

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JESSICA HICKLIN,)
)
 Plaintiff,)
)
 v.)
)
 ANNE PRECYTHE, *et. al.*,)
)
 Defendants.)

Case No. 4:16-cv-01357-NCC

**ANSWER TO PLAINTIFF’S FIRST AMENDE COMPLAINT OF DEFENDANTS
ANNE PRECYTHE, JOAN REINKEMEYER, CINDY GRIFFITH,
STAN PAYNE, SCOTT O’KELLY and LATOYA DUCKWORTH**

COME NOW Defendants Anne Precythe, Joan Reinkemeyer, Cindy Griffith, Stan Payne, Scott O’Kelly and Latoya Duckworth (“MDOC Defendants”), by and through their counsel, and for their Answer to Plaintiff’s First Amended Complaint (Doc. 152), state as follows:

PRELIMINARY STATEMENT

1. MDOC Defendants admit that Plaintiff is a thirty-seven year old transgender person in the custody of the MDOC and housed at PCC, and denies the remaining averments contained in paragraph 1.
2. Denied.
3. MDOC Defendants admit on information and belief that Plaintiff sought to change her name and are without sufficient knowledge or

information to admit or deny the remaining averments contained in paragraph 3 and, therefore, deny same.

4. Denied.

5. The allegations of paragraph 5 regarding “standard of care” recite a legal conclusion to which no response is required. To the extent any response is warranted, the allegations of paragraph 5 are denied.

6. MDOC Defendants admit that hormone therapy has been provided to transgender inmates in the MDOC and deny the remaining averments contained in paragraph 6.

7. The allegations of paragraph 7 regarding “medically necessary treatment” call for a legal conclusion and any such standards are applicable only on a case-by-case basis and not as a blanket application. Given the general allegations of paragraph 7, MDOC Defendants are unable to admit same, and, therefore, said allegations are denied.

8. MDOC Defendants admit that Plaintiff has gender dysphoria and deny the remaining averments of paragraph 8.

9. The allegations of paragraph 9 are overly broad and general, and, therefore, MDOC Defendants deny said allegations.

10. Denied.

11. MDOC Defendants do not have sufficient knowledge or information to admit or deny the averments of paragraph 11 and therefore deny same.

12. MDOC Defendants admit that Plaintiff brings this action pursuant to 42 U.S.C. § 1983, but denies the remaining allegations set forth in paragraph 12.

JURISDICTION AND VENUE

13. MDOC Defendants admit that Plaintiff brings this action seeking preliminary and permanent injunctive and declaratory relief pursuant to 42 U.S.C. §§ 1983 and 1988, and MDOC Defendants deny that Plaintiff is entitled to any such relief.

14. Admitted.

15. Admitted.

16. Admitted.

PARTIES

17. Admitted.

18. MDOC Defendants admit that Anne Precythe is and has been the Director of MDOC and that she has exercised the scope of her authority in that position. MDOC Defendants deny the remaining averments contained in paragraph 18.

19. MDOC Defendants admit that Joan Reinkemeyer is and has been a Division Director, Division of Rehabilitative Services for the MDOC and that she has exercised the scope of her authority. MDOC Defendants deny the remaining averments contained in paragraph 19.

20. MDOC Defendants admit that Cindy Griffith is the current Deputy Director, Division of Adult Institutions for the MDOC and that she has exercised the scope of her authority. MDOC Defendants deny the remaining averments contained in paragraph 20.

21. MDOC Defendants admit that Cindy Griffith was at relevant times the Warden at PCC and that she exercised authority, direction and control at PCC. MDOC Defendants deny the remaining averments contained in paragraph 21.

22. MDOC Defendants admit that Stan Payne was the acting warden at PCC and is Deputy Warden of Offender Management and that he exercises oversight at PCC regarding the medical care delivered to inmates. MDOC Defendants deny the remaining averments contained in paragraph 22.

23. MDOC Defendants admit that Scott O'Kelly, L.P.C. is and has been Assistant Division Director of Mental Health Services at MDOC and that, in that role, he exercises oversight regarding the care and treatment of MDOC inmates and health care personnel. MDOC Defendants deny the remaining averments contained in paragraph 23.

24. MDOC Defendants admit that Latoya Duckworth is Assistant Director for the Department of Offender Rehabilitative Services at MDOC and that she has authority regarding the care and treatment of MDOC inmates. MDOC Defendants deny the remaining averments contained in paragraph 24.

25. The allegations of paragraph 25 are not directed to these MDOC Defendants and therefore they make no response thereto. However, in the event said allegations are construed as being directed against these MDOC Defendants, then they deny same.

26. The allegations of paragraph 26 are not directed to these MDOC Defendants and therefore they make no response thereto. However, in the event said allegations are construed as being directed against these MDOC Defendants, then they deny same.

27. The allegations of paragraph 27 are not directed to these MDOC Defendants and therefore they make no response thereto. However, in the event said allegations are construed as being directed against these MDOC Defendants, then they deny same.

28. The allegations of paragraph 28 are not directed to these MDOC Defendants and therefore they make no response thereto. However, in the event said allegations are construed as being directed against these MDOC Defendants, then they deny same.

29. The allegations of paragraph 29 are not directed to these MDOC Defendants and therefore they make no response thereto. However, in the event said allegations are construed as being directed against these MDOC Defendants, then they deny same.

30. The allegations of paragraph 30 are not directed to these MDOC Defendants and therefore they make no response thereto. However, in the event said allegations are construed as being directed against these MDOC Defendants, then they deny same.

31. The allegations of paragraph 31 are not directed to these MDOC Defendants and therefore they make no response thereto. However, in the event said allegations are construed as being directed against these MDOC Defendants, then they deny same.

32. The allegations of paragraph 32 are not directed to these MDOC Defendants and therefore they make no response thereto. However, in the event said allegations are construed as being directed against these MDOC Defendants, then they deny same.

33. The allegations of paragraph 33 are not directed to these MDOC Defendants and therefore they make no response thereto. However, in the event said allegations are construed as being directed against these Defendants, then they deny same.

34. The allegations of paragraph 34 are not directed to these Defendants and therefore they make no response thereto. However, in the event said allegations are construed as being directed against these Defendants, then they deny same.

FACTS

35. MDOC Defendants state that the averments of paragraph 35 set forth not facts but opinions and beliefs that have no bearing on the outcome of the claims in this case and, therefore, MDOC Defendants deny same.

36. MDOC Defendants state that the averments of paragraph 36 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

37. MDOC Defendants state that the averments of paragraph 37 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

38. MDOC Defendants state that the averments of paragraph 38 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

39. MDOC Defendants state that the averments of paragraph 39 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

40. MDOC Defendants admit that gender dysphoria is a condition recognized in the DSM-V and state that they have insufficient knowledge or belief to answer the remaining averments of paragraph 40 and therefore deny same.

41. MDOC Defendants admit on information and belief the averments of paragraph 41.

42. MDOC Defendants state that the averments of paragraph 42 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

43. MDOC Defendants deny that Plaintiff is a woman and state that the remaining averments of paragraph 43 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

44. MDOC Defendants state that the averments of paragraph 44 fail to set forth any pertinent facts at issue in this case and further state they

have insufficient knowledge or belief to answer said averments and therefore deny same.

45. MDOC Defendants state that the averments of paragraph 45 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

46. MDOC Defendants state that the averments of paragraph 46 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

47. MDOC Defendants state that the averments of paragraph 47 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny said averments and all averments contained in the subparts thereof.

48. MDOC Defendants state that the averments of paragraph 48 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

49. MDOC Defendants state that the averments of paragraph 49 fail to set forth any pertinent facts at issue in this case and further state they

have insufficient knowledge or belief to answer said averments and therefore deny same.

50. MDOC Defendants state that the averments of paragraph 50 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

51. MDOC Defendants state that the averments of paragraph 51 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

52. MDOC Defendants state that the averments of paragraph 52 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

53. MDOC Defendants state that the averments of paragraph 53 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

54. MDOC Defendants state that the averments of paragraph 54 fail to set forth any pertinent facts at issue in this case and further state they

have insufficient knowledge or belief to answer said averments and therefore deny same.

55. MDOC Defendants state that the averments of paragraph 55 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

56. MDOC Defendants state that the averments of paragraph 56 fail to set forth any pertinent facts at issue in this case and further state they have insufficient knowledge or belief to answer said averments and therefore deny same.

57. MDOC Defendants admit that its mental health providers follow the standards of care applicable on a case-by-case basis and deny the remaining averments of paragraph 57.

58. Denied.

59. Denied.

60. MDOC Defendants state that they have insufficient knowledge or information to admit or deny the averments of paragraph 60 and therefore deny same.

61. MDOC Defendants state that they have insufficient knowledge or information to admit or deny the averments of paragraph 61 and therefore deny same.

62. MDOC Defendants state that they have insufficient knowledge or information to admit or deny the averments of paragraph 62 and therefore deny same.

63. MDOC Defendants state that they have insufficient knowledge or information to admit or deny the averments of paragraph 63 and therefore deny same.

64. MDOC Defendants state that they have insufficient knowledge or information to admit or deny the averments of paragraph 64 and therefore deny same.

65. MDOC Defendants state that they have insufficient knowledge or information to admit or deny the averments of paragraph 65 and therefore deny same.

66. Denied.

67. Denied.

68. MDOC Defendants state that they have insufficient knowledge or information to admit or deny the averments of paragraph 68 and therefore deny same.

69. Admitted.

70. MDOC Defendants admit that Dr. Throop assessed Plaintiff on March 23, 2015 and state they are without sufficient knowledge or

information to admit or deny the remaining averments of paragraph 70 and therefore deny same.

71. MDOC Defendants admit that Plaintiff was diagnosed with gender dysphoria and state they are without sufficient knowledge or information to admit or deny the averments of paragraph 71 and therefore deny same.

72. MDOC Defendants admit that its position is that Plaintiff is not entitled to be provided free hormone therapy for gender dysphoria and state that they have insufficient knowledge or information to admit or deny the remaining averments of paragraph 72 and therefore deny same.

73. MDOC Defendants admit on information and belief that Plaintiff filed a petition for a name change.

74. MDOC Defendants admit on information and belief the averments of paragraph 74.

75. MDOC Defendants admit that on April 22, 2015, Plaintiff had a consultation with Defendant McKinney and deny the remaining averments contained in paragraph 75.

76. Admitted.

77. Admitted.

78. MDOC Defendants admit on information and belief the averments of paragraph 78.

79. MDOC Defendants admit on information and belief the averments of paragraph 79.

80. MDOC Defendants admit on information and belief the averments of paragraph 80.

81. MDOC Defendants admit that Plaintiff was not provided the sex-change drugs, therapy and treatment he requested, and they deny the remaining averments of paragraph 81.

82. MDOC Defendants admit on information and belief the averments of paragraph 82.

83. MDOC Defendants admit on information and belief the averments of paragraph 83.

84. MDOC Defendants admit on information and belief the averments of paragraph 84.

85. MDOC Defendants admit on information and belief the averments of paragraph 85.

86. MDOC Defendants admit on information and belief the averments of paragraph 86.

87. MDOC Defendants are without sufficient knowledge or information to admit or deny the averments of paragraph 87 and therefore deny same.

88. MDOC Defendants admit on information and belief the averments of paragraph 88.

89. MDOC Defendants admit on information and belief that the averments of paragraph 89 accurately recite the allegations of IRR #PC-15-734 and deny the remaining averments of paragraph 89.

90. MDOC Defendants admit on information and belief the averments of paragraph 90.

91. MDOC Defendants admit on information and belief the averments of paragraph 91.

92. MDOC Defendants admit on information and belief the averments of paragraph 92.

93. MDOC Defendants admit on information and belief the averments of paragraph 93.

94. MDOC Defendants admit on information and belief the averments of paragraph 94.

95. Denied.

96. MDOC Defendants admit on information and belief the averments of paragraph 96.

97. MDOC Defendants deny that the treatment Plaintiff sought was medically necessary and admit on information and belief the remaining averments of paragraph 97.

98. MDOC Defendants admit on information and belief the averments of paragraph 98.

99. MDOC Defendants admit on information and belief the averments of paragraph 99.

100. MDOC Defendants admit on information and belief the averments of paragraph 100.

101. MDOC Defendants are without sufficient knowledge or information to admit or deny the averments of paragraph 101 and therefore deny same.

102. Denied.

103. Denied.

104. Denied.

105. The allegations of paragraph 105 are overbroad and plead not facts but opinions and general viewpoints to which no response is required. To the extent a response may be required, the averments of paragraph 105 are denied.

106. MDOC Defendants admit on information and belief the averments of paragraph 106.

107. MDOC Defendants are without sufficient knowledge or information to admit or deny the averments of paragraph 107 and therefore deny same.

108. MDOC Defendants are without sufficient knowledge or information to admit or deny the averments of paragraph 108 and therefore deny same.

109. MDOC Defendants are without sufficient knowledge or information to admit or deny the averments of paragraph 109 and therefore deny same.

110. Denied.

111. The averments of paragraph 111 regarding “standard of care” call for a legal conclusion and any such standards are applicable only on a case-by-case basis and not as a blanket designation or application. MDOC Defendants are without sufficient knowledge and information to admit or deny that Plaintiff can be “medically treated”, or that any medical treatment is required by any “standard of care”. The remaining averments of paragraph 112 are denied.

112. Denied.

113. Denied.

CLAIM FOR RELIEF

COUNT I

114. MDOC Defendants incorporate in this response to paragraph 114 their answers to paragraphs 1 – 113 of Plaintiff’s First Amended Complaint.

115. MDOC Defendants admit that Plaintiff has gender dysphoria and deny the remaining averments of paragraph 115.

116. Denied.

117. Denied.

118. Denied.

119. Denied.

120. Denied.

121. Denied.

122. Denied.

COUNT II

123. MDOC Defendants incorporate in this response to paragraph 123 their answers to paragraphs 1 – 113 of Plaintiff's First Amended Complaint.

124. Denied.

125. Denied.

126. Denied.

127. The averments of Paragraph 127 constitute legal conclusions to which no response is required. To the extent a response is required, MODOC Defendants deny the allegations of Paragraph 127.

128. Denied.

AFFIRMATIVE DEFENSES

- A. Plaintiff's First Amended Complaint fails to state a cause of action upon which relief can be granted.
- B. MDOC Defendants are immune from any liability for the injuries that Plaintiff alleges in the First Amended Complaint.
- C. Plaintiff has no constitutional right to sex-change treatment or therapy.
- D. Plaintiff has no constitutional right to have the State of Missouri pay for the hair-removal treatment or gender-affirming canteen items he seeks by way of her First Amended Complaint.
- E. MDOC Defendants reserve the right to introduce any other defense that may be revealed during the discovery phase of this litigation.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of March 2018, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all parties.

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