolution 122n (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 therapy is medically necessary treatment for many individuals with gender dysphoria. (*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)).

27. The therapeutic physical and psychological effects of hormone therapy are so profound that individuals with gender dysphoria who lack access to medically supervised hormones often resort to procuring and using hormones without medical supervision. (Gooren, 2011). Hormone therapy, when indicated, is medically necessary, evidence-based, appropriate treatment for gender dysphoria.

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 genital 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 order to provide care to gender dysphoric patients. In particular, the WPATH Standards of Care stipulate that a mental health professional must have "[k]nowledge about gender-nonconforming identities and expressions, and the assessment and treatment of gender dysphoria," and obtain continuing education in the assessment and treatment of gender dysphoria. The Standards of Care establish that professionals who are new to the field should work under the supervision of mental health professionals with established expertise in this area. Treatment plans generated by providers lacking the requisite experience can result in inappropriate care or place patients at

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 dysphoric patient is a gross departure from medically accepted practice. Inadequate treatment of this disorder puts an individual at serious risk of psychological and physical harm (WPATH Medical Necessity Statement, 2010).

Clinical Observations & Assessment

34. On January 22, 2015, I conducted a three hour clinical assessment of Ashley Diamond at the Baldwin State Prison in Milledgeville, Georgia. My assessment consisted of a clinical interview and the administration of four standardized psychodiagnostic tests with high levels of validity and reliability: the Beck Depression Inventory-II, the Beck Anxiety Inventory, the Beck Hopelessness Scale, and the Traumatic Symptom Inventory. At 5 feet 10 inches and 135 pounds, Ms. Diamond appeared thin, with a BMI of 19.4. Her mood was anxious, and occasionally she wept when discussing her frustration at being denied treatment for gender dysphoria, and her constant fear for her safety.

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 parents, like most adults of that era, taught and enforced gender roles through shame. Ms. Diamond's mother, who was in the military, frequently subjected Ms. Diamond to "boy lessons,"— rebuking and punishing her for any display of female mannerisms or behavior. Ms. Diamond's father also insisted she play football, even though she was interested in singing, not sports.

38. At age 5, Ms. Diamond saw a cartoon character named "Jem" who, when she touched her earrings, was magically transformed into a rockstar who could disguise herself and avoid danger. This was immensely satisfying to young Ms. Diamond, who identified with Jem, and believed the magic might also be available to her. Once, she attended kindergarten "dressed up" as Jem, but was mercilessly teased and labeled as gay by her classmates. Ms. Diamond's parents were summoned to retrieve her from school.

39. Ms. Diamond's pre-adolescent and adolescent years were tumultuous; because she was "different," Ms. Diamond was subjected to a constant torrent of humiliation of abuse. The gnawing, relentless conviction that she was meant to be a girl was as perplexing to young Ms. Diamond as it was to everyone around her. But she knew this conviction to be intractable, while others thought it an affectation that could be shamed or beaten out of her.

40. Puberty galvanized Ms. Diamond's depression about being male. Ms. Diamond hated her genitals, and wore several pairs of underwear to conceal them.

41. With no hope of understanding or support from family, at 15, Ms. Diamond attempted suicide and was admitted to a psychiatric hospital. When Ms. Diamond expressed to a physician that "I hate living like this — I feel like a girl," he educated her about gender dysphoria — the condition from which she suffers.

42. From that moment on, Ms. Diamond realized that despite what she had heard all her life, she was not gay, nor was she a cross-dresser. She learned that individuals with body aversion and gender dysphoria are referred to as transgender. Ms. Diamond also learned that treatment for gender dysphoria consisted of hormones, female gender expression, and possibly surgery. Emboldened by this knowledge, Ms. Diamond told her family that she was never going to dress as a boy again. Her father could not abide her decision to live as a girl, and so Ms. Diamond left home and lived with a friend's family.

43. Ms. Diamond began taking feminizing hormones, and took them continuously for the seventeen years prior to her incarceration. Estrogen attenuated the dysphoria, depression, suicidal ideation, and conferred a sense of emotional well-being.

44. After leaving high school, Ms. Diamond worked at a series of retail jobs, but inevitably, when her employers learned that she was transgender, Ms. Diamond would be terminated. At age 18, she moved to Atlanta, where she lived for many years, but continued to experience job discrimination, and occasionally struggled to make ends meet.

45. Ms. Diamond states that she has not received hormonal therapy or access to female accoutrements since she entered the custody of the Georgia Department of Corrections in March 2012, which a review of the records corroborates.

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 "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-V). 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 re-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 expression—has rekindled the gender dysphoria that she had successfully managed for nearly two decades. The lack of treatment has caused Ms. Diamond to have suicidal ideation, and she has attempted suicide on at least three occasions. She has made four attempts at auto-castration (removal of the testicles) and has attempted auto-penectomy (removal of the penis).

53. Ms. Diamond's attempts at auto-castration and suicide are a priori evidence of severe untreated gender dysphoria, and are the inevitable and predictable consequences of denying the medically necessary treatment Ms. Diamond requires.

54. Results of psychodiagnostic testing confirm that Ms. Diamond meets the criteria for severe depression, evidencing symptomotology on several parameters, predominately affective and somatic, including sadness, loss of interest (anhedonia), suicidal ideation, loss of appetite, and agitation.

55. Ms. Diamond also experiences symptoms associated with generalized anxiety. The intensity of the symptoms is severe, and represents subjective and panic-related aspects of anxiety. These include feeling discomfort in the abdomen, heart pounding or racing, difficulty breathing, and fear "of the worst happening." This cluster of symptoms describes autonomic and neurophysiological aspects of anxiety, not subject to voluntary control or cognitive reappraisal. This level of anxiety is consistent with untreated gender dysphoria, as well as a diagnosis of generalized anxiety disorder or panic disorder without agoraphobia.

56. Most clinically significant, Ms. Diamond scores high on scales measuring the extent of hopelessness. Hopelessness is a psychological construct that underlies a variety of mental health disorders. Hopeless individuals believe that their important goals cannot be attained and that their worst problems will never be solved. (Stotland, 1969.) The Beck Hopelessness Scale has utility as an indirect indicator of suicidal risk in individuals who have had prior suicide attempts and ideation. Hopelessness has been repeatedly found to be a better predictor of suicide than depression, and hopelessness scores of 9 or higher are predictive of eventual suicide. (Beck,1986.) A study of 1,969 outpatients who were administered the Beck Hopelessness Scale found that of those who ultimately committed suicide, 93.8% had scores of 9

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 instrument, indicating her risk for suicide is severe.

57. With appropriate medical treatment for gender dysphoria, all of the aforementioned psychological symptoms would be attenuated or eliminated.

58. Hormones regulate all bodily functions. The stimulus for hormone release is complex, originating in the hypothalamus and prompting the pituitary to act on the endocrine glands: the thyroid, parathyroid, pancreas, adrenals, and gonads. Those polypeptides then circulate in the blood stream, acting on organ systems such as the pancreas, to produce insulin, which in turn acts on a cellular level, mediating the response on target organs. The roles of the hormone insulin in diabetes, or cortisol in Addison's disease, are mundane examples of the intricate interplay of psychological and somatic disorders that rely on precisely titrated hormonal interventions.

59. Ms. Diamond experienced the physical sequelae of withdrawal of hormones, including vascular dilation and leg pain, swelling of the feet (necessitating a soft shoe profile), heart palpitations, muscle spasms, hot flashes, vomiting, weight loss, diarrhea, fatigue and hyperhidrosis.

60. Given Ms. Diamond's lifelong gender dysphoria, the longer that appropriate medical treatment is withheld, the greater the risk she will experience devastating negative outcomes.

Adequacy of the Present Treatment Protocol

61. The Standards of Care are disseminated worldwide for the purpose of issuing clinical guidance to health professionals who provide treatment. According to the Standards of Care, if and when an individual meets the criteria for gender dysphoria, a formal diagnosis is

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 treatment *i.e.* hormonal therapy and female grooming accoutrements. This provider has likewise documented suicidal ideation and emotional dysregulation in this inmate. She is in imminent danger of decompensation. In the resource-poor environment of prison and with a lack of appropriate medical care, there is little hope that mental health deterioration or self-harm can be avoided.

64. I have reviewed the Georgia Department of Correction's policy regarding care of transgender inmates. The policy provides for maintenance of an inmate's status, or what is commonly referred to as a "freeze frame" policy regarding treatment of gender dysphoria.

65. The refusal to treat a medical condition because it wasn't treated or was improperly treated prior to incarceration, is anathema to ethical health care delivery. By analogy, if a patient is diagnosed with diabetes while incarcerated, is insulin withheld because it wasn't provided prior to incarceration?

66. In recognition of the hazards of the "freeze frame" approach, the Standards of Care advise:

> People who enter an institution on an appropriate regimen of hormone therapy should be continued on the same, or similar, therapies and monitored according to the SOC [Standards of Care]. A "freeze frame" approach is not considered appropriate care…. People with gender dysphoria who are deemed appropriate for hormone therapy (following the SOC) should be started on such therapy. The consequences of abrupt withdrawal of hormones or lack of initiation of hormone therapy when medically necessary include a high likelihood of negative outcomes such as surgical self-treatment by auto-castration, depressed mood, dysphoria, and/or suicidality.
>
> (Standards of Care, Section XIV.)

Clinical Recommendations

67. Ashley Diamond is at extremely high risk for decompensation, owing to the undesired regression of hormonally-induced physical effects, and a growing sense of desperation. She has made four attempts at auto-castration, and attempted auto-penectomy. She has made multiple suicide attempts and expresses the intention to end her life if she is forced to live as a male. This desperation is the result of the termination of medically indicated treatment.

68. Untreated gender dysphoria dramatically increases suicide risk: Two recent surveys cite a 41% and 43% rate of suicide attempts in this population, far above the baseline rates for North America. It is clinically imperative to be attentive to the presence of suicide risk. Several lines of research suggest that individuals like Ms. Diamond who attempt suicide on multiple occasions are far more likely to die by suicide than are single attempters. Untreated gender dysphoria dramatically increases suicide risk: Two recent surveys cite a 41% and 43% rate of suicide attempts in this population, far above the baseline rates for North America.

69. Ms. Diamond requires immediate initiation of feminizing hormone therapy to treat the dysphoria, concomitant depression and suicidal ideation. Hormone therapy is the medically necessary treatment for her gender dysphoria, and it is safe, evidence-based, and effective. A typical protocol consists of estrogen administered transdermally or by injection, and anti-androgenic compounds, *e.g.* sprironolactone 100 mg per day.

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 *i.e.* "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

1214 Lake Street
Evanston, Illinois 60201
Tel 847-328-3433 Fax 847-328-5890
rettner@aol.com

POSITIONS HELD

Clinical Psychologist

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

Edinburgh, Scotland
International Education Program

1970 Harvard University
Cambridge, Massachusetts
Social relation undergraduate summer program in group dynamics and processes

CLINICAL AND PROFESSIONAL EXPERIENCE

Present Psychologist: Chicago Gender Center
Consultant: Walgreens; Tawani Enterprises
Private practitioner

2011 Instructor, Prescott College: Gender - A multidimensional approach

2000 Instructor, Illinois Professional School of Psychology

1995-present Supervision of clinicians in counseling gender non-conforming clients

1993 Post-doctoral continuing education with Dr. James Butcher in MMPI-2 interpretation University of Minnesota

1992 Continuing advanced tutorial with Dr. Leah Schaefer in psychotherapy

1983-1984 Staff psychologist, Women's Health Center, St. Francis Hospital, Evanston, Illinois

1981-1984 Instructor, Roosevelt University, Department of Psychology: Psychology of Women, Tests and Measurements, Clinical Psychology, Personal Growth, Personality Theories, Abnormal Psychology

1976-1978 Research Associate, Cook County Hospital, Chicago, Illinois Department of Psychiatry

1975-1977 Clinical Internship, Cook County Hospital, Chicago, Illinois, Department of Psychiatry

1971 Research Associate, Department of Psychology, Indiana University

1970-1972 Teaching Assistant in Experimental and Introductory Psychology Department of Psychology, Indiana University

1969-1971 Experimental Psychology Laboratory Assistant, Department of Psychology, Indiana University

LECTURES AND HOSPITAL GRAND ROUNDS PRESENTATIONS

Healthcare for transgender inmates- American Academy of Psychiatry and the Law, 2014

Supporting transgender students: best school practices for success- American Civil Liberties Union of Illinois and Illinois Safe School Alliance, 2014

Addressing the needs of transgender students on campus- Prescott College, 2014

The role of the behavioral psychologist in transgender healthcare — Gay and Lesbian Medical Association, 2013

Understanding transgender- Nielsen Corporation, Chicago, Illinois, 2013;

Role of the forensic psychologist in transgender care; *Care of the aging transgender patient*- University of California San Francisco, Center for Excellence, 2013

Evidence-based care of transgendered patients- North Shore University Health Systems, University of Chicago, Illinois, 2011; Roosevelt-St. Vincent Hospital, New York; Columbia Presbyterian Hospital, Columbia University, New York, 2011

Children of Transsexuals-International Association of Sex Researchers, Ottawa, Canada, 2005; Chicago School of Professional Psychology, 2005

Gender and the Law- DePaul University College of Law, Chicago, Illinois, 2003; American Bar Association annual meeting, New York, 2000

Gender Identity and Clinical Issues — WPATH Symposium, Bangkok, Thailand, 2014; Argosy College, Chicago, Illinois, 2010; Cultural Impact Conference, Chicago, Illinois, 2005; Weiss Hospital, Department of Surgery, Chicago, Illinois, 2005; Resurrection Hospital Ethics Committee, Evanston, Illinois, 2005; Wisconsin Public Schools, Sheboygan, Wisconsin, 2004, 2006, 2009; Rush North Shore Hospital, Skokie, Illinois, 2004; Nine Circles Community Health Centre, University of Winnipeg, Winnipeg, Canada, 2003; James H. Quillen VA Medical Center, East Tennessee State University, Johnson City, Tennessee, 2002; Sixth European Federation of Sexology, Cyprus, 2002; Fifteenth World Congress of Sexology, Paris, France, 2001; Illinois School of Professional Psychology, Chicago, Illinois 2001; Lesbian Community Cancer Project, Chicago, Illinois 2000; Emory University Student Residence Hall, Atlanta, Georgia, 1999; Parents, Families and Friends of Lesbians and Gays National Convention, Chicago, Illinois, 1998; In the Family Psychotherapy Network National Convention, San Francisco, California, 1998; Evanston City Council, Evanston, Illinois 1997; Howard Brown Community Center, Chicago, Illinois, 1995; YWCA Women's Shelter, Evanston, Illinois, 1995; Center for Addictive Problems, Chicago, 1994

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

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Monstrey, S. De Cuypere, G. and Ettner, R. Surgery: General principles in *Principles of Transgender Medicine and Surgery*, Ettner, R., Monstrey, S., and Eyler, E. (Eds.) Routledge Press, 2007.

Schechter, L., Boffa, J., Ettner, R., and Ettner, F. Revision vaginoplasty with sigmoid interposition: A reliable solution for a difficult problem. *The World Professional Association for Transgender Health (WPATH), XX Biennial Symposium*, 31-32, 2007.

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Haworth Medical Press, Leli (Ed.) 2004.

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"Social and Psychological Issues of Aging in Transsexuals," proceedings, Harry Benjamin International Gender Dysphoria Association, Bologna, Italy, 2005.

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

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"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," Proceedings of the Harry Benjamin International Gender Dysphoria Symposium; Bavaria, Germany, 1995.

"Transsexualism- The Phenotypic Variable," Proceedings of the XV Harry Benjamin International Gender Dysphoria Association Symposium; Vancouver, Canada, 1997.

"The Work of Worrying: Emotional Preparation for Labor," *Pregnancy as Healing. A Holistic Philosophy for Prenatal Care*, Peterson, G. and Mehl, L. Vol. II. Chapter 13, Mindbody Press, 1985.

PROFESSIONAL AFFILIATIONS

University of Minnesota Medical School — Leadership Council

American College of Forensic Psychologists

World Professional Association for Transgender Health

Advisory Board, Literature for All of Us

American Psychological Association

American College of Forensic Examiners

Society for the Scientific Study of Sexuality

Screenwriters and Actors Guild

Board of Directors, Chiaravalle Montessori School

Phi Beta Kappa

AWARDS AND HONORS

Phi Beta Kappa, 1971

Indiana University Women's Honor Society, 1969-1972

Indiana University Honors Program, 1969-1972

Merit Scholarship Recipient, 1970-1972

Indiana University Department of Psychology Outstanding Undergraduate Award Recipient, 1970-1972

Representative, Student Governing Commission, Indiana University, 1970

LICENSE

Clinical Psychologist, State of Illinois, 1980

APPENDIX B

BIBLIOGRAPHY & MATERIALS CONSIDERED

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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's Treatment at Rutledge State Prison	E
Letter from Ashley Diamond to Brian Owens, Commissioner of the Georgia Department of Corrections, dated February 11, 2014	F
Letter from Ashley Diamond to Brian Owens, Commissioner of the Georgia Department of Corrections, dated May 13, 2014	G
Georgia Department of Corrections Response to Grievance and Appeal concerning Ashley Diamond's Treatment at Valdosta State Prison	H
Georgia Department of Corrections Mental Health Progress Notes by Dr. Stephen Sloan	I

4. Pursuant to 28 U.S.C. § 1746, I hereby declare and state under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: February 19, 2015

Respectfully submitted,

A. Chinyere Ezie

EXHIBIT

A

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Functional Area: Health Services - Physical Health	**Reference Number:** VH47-0006	**Revises Previous Effective Date:** 12/01/96
Subject: Management of Transsexuals		
Authority: Wetherington/Oxford	**Effective Date:** 9/01/01	Page **1** of 3

I. POLICY:

Inmates/probationers who, during intake health screening, are identified as a transsexual or in the process of attempting sexual reassignment surgery will be evaluated and pertinent information communicated to the Office of Health Services for recommendations for proper assignment and care. The general policy will provide "maintenance" of the inmate's/probationer's transgender status but not move the medical or surgical treatment any further along the continuum of transgender changes.

II. APPLICABILITY:

All State Diagnostic Centers, ASMP, Detention and Diversion Centers.

III. RELATED DIRECTIVES:

None.

IV. DEFINITIONS:

A. Transsexual: A person with the external genitalia and secondary sexual characteristics of one gender, but whose personal identification and psychosocial configuration is that of the opposite gender. Transsexuals may dress and behave as individuals of the opposite sex and may choose to use hormones or surgery to develop desired secondary sex characteristics. A transsexual is different from a transvestite or cross-dresser, who masquerades by dressing in the clothing of the opposite sex. Transsexuals are often classified as pre-operative (those who are taking hormones and undergoing change in dress and life style) and post-operative (those who have had sexual reassignment surgery).

B. Sexual Reassignment Surgery: Surgery to change the appearance of the external genitals.

Functional Area: Health Services - Physical Health	Prev. Eff. Date: 12/01/96	Page 2 of 3
	Effective Date: 9/01/01	Reference Number: VH47-0006

V. ATTACHMENTS:

None

VI. PROCEDURE:

A. Identification.

An inmate/probationer who, either by proclamation or by evidence in the medical history or physical examination is found to be a transsexual or in the process of sexual reassignment surgery will be referred to the Responsible Physician for evaluation. Questions regarding diversion center assignment of a transsexual should be referred to the Director of Health Services or designee in collaboration with Inmate Classification.

B. Evaluation

1. The process of evaluation will include but not be limited to:

   a. Current medications: The responsible physician may temporarily continue any medication until an informed decision can be made by the Office of Health Services.

   b. A Consent to Request or Release Medical Information Form (P78-0002.01, rev. 5/00; See Health Records Manual) will be initiated to obtain medical records from the physician who initiated the treatment.

   c. Routine diagnostic testing for the health screening will be continued and completed.

   d. Specialty consultation services specific to this condition (e.g., psychiatry, urology, and, if necessary, endocrinology) will be made through ASMP or appropriate outside resources.

2. The Statewide Clinical Services Supervisor in the Office of Health Services and the Statewide Medial Director will be contacted verbally (via telephone) by the originating institution only if there are questions regarding the disposition of the inmate/probationer.

3. During diagnostic processing, the inmate/probationer should be medically evaluated either at ASMP or through appropriate outside resources.

4. If questions regarding placement arise following the medical evaluation, the Health Services Director or designee and the Statewide Medical Director, in collaboration with Inmate Classification will make informed decisions regarding proper care and assignment of the inmate/probationer based on information received.

5. Surgical intervention will not be performed unless the physical health of the inmate/probationer is in jeopardy or the functional status of the inmate/probationer is in danger of deterioration.

EXHIBIT

B

11/18/13

Dear Warden of Care & Treatment,

I have some questions about the S.O.P. for treatment of transgenderd inmates or inmates who suffer from Gender Identity Disorder I have made several requests for medical treatment and spoke with mental health and Im told Rutledge doesnt treat it. I would like to know what options for treatment are within the Dept Of Corrs. for prisoners. Can you tell me how to obtain this information?

Thank You,

Ashley Diamond
1000290565
FIB5

EXHIBIT

C

Georgia

GEORGIA DEPARTMENT OF CORRECTIONS
RUTLEDGE STATE PRISON
7175 MANOR ROAD
COLUMBUS GEORGIA 31907
Phone: (706) 568-2340

Nathan Deal
Governor

Brian Owens
Commissioner

TO: Inmate Ashley Diamond, GDC#1000290565

FROM: Ruthie Shelton, Deputy Warden/ Care & Treatment

DATE: November 22, 2013

RE: In Response to your letter

This letter is to inform you that I read your letter stating that you are seeking options for treatment of "Gender Identity Disorder" while serving your prison sentence within Georgia Department of Corrections.

After reading your letter I am not sure exactly what you are requesting information on. However, I can tell you that we recognize that people come in with issues like that you stated and we seek first to ensure their protection. However, the Department does not offer therapy for this at this time. As for medical issues you may have, please complete a medical request form and put it in the box in the chow hall and medical will schedule you an appointment with the Doctor. If you have an emergency let your dorm officer know and he/she will make sure you are seen by medical immediately.

Regards,

Ruthie Shelton, Deputy Warden/Care & Treatment
Rutledge State Prison

EXHIBIT

D

Georgia Department of Corrections
Mental Health Department
Suicide Precaution Notification to Warden/Superintendent

Date: 12-26-13

To: Shay Hatcher Warden/Superintendent

From: Hunt MH/MR Unit Manager/Designee

Inmate: Diamond, Ashley ID Number: 1000240565

THIS IS TO NOTIFY YOU THAT THE ABOVE INMATE HAS BEEN PLACED IN THE FOLLOWING STATUS:

Suicide Precaution 11

[✓] Initial/continue suicide precautions placement.
✓ 15 minute checks ____ constant watch ____ one on one ____ jump suit
✓ paper gown ✓ mattress ✓ blanket ____ normal meals w/utensils
✓ finger goods ____ Other:

[ ] Awaiting transfer to ACU/CSU
[ ] Decrease Suicide Precautions to SP1 Time/Date:

Suicide Precaution 1

[ ] Place on Precaution I status. Remain housed in Room #:____ Increased frequency of MH contact is being initiated.

Ordered by: Date/Time:

Hunt Dmsha L UPC/MH 12-26-13
Signature (Nurse/Counselor) Date

7175 MANOR ROAD, COLUMBUS,GA 31907
OFFICE: 706/568-2358 FAX: 706/568-2359

RUTLEDGE STATE PRISON

Fax

To: Central Office
From: Rutledge SP
Fax: 404-656-6708
Pages: 2
Phone: —
Date: 12-26-13
Re: Selfinjurious Behavior
CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments:

Thank you!

EXHIBIT

E

Georgia Department of Corrections
Office of Health Services
Utilization Management
300 Patrol Road
Suite 400, Upshaw
Forsyth, Georgia 31029

Nathan Deal
Governor

Brian Owens
Commissioner

GRIEVANCE APPEAL RESPONSE

INMATE: Diamond, Ashley Alton GDC# 1000290565
GRIEVANCE# 163506
INSTITUTION: Rutledge State Prison

The office of Health Services Clinical Staff has reviewed your grievance appeal. It is concluded that medical personnel handled this case appropriately and no further action is warranted. Your grievance appeal is denied.

Dr. Sharon Lewis
MEDICAL DIRECTOR OF GDC

Sent to Valdosta SP

Attachment 4
SOP IIB05-0001

WARDEN'S/SUPERINTENDENT'S GRIEVANCE RESPONSE

Offender's Name: **Diamond, Ashley** Grievance Number: 163506

GDC #: **1000290565** Facility: **Rutledge State Prison**

RESPONSE TO GRIEVANCE:

Denied

Warden's/Superintendent's signature

12-30-13
(date)

I ACKNOWLEDGE RECEIPT OF THE ABOVE RESPONSE ON THIS DATE:

Offender's signature

1-28-2014
(date)

You have seven (7) calendar days within which to appeal this Response to your Grievance Coordinator. If the last day is not a business day at your institution, you may file it on the next day that is a business day.

1-4-14

CONFIDENTIAL
Offender GRIEVANCE FORM (Facsimile)

Attachment 1
SOP IIB05-0001

INSTITUTIONAL STAFF USE ONLY

OFFENDER NAME Ashley Diamond OFFENDER NUMBER 100029056 5

INSTITUTION Jack I Ruthedge GRIEVANCE NUMBER 163506

DATE COMPLETED FORM RECEIVED FROM OFFENDER 11-26-13 BY Douglas

DATE APPEAL RECEIVED BY

THIS FORM MUST BE COMPLETED IN INK. YOU MUST INCLUDE SPECIFIC INFORMATION CONCERNING YOUR GRIEVANCE TO INCLUDE DATES, NAMES OF PERSONS INVOLVED, AND WITNESSES.

DESCRIPTION OF INCIDENT:

11/25/13 Dr. I met with the Physcologist Dr. Thomson and Physciatrist Dr. Silven in regards to treatment for Gender Identity Disorder. They told me that they werent going to treat Gender Identity Disorder at Ruthedge. I am grieving the denial of treatment for my serious medical needs. I also the same day recieved a letter from the Warden of Care and treatment saying the same.

RESOLUTION REQUESTED:

Treatment for my ~~them~~ Disorder by transferring me to a facility that has Drs. qaulified to treat me.

Ashley Diamond 11/26/13

OFFENDER Signature Date

Is this grievance being filed within the 10 day time limit? Please answer ● Yes *or* ○ No . *If the answer is No, please explain why.*

EXHIBIT

F

Re: Ashley Diamond
1001296565
cc: Valdosta S. Prison

2/11/14

Dear Mr Owens,

I am deeply concerned with my recent transfer to Valdosta State Prison from Rutledge. I appear to have been transferd due to suit because of the failure to offer treatment for Gender Identity Disorder. That in itself is a seperate issue apart for my safety and well being, while in the Dept's care. I have been told by successors in the D.O.C. that classification factors such as the issue of G.I.D. should, along with PREA victim status be considerd in placement in the facilities. After the sexual violence that has occured in such a short period of my incarceration I logically think that an effort would be made to prevent such activities. I also would like to think that after me and GDC staff, preaperand physcologists have worked hard to get security reduced so that I may be placer transient atmosphere that medium secur there are safer conditions other the violently prone prisons such as Macon S Baldwin State Prison, & Valdosta state Prison

Where someone in my position could exist more harmonously and do what is expected to obtain an earlier release (ie pic classess, OJT) I am a nonviolent 1st time offender, And shouldnt have to experience the violence, and sexual assaults that I have. Legally I have to make officials in the know of my situation in order to give me fair opportunity to respond. I am not trying to be difficult or make my way hard. I just want to do my time safely and go home. Period. Ive met with Internal Affairs, Prea People, etc. And no one seems to be listening. As far as Gender Identity treatment I am aware of what you are able to offer and will except the Courts decision, but I cant except violence, danger, & rape. And shouldnt have to. I am going to petition Staff to transfer me from here to Johnson, ~~Montgomery~~ Central, or Phillips. Environments where other known transgender + transexuals r had minimal problems. Please let me know thoughts and what actions you think I be taking.

Thank you.

Ashley Diamond
P.C.B.C.
Valdosta,

EXHIBIT

G

SPLC Southern Poverty Law Center

Fighting Hate
Teaching Tolerance
Seeking Justice

Southern Poverty Law Center
400 Washington Avenue
Montgomery, AL 36104
334.956.8200
splcenter.org

May 13, 2014

Brian Owens, Commissioner
Robert E. Jones, General Counsel
Georgia Department of Corrections
Department Headquarters
300 Patrol Road Forsyth, GA 31029

VIA EMAIL AND FIRST CLASS MAIL

Re: Discriminatory Treatment of Inmate Ashley Diamond, GDC No. 1000290565

Dear Commissioner Owens and Mr. Jones,

It has come to our attention that the Georgia Department of Corrections ("GDC") refuses to provide Ashley Diamond, currently incarcerated at Valdosta State Prison, constitutionally-required medical treatment in the form of hormones to treat Ms. Diamond's Gender Identity Disorder ("GID"). Ms. Diamond is a transgender woman who has received hormone therapy since the age of seventeen. Despite GDC's internal policy mandating "maintenance" of a transgender person's hormone status while in custody, GDC abruptly halted Ms. Diamond's hormone therapy when she came into GDC care in March of 2012. GDC not only denies necessary medical care but targets Ms. Diamond because of her transgender status, including placing Ms. Diamond in solitary confinement for over a week in December of 2013 for "pretending to be a woman."

GDC's continued refusal to provide necessary medical treatment violates the Eighth Amendment's ban on cruel and unusual punishment, widely accepted protocol on health care standards in correctional settings, the Rules and Regulations of the State of Georgia, and *GDC's own internal policies* concerning the treatment of transgender people. I write to inform you that unless you promptly provide Ms. Diamond with appropriate medical and mental health care relating to her transgender status by **May 30**, including taking steps to protect Ms. Diamond from the retaliation she has experienced as a result of attempting to secure appropriate care, SPLC will commence legal action to remedy this constitutional violation.

GDC Refuses To Treat Ms. Diamond's Serious Medical Need

Ms. Diamond began her transition at the age of 15 while growing up in Rome, Georgia and began hormone therapy just two years later. At the age of thirty four, she was taken into GDC custody and her hormone treatment was immediately terminated. Ms. Diamond's body changed dramatically after GDC abruptly withdrew her medication. Her voice has deepened, her facial hair has begun to grow in, and her body fat has redistributed — all changes that she previously avoided by beginning hormone treatments while in adolescence. Ms. Diamond experienced and continues to experience significant physical illness and depression, including suicidal ideation and other manifestations of self-harm, because of GDC's refusal to provide adequate care. GDC health specialists are on notice that withholding treatment would cause severe and life-threatening harm, as they have previously provided hormone therapy

to other transgender inmates and are thus aware of the necessary nature of the treatment.[1] Yet, GDC continues to deny Ms. Diamond hormone treatment for unknown reasons.

Despite GDC's own Policy VH47-0006 requiring that a transgender inmate undergo evaluation during diagnostic processing, Ms. Diamond did not receive a mental health evaluation until October 17 of 2012, over six months after she was taken into custody. At that time, GDC professionals diagnosed her as having GID. The evaluation recognized that "prisoner is transgender" and that Ms. Diamond had "lived as [a woman] since [s]he was 15 years of age." Yet no medication was provided, and instead of the "maintenance" required by GDC's own policy, the form describes that Ms. Diamond was told to "learn the appropriate skills to adapt," rather than be proscribed the hormones she previously received for over half her life.

The United States Constitution, Nationally Recognized Standards of Care in Correctional Facilities, and GDC's Own Internal Policies All Require that GDC Provide Ms. Diamond with Hormone Treatment

GDC's refusal to provide Ms. Diamond with hormone treatment despite her medical diagnosis constitutes deliberate indifference in violation of the Eighth Amendment's ban on cruel and unusual punishment. In *Kothmann v. Rosario*, the Eleventh Circuit explained that even in 2010, two years before Ms. Diamond entered GDC care, "the state of the law was sufficiently clear to put [Florida Department of Corrections' Chief Health Officer] on notice that refusing to provide [a transgender inmate] with what she knew to be medically necessary hormone treatments was a violation of the Eighth Amendment."[2] On May 2nd of this year a federal judge in Ohio ordered the Ohio Department of Rehabilitation and Correction to permanently provide hormone treatment to a transgender woman who had received hormones since the age of 18 after the Department abruptly halted her care in 2012.[3]

As recently as May 7th of this year, a US District Court for the Middle District of Georgia, Valdosta Division, held that a transgender inmate housed at the exact same GDC facility as Ms. Diamond had a viable Eighth Amendment claim as a result of GDC's refusal to treat her GID.[4] In his written denial of the inmate's medical request, the warden refused treatment for the inmate's "transgender situation" and even went so far as to assert, wrongly, that "lack of [hormones] would not cause the illnesses that you state you are in fear of." The court, in recognizing the woman's claims against GDC, was clear that such treatment could violate Eighth Amendment even when the inmate was not formally diagnosed with GID at the time she entered GDC custody. If there exists a viable Eighth Amendment claim for this transgender woman, who was not diagnosed at the time she entered custody but later developed GID, one certainly exists when GDC itself diagnosed Ms. Diamond as having GID years ago yet continues to refuse to treat her despite notification of her need.

It is well-recognized nationally that transgender inmates who received hormone therapy prior to incarceration should continue the therapy while in custody. The National Commission on Correctional

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1. *Howard v. Green*, 5:10-CV-207, 2011 WL 4969599 (M.D. Ga. Sept. 9, 2011) *report and recommendation adopted*, 5:10-CV-207 MTT, 2011 WL 4975852 (M.D. Ga. Oct. 19, 2011).

2. *Kothmann v. Rosario*, 13-13166, 2014 WL 889638 (11th Cir. Mar. 7, 2014). *See also Fields v. Smith*, 653 F.3d 550, 559 (7th Cir. 2011) (holding that a Wisconsin state statute banning hormone therapy for incarcerated transgender people violates the Eighth Amendment); *Phillips v. Mich. Dept. of Corr.*, 731 F.Supp. 792, 792 at n. 1. (W.D.Mich.1990) (order granting preliminary injunction to transgender prisoner when Department of Corrections denied hormone treatment for GID); aff'd, 932 F.2d 969 (1991).

3. Andrew Welsh-Huggins, *Judge Orders Treatment for Ohio Transgender Inmate,* ABCNEWS.COM (May 2, 2014), *available at*: http://abcnews.go.com/Health/wireStory/judge-orders-treatment-ohio-transgender-inmate-23570520.

4. *Lynch v. Lewis*, 7:14-CV-24 HL, 2014 WL 1813725 (M.D. Ga. May 7, 2014).

Health Care explains that "[d]iagnosed transgender patients who received hormone therapy prior to incarceration should have that therapy continued without interruption pending evaluation by a specialist, absent urgent medical reasons to the contrary."[5] The National Institute of Corrections concurs that "medical care an LGBTI inmate or resident receives prior to arriving at the facility, such as hormone treatments, should be continued upon arrival at the facility after consultation with the appropriate medical providers."[6] Federal Bureau of Prison standards require that inmates in Ms. Diamond's situation receive hormone treatment and access to mental health providers familiar with transgender care.[7] The American Psychological Association "supports access to appropriate treatment in institutional settings ... including access to appropriate health care services including gender transition therapies."[8]

GDC's own internal policies mandate that Ms. Diamond receive hormone treatment. GDC *Standard Operating Procedures* Policy VH47-0006, "Management of Transsexuals," effective *over ten years ago*, explains that "inmates/probationers who, during intake health screening, are identified as transsexual will be evaluated ... The general policy will provide 'maintenance' of the inmate's/probationer's transgender status."[9] GDC policy effective a decade prior to Ms. Diamond's entrance into custody requires a level of care well above what Ms. Diamond has actually received, including hormones to ensure maintenance of the body she has lived with since she began hormones. Finally, the Rules and Regulations of the State of Georgia, Policy 125-4-4-.04 (2) require that "[e]ach inmate who has a remediable physical or mental condition shall be offered suitable treatment at the institution or through extension, at other facilities accessible to the State Board of Corrections."[10]

Ms. Diamond Has Experienced and Continues To Experience Retaliation As a Result of Her Requests for Treatment

Ms. Diamond's continued attempts to remedy her life-threatening situation have resulted in retaliation as opposed to concern on the part of GDC officials. Immediately upon her arrival into custody, she was targeted for harassment by guards and inmates because of her gender non-conformity. This harassment was both physical and verbal — Ms. Diamond was raped by a fellow inmate in 2012 after repeated requests for protection were ignored. Ms. Diamond continues to use the appropriate grievance procedures to ensure her safety, but her grievances have gone unanswered and her mail has been "lost." Ms. Diamond is told by guards that she has brought the problems on herself by being transgender. For example, in December of 2013, Ms. Diamond was placed in solitary confinement for a week for "pretending to be a woman." Ms. Diamond continues to suffer severe mental anguish as a result of the abrupt cessation of hormones and indifference to her medical needs.

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5. 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.

6. U.S. DEPARTMENT OF JUSTICE NATIONAL INSTITUTE OF CORRECTIONS, POLICY REVIEW AND DEVELOPMENT GUIDE: LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND INTERSEX PERSONS IN CUSTODIAL SETTINGS (August 2013), *available at:* https://s3.amazonaws.com/static.nicic.gov/Library/027507.pdf.

7. U.S. DEPARTMENT OF JUSTICE FEDERAL BUREAU OF PRISONS, MEMORANDUM FOR CHIEF EXECUTIVE OFFICERS (May 31, 2011) and (June 15, 2010), *available at:* www.glad.org/uploads/docs/cases/adams-v-bureau-of-prisons/2011-gid-memo-final-bop-policy.pdf. (Explaining that "should a GID diagnosis be made, continued psychological counseling will be offered if warranted, and requested by the inmate ... [A]n inmate will be maintained at the level of change existing upon admission to the Bureau of Prisons. Hormone therapy will provided to maintain that level, and such therapy will continue should the inmate be transferred to another facility.")

8. AMERICAN PSYCHOLOGICAL ASSOCIATION, RESOLUTION ON TRANSGENDER, GENDER IDENTITY, & GENDER EXPRESSION NON-DISCRIMINATION (2009), *available at:* www.apa.org/about/policy/transgender.aspx.

9. GEORGIA DEPARTMENT OF CORRECTIONS, SOP VH47-0006, MANAGEMENT OF TRANSSEXUALS (2001).

10. GA. COMP. R. & REGS. 125-4-4.004 (1986), available at: http://rules.sos.state.ga.us/docs/125/4/4/04.pdf.

In December of 2013, I met with Ms. Diamond to discuss her experience. Immediately after this meeting, Ms. Diamond was placed solitary confinement for six days and was then transferred to another facility, her movement history classifying the reason for this move as "disciplinary" despite the lack of any disciplinary incident in any of the related records. Attorneys from SPLC were unable to reachMs. Diamond during this period. SPLC investigations, in addition to recent cases brought on behalf of transgender inmates, indicate that Ms. Diamond is not the only transgender individual in GDC custody, making GDC's refusal to provide constitutionally-adequate care even more concerning.

Ms. Diamond Must Receive Appropriate Care By 5p.m. on Friday, May 30th

Please confirm in writing by **5 p.m., Friday, May 30th**, that you will provide Ashley Diamond, and all other transgender inmates in GDC custody, with appropriate hormone therapy and mental health care as required by the Eighth Amendment and GDC's own policies concerning transgender people. SPLC offers to provide training on how to ensure appropriate care, free of charge, to GDC officials. Should this matter not resolve, SPLC is prepared to file a federal lawsuit to remedy the situation. If you wish to discuss how to guarantee appropriate care please contact me so that we may together ensure the safety of all transgender individuals in GDC custody.

Sincerely,

David Dinelli
Deputy Legal Director
Southern Poverty Law Center

EXHIBIT

H

CONFIDENTIAL

Offender GRIEVANCE FORM (Facsimile)

Attachment 1
SOP IIB05-0001

INSTITUTIONAL STAFF USE ONLY

OFFENDER NAME	Ashley Diamond	OFFENDER NUMBER	1000290565
INSTITUTION	VALDOSTA STATE PRISON	GRIEVANCE NUMBER	173610
DATE COMPLETED FORM RECEIVED FROM OFFENDER	5/27/14	BY	[illegible]
DATE APPEAL RECEIVED		BY	[illegible]

THIS FORM MUST BE COMPLETED IN INK. YOU MUST INCLUDE SPECIFIC INFORMATION CONCERNING YOUR GRIEVANCE TO INCLUDE DATES, NAMES OF PERSONS INVOLVED, AND WITNESSES.

DESCRIPTION OF INCIDENT:

On May 15, 2014 During inspection I was told by the Warden that he didnt like my eyebrows and we arent going to do that "This is a man's facility". I found that to be offensive as I am a Woman. I am transgendered as it is well documented. If Valdosta Can't respond to the needs of trans community than I should be sent to a facility that can house "my kind" effectively and safely. As I have requested transfer for safety and medical reasons numerous times. Gender Identity Disorder is a serious Condition and I deserve fair impartial treatment & respect.

RESOLUTION REQUESTED:

To be transferd to a facility that is better equipped to handle transgenders as well as it being medium security, as I am both and to have GDC Staff respect trans community by reffering to them as proper pronoun and treating there disorder.

Ashley Diamond 5-22-14

OFFENDER Signature Date

[illegible] JUL 10 RECD [illegible]

Is this grievance being filed within the 10 day time limit? Please answer ◉ **Yes** *or* ○ **No** . *If the answer is No, please explain why.*

5-27

ATTACHMEN
SOP IIB05-0(

STAFF LOCAL INVESTIGATIVE REPORT AND RECOMMENDATION FORM

INSTITUTION: **Valdosta State Prison** DATE: **May 28, 2014**

TO: GRIEVANCE COORDINATOR/ALTERNATE GRIEVANCE COORDINATOR

FROM: **S. Wright**

OFFENDER: NAME: **Diamond, Ashley**

GDC #: **1000290565** **GRIEVANCE #: 173610**

INMATE'S BASIC ALLEGATION OR COMPLAINT:

Inmate alleged on 5/15/14 during inspection he was told by the Warden that he (Warden) did not like inmate's eyebrows and that this is a men's facility. Inmate stated he was offended because he is a woman (trans-gendered).

SUMMARY OF INVESTIGATION::
Inmate is clearly a man, not a woman. I recommend grievance be denied.

S. Wright
STAFF SIGNATURE:

5/28/14
DATE:

Concur with Staff Findings: Yes: ☒ No: ☐
Grievance Coordinator: S. Woods

Date: 05/28/14

(Reproduced locally)

RETENTION SCHEDULE: Upon completion of this form, it will be placed in a file in the Grievance Coordinator's office

Attachment 4
SOP IIB05-0001

GI-73

WARDEN'S/SUPERINTENDENT'S GRIEVANCE RESPONSE

Offender's Name:	**Ashley Diamond**	Grievance Number:	173610
GDC #:	**1000290565**	Facility:	**Valdosta State Prison**

RESPONSE TO GRIEVANCE:

Policy states, in part, "Facial adornments are prohibited, unless medically indicated". There is no medically indicated reason for you to adorn your face by manipulating your eyebrows. This is a male facility and your gender is male. You will be required to follow the rules as all other inmates.

Warden's/Superintendent's signature

6-4-14
(date)

I ACKNOWLEDGE RECEIPT OF THE ABOVE RESPONSE ON THIS DATE:

Offender's signature

6-18-14
(date)

You have seven (7) calendar days within which to appeal this Response to your Grievance Coordinator. If the last day is not a business day at your institution, you may file it on the next day that is a business day.

E

GRIEVANCE APPEAL FORM

ATTACHMENT 5
SOP IIB05-0001

Ashley Diamond — OFFENDER NAME
1000290565 — I.D. NUMBER
173610 — GRIEVANCE NUMBER

I reject the Warden /Superintendent's response to my grievance. The basis for this appeal is as follows: There is a medical reason for my eyebrow adornment It is called Gender Identity Disorder. Valdosta State Prison is providing me w/ no treatment and the only real life experience I can have is that. I have had my eyebrows that way for 17 years. I am not male I am female and it is very disrespectful to continue to refer to me as the wrong pronoun. The facility continues to torture me in various ways And I want immediate relief.

NOTE: The option to appeal a proposed resolution rests with the grievant. All grievances indicating a desire for appeal will be forwarded to the next level. However, to allow a full review of all issues the grievant wishes considered, he or she should state these reasons clearly in the appeal. Statements such as "not satisfied" or "appeal further" will result only in a general review. If for some reason this appeal is being submitted later than the allotted time frame, please state clearly reasons why if you wish for this appeal to be considered. This appeal form along with the grievance form must be submitted to your Counselor or Grievance Coordinator.

INMATE'S SIGNATURE: Ashley Diamond DATE: 8-18-14

(Reproduced locally)

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54

GEORGIA DEPARTMENT OF CORRECTIONS

OFFICE OF INVESTIGATIONS & COMPLIANCE
INMATE AFFAIRS UNIT
P.O. BOX 1529
Forsyth GA 31029

Nathan Deal
Governor

Brian Owens
Commissioner

GRIEVANCE APPEAL RESPONSE

Offenders Name:	Diamond, Ashley Alton	Grievance Number:	173610/ 06
GDC#:	1000290565	Facility	Valdosta State Prison

A member of my staff has reviewed your grievance. You allege that on 05/15/2014 you were told by Warden Allen that he did not like your eyebrows. You also claimed the Warden stated "that this is a man's facility". According to policy facial adornments are prohibited, unless medically indicated. All inmates at Valdosta State Prison are required to follow policy. Based on this information, your grievance is denied.

Ricky Myrick, Director
Investigations and Compliance

Lisa Fountain
Lisa Fountain, Interim Manager
Inmate Affairs Unit

7-30-14
Date

I ACKNOWLEDGE RECEIPT OF THE ABOVE RESPONSE ON THIS DATE:

Ashley Diamond
Offender's Signature

8-11-14
Date

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

Chief Complaint: FEAR OF STAFF

Target Symptom(s) from Treatment Plan addressed in this contact: SYMPTOMS RELATED TO PTSD AND GENDER DYSPHORIA

Attitude: Cooperative **Hygiene:** Adequate **Orientation:** Times four **Suicide Risk:** Denied

Judgment: Fair **Mood:** LABILE **Affect:** Appropriate **Hom. Ideation:** Denied

Thought Processes and Content: I/M is alert, linear and coherent.

Description of session (include discussion of abnormal findings): THE INMATE WAS SEEN IN MY OFFICE AFTER SHE TALKED WITH THE WARDEN. ACCORDING TO THE INMATE THE WARDEN PROMISED A TRANSITION CENTER IF SHE WAS TAKEN OFF OF MENTAL HEALTH. THE INMATE IS APPROPRIATELY SUSPICIOUS. I FEEL THIS INMATE IS AT A RISK OF SEVERE SELF HARM IF THERE ARE ANY MORE SETBACKS OR ASSAULTS. I WILL SEE THE INMATE AGAIN TOMORROW. THERE IS NO WAY SHE CAN BE TAKEN OFF OF THE CASELOAD. I FIND THE ATMOSPHERE AT THIS INSTITUTION TO BE ONE OF MARKED HOMOPHOBIA WITH LITTLE SUPPORT FOR INMATES WHO ARE MEMBERS OF SEXUAL MINORITIES.

Clinical Interventions (during this session): ASSESSED MENTAL STATUS, CBT

II. **Assessment: Problem/Target Symptoms are:** [X]Worse [ ]Unchanged [ ]Improved [ ]Eliminated

Diagnosis: GENDER DYSPHOIA, PTSD **Unchanged/Changed as of:** _____ (date)
(circle)

Comments: ON EDGE BUT PRIMARILY STABLE

Treatment Plan Goal(s):

III. **Clinical Plan for subsequent sessions:** FOCUS ON THE DESIRE TO SELF HARM

Next Appointment: ~~monthly~~ 2 weeks
(date)

PH. D.
Signature/Title

Page 1 of 1 [ ]Attachment

STEPHEN L. SLOAN, PH. D.
Printed/Typed Name

GEORGIA DEPARTMENT OF CORRECTIONS

MENTAL HEALTH PROGRESS NOTE

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

Target Symptom(s) from Treatment Plan addressed in this contact: SYMPTOMS RELATED TO PTSD AND GENDER DYSPHORIA

Attitude: Cooperative **Hygiene:** Adequate **Orientation:** Times four **Suicide Risk:** Denied

Judgment: Fair **Mood:** LABILE **Affect:** Appropriate **Hom. Ideation:** Denied

Thought Processes and Content: I/M is alert, linear and coherent.

Description of session (include discussion of abnormal findings):

THE INMATE WAS SEEN IN MY OFFICE. SHE CONTINUES TO FEEL AT RISK WITH THE CLOSE SECURITY INMATES IN HER DORM. WE DISCUSSED THE HOSTILE ENVIRONMENT AT BSP. SHE HAS NOT SELF HARMED IN THE LAST WEEK EVEN THOUGH IT IS A CONSTANT CONSCIOUS OPTION FOR HER. SHE CONTINUES TO REQUIRE HORMONE THERAPY AND GENDER ROLE CHANGE IF SHE IS TO RECEIVE ADEQUATE CARE. WITHHOLDING THIS THERAPY FROM HER INCREASES HER RISK OF SELF HARM. SHE WAS GIVEN A CALL TO HER MOTHER.

Clinical Interventions (during this session): ASSESSED MENTAL STATUS, CBT

II. **Assessment: Problem/Target Symptoms are:** [X]Worse [ ]Unchanged [ ]Improved [ ]Eliminated

Diagnosis: GENDER DYSPHORIA, PTSD **Unchanged/Changed as of:** _____ (date)
(circle)

Comments: ON EDGE WITH LABILE MOOD

III. **Clinical Plan for subsequent sessions:** FOCUS ON THE DESIRE TO SELF HARM

Next Appointment: WEEKLY
(date)

PH. D.
Signature/Title

Page 1 of 1 [ ]Attachment

STEPHEN L. SLOAN, PH. D.
Printed/Typed Name