

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JESSICA HICKLIN,

Plaintiff,

v.

ANNE PRECYTHE,

et al.,

Defendants.

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

MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFF'S MOTION FOR DECLARATORY RELIEF AND A PERMANENT
INJUNCTION

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INTRODUCTION

In its February 9, 2018 Memorandum and Order (Doc. 145)¹, this Court thoroughly analyzed the evidence and the applicable law and concluded that Ms. Hicklin was likely to succeed on the merits, Ms. Hicklin faced irreparable harm due to Defendants’ denial of medically necessary gender dysphoria treatment, and both the balance of harms and the public interest favored Ms. Hicklin. *Hicklin v. Precynthe*, No. 4:16-CV-01357-NCC, 2018 WL 806764, at *9-14 (E.D. Mo. Feb. 9, 2018). Since filing her preliminary injunction motion, Ms. Hicklin has unearthed additional evidence that decisively moves her success on the merits from likely to actual.

This evidence shows that, despite knowing Ms. Hicklin faced a substantial risk of serious harm without adequate treatment, Defendants Missouri Department of Corrections (“MDOC”) and its private medical contractor, Corizon LLC (“Corizon”) (collectively, “Defendants”) repeatedly failed to provide her with medically necessary hormone therapy, permanent body hair removal, and gender-affirming canteen items, contrary to the recommendations of her psychiatrists. The evidence also shows conclusively that Defendants failed to provide Ms. Hicklin with hormone therapy based on MDOC’s unconstitutional blanket administrative policy, practice, custom, or usage of banning the provision of hormone therapy to any transgender inmate who was not receiving such therapy before entering MDOC (“the freeze-frame policy”).

The Court’s previous findings, combined with Ms. Hicklin’s Amended Complaint (Doc. 152) and the newly discovered evidence, warrant a declaration that the freeze-frame policy is unconstitutional on its face and as applied to Ms. Hicklin and that Defendants’ failure to provide Ms. Hicklin with medically necessary gender dysphoria treatment violates the Eighth

¹ Hereinafter “the 2/9/18 Order.”

Amendment. The evidence and applicable law also warrant entry of a permanent injunction directing Defendants to provide Ms. Hicklin with care that her doctors deem medically necessary (including hormone therapy, access to permanent body hair removal, and access to gender-affirming canteen items) and enjoining Defendants from enforcing the freeze-frame policy.

STATEMENT OF UNCONTROVERTED FACTS

The following uncontroverted facts, and the facts set forth in Plaintiff's briefing in Support of her Motion for Preliminary Injunction (Docs. 64 and 70) and the 2/9/18 Order,² illustrate the need for declaratory relief and a permanent injunction in this case.

I. PLAINTIFF JESSICA HICKLIN'S GENDER DYSPHORIA DIAGNOSIS

1. Ms. Hicklin is a transgender woman in the custody of the Missouri Department of Corrections ("MDOC") housed at Potosi Correctional Center, a facility for male inmates. Doc. 152 at ¶ 1.

2. Ms. Hicklin suffers from gender dysphoria (previously known as gender identity disorder or transsexualism), a medical condition characterized by clinically significant distress due to the incongruence between a person's gender identity—their innate sense of their own gender—and the sex they were assigned at birth. Doc. 64-4 at 2-4 (March 2015 diagnosis by Corizon psychiatrist Dr. Meredith Throop); Doc. 64-6 at 4-6 (Dec. 2015 diagnosis by Corizon psychiatrist Dr. Evelyn Stephens); Doc. 64-1 at ¶¶ 12-13; Doc. 154 at ¶ 8; Doc. 158 at ¶ 8.

3. Ms. Hicklin has exhibited symptoms of severe gender dysphoria, including recurring intrusive thoughts of removing her testicles. Doc. 64-1 at ¶ 60.

² Ms. Hicklin hereby incorporates by reference all facts set forth in Docs. 64, 70, and 145.

II. GENDER DYSPHORIA AND THE STANDARDS OF CARE

4. Gender dysphoria appears in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition. Doc. 64-1 at ¶ 12.
5. Gender dysphoria is an objectively serious medical need. Doc. 83 at 24; Doc. 145 at 21.
6. 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. Doc. 64-1 at ¶¶ 15-16; Excerpted Transcript of Deposition of Corizon's 30(b)(6) Representative ("Corizon 30(b)(6) Depo.")³ at 6:19-7:1, 95:2-96:4, 99:6-100:12, 102:7-103:12, 103:15-18; Gordon Decl. Ex. B, Excerpted Transcript of Deposition of Elizabeth Atterberry, Corizon's Regional Mental Health Director ("Atterberry Depo.") at 11:4-7, 147:19-149:2.
7. 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") are "the internationally recognized guidelines for the treatment of persons with gender dysphoria." Doc. 64-1 at ¶ 18. Numerous professional medical organizations, including the American Medical Association, the American Psychological Association, the American Psychiatric Association, and the National Commission on Correctional Health Care, endorse the Standards of Care. *Id.* at ¶ 19. The Standards of Care explicitly state that they are equally applicable to patients in prison. *Id.* at ¶¶ 23-24; Gordon Decl. Ex. C, Excerpted Standards of Care, at PL000712-13.

³ Attached as Ex. A to Declaration of Demoya R. Gordon ("Gordon Decl.").

8. Under the Standards of Care, persons with gender dysphoria should be individually assessed by qualified health care providers and referred for treatment, which can include: (1) living in another gender role that is consistent with one's gender identity; (2) hormone therapy to feminize or masculinize the body; and/or (3) surgery to change primary and/or secondary sex characteristics. Doc. 64-1 at ¶¶ 20-21.

9. Changes in gender expression, including clothing and grooming that affirm one's gender identity and permanent body hair removal, are significant in alleviating gender dysphoria. *Id.* at ¶¶ 26-27; *see also* Doc. 70-10 (National Commission on Correctional Health Care Position Statement on Transgender Health Care in Correctional Settings ("NCCHC Position Statement") stating that commissary items consistent with an individual's gender identity should be made available).

10. Hormone therapy is fundamental to the treatment of gender dysphoria, and the denial of hormone therapy for patients for whom such therapy is medically necessary leads to significant deterioration and impairment in patients, including a high likelihood of depression, suicidal ideation, and surgical self-treatment by auto-castration (removal of the testicles) or autopenectomy (removal of the penis). Doc. 64-1 at ¶¶ 28-33.

11. Counseling can provide support for some individuals with gender dysphoria, but it is not a substitute for medical intervention. *Id.* at ¶ 35. Merely providing counseling and/or psychotropic medication to a severely gender dysphoric patient is a significant departure from medically accepted practice. *Id.* at ¶ 36. Inadequate treatment of this condition puts an individual at serious risk of psychological and physical harm. *Id.*

III. THE FREEZE-FRAME POLICY

12. At all relevant times prior to the 2/9/18 Order, MDOC maintained and enforced the freeze-frame policy. Doc. 77 (Hicklin v. Lombardi 00616); Gordon Decl. Ex. D, Excerpted Deposition of Matt Sturm, MDOC's Deputy Director ("Sturm Depo.") at 26:24-27:1, 81:13-24, 99:7-21, 132:9-133:6, 145:4-149:1; Corizon 30(b)(6) Depo. at 105:14-106:5, 108:5-23, 113:1-114:9, 143:1-11; Gordon Decl. Ex. E, MDOC Defendants' Responses to Plaintiff's Second Set of Requests for Admissions ("MDOC 2d RFA Responses"), Nos. 4-6.

13. Pursuant to the freeze-frame policy, decisions regarding whether to initiate hormone therapy for transgender prisoners like Ms. Hicklin are not based on individualized assessments of each prisoner's medical needs. Doc. 77; Sturm Depo. at 81:13-24, 99:7-21, 132:9-133:6. Instead, hormone therapy is automatically denied to any transgender prisoner with gender dysphoria who was not receiving such therapy before entering MDOC—despite being provided for those who were receiving such therapy prior to entering MDOC. Doc. 152 at ¶¶6, 112; Doc. 77; Sturm Depo. at 81:13-24, 99:7-21, 132:9-133:6, 145:4-149:1; Gordon Decl. Ex. F, MDOC's Second Supplemental Response to Interrogatory No. 16; Corizon 30(b)(6) Depo. at 108:5-23, 143:1-11; Atterberry Depo. at 32:24-33:7.

14. The Standards of Care state that a freeze-frame approach is not considered appropriate care and warn that "the consequences of . . . 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." Doc. 64-1 at ¶ 70; *see also* Doc. 70-10 (NCCHC Position Statement stating that freeze-frame policies are "out of step with medical standards and should be avoided").

IV. DEFENDANTS' FAILURE TO PROVIDE MEDICALLY NECESSARY GENDER DYSPHORIA TREATMENT FOR MS. HICKLIN

15. Corizon psychiatrists Dr. Meredith Throop and Dr. Evelyn Stephens diagnosed Ms. Hicklin with gender dysphoria and prescribed medically necessary hormone therapy for her in 2015. Doc. 64-4 at 2-4; Doc. 64-6 at 4-6, 21; *see also* Doc 64-1 at ¶ 75. Yet, for almost three years, Defendants failed to provide hormone therapy for Ms. Hicklin due to the freeze-frame policy. *See* Doc. 64-6 at 17, 21 (Dr. Stephens's notes referencing the freeze-frame policy as the basis for the denial of hormone therapy for Ms. Hicklin); Doc 64-6 at 30-31; Gordon Decl. Ex. G at GF 0107, 127; Gordon Decl. Ex. H at Hicklin v. Lombardi 00911-912, 00941-945; Sturm Depo. at 81:13-24, 99:7-21, 132:9-133:6, 145:4-149:1, 154:24-157:3, 160:10-164:25, 172:4-9, 173:15-175:11, 179:2-184:1; MDOC 2d RFA Responses, Nos. 4-6.

16. Without conducting an individualized evaluation of Ms. Hicklin, Defendants also failed to provide her access to medically necessary permanent body hair removal and gender-affirming canteen items (*i.e.*, canteen items made available to other female inmates), contrary to the recommendations of her current treating psychiatrist Dr. Stephens, gender dysphoria expert Dr. Randi Ettner, and the Standards of Care. Doc. 64-6 at 6, 15, 31-32; Doc. 64-1 at ¶ 77; Ex. G at GF 0046, 0151, 0155; Docs. 114-12, 114-16, 114-18, 114-20, 114-21, 114-22, 114-23, 114-30; Gordon Decl. Exs. I, J, K.

17. Both Dr. Throop and Dr. Stephens have noted that neglecting to treat Ms. Hicklin in accordance with the Standards of Care put her at risk of serious harm. *See, e.g.*, Doc. 64-4 at 11 (noting denial of treatment in accordance with the Standards of Care as “detrimental currently to [her] mental/emotional/psychiatric well-being”); Doc. 64-6 at 10 (noting escalating symptoms), 34-36 (noting “overwhelming sense of dread” and “increased agitation [and] self

harm [sic] thoughts”), Doc. 98-2 (noting worsening anxiety, increased gender dysphoria symptoms, and thoughts of self-harm).

18. Medical records show that lack of appropriate treatment for gender dysphoria caused Ms. Hicklin to experience serious psychological and physical symptoms (including panic attacks, anxiety, racing heartbeat, shortness of breath, sleep disturbance, lack of appetite, headaches, and excessive sweating) and put her at substantial risk of self-harm, including auto-castration and suicidal thoughts or acts. Doc. 64-6 at 2-6, 17-18, 33-40; Doc. 68-8 at 5, 12; Doc. 88-2; Doc 98-2; Gordon Decl. Ex. L at EM1319, 1363-64, 1370-71; Gordon Decl. Ex. M, Excerpted Transcript of Deposition of Jessica Hicklin at 21:18-23:21, 39:11-21; *see also* Doc. 64-1 at ¶¶ 46, 52, 54, 59; Doc. 152 at ¶¶ 66, 107; Doc 145 at 18-19.

19. The documents and testimony produced in discovery do not support denying medically necessary gender dysphoria treatment based on cost, safety, or any other reason. *See, e.g.*, Sturm Depo. at 145:4-149:1, 172:4-9; Ex. H at Hicklin v. Lombardi 00913-14, 00925-26, 00946-47, 00957-58, 05592-93; Corizon 30(b)(6) Depo. at 105:14-106:5, 113:1-114:9; Gordon Decl. Ex. N, Excerpted Deposition of Vevia Sturm, MDOC’s PREA Coordinator, at 55:22-57:7; Doc. 145 at 27-29; Doc. 154 at ¶ 6; Doc. 158 at ¶ 6.

ARGUMENT

“The two principal criteria guiding the policy in favor of rendering declaratory judgments,” namely “(1) when the judgment will serve a useful purpose in clarifying and settling the legal relations in issue, and (2) when it will terminate and afford relief from the uncertainty, insecurity, and controversy giving rise to the proceedings,” are present here. *See Alsager v. Dist. Court of Polk Cty.*, 518 F.2d 1161, 1163-64 (8th Cir. 1975) (internal citations omitted). Moreover, Ms. Hicklin’s motion for permanent injunction meets all four factors considered in

the Eighth Circuit: (1) actual success on the merits; (2) threat of irreparable harm; (3) the harm to the movant outweighs any possible harm to others; and (4) an injunction serves the public interest. *See Bank One, Utah v. Guttau*, 190 F.3d 844, 847 (8th Cir. 1999). These factors are identical to those required for preliminary injunction, except that success on the merits must be actual instead of likely. *Id.*

As discussed in more detail below, the evidence establishes that Defendants' actions violated the Eighth Amendment. Thus, this Court should so declare and should permanently enjoin Defendants from withholding medically necessary gender dysphoria treatments from Ms. Hicklin or enforcing the freeze-frame policy.

I. Defendants Violated the Eighth Amendment by Knowingly Disregarding Ms. Hicklin's Serious Medical Needs.

Despite knowing that Ms. Hicklin has serious medical needs, Defendants disregarded those needs by failing to provide her with medically necessary hormone therapy pursuant to an unconstitutional freeze-frame policy and by denying her medically necessary gender-affirming canteen items and permanent body hair removal—all in violation of the Eighth Amendment.

A. Defendants Failed to Provide Ms. Hicklin Medically Necessary Hormone Therapy Pursuant to the Freeze-Frame Policy, Which is Unconstitutional on Its Face and As Applied to Ms. Hicklin.

“Under the Eighth Amendment, prisoners have the right to receive adequate medical care while incarcerated.” *DePaola v. Clarke*, No. 16-7360, 2018 WL 1219611, at *3 (4th Cir. Mar. 9, 2018). An incarcerated plaintiff can establish an Eighth Amendment violation by showing that “she had an objectively serious medical need and that the defendant knew of and disregarded that need.” *Coleman v. Rahija*, 114 F.3d 778, 784 (8th Cir. 1997) (citations omitted); *see also Nelson v. Corr. Med. Servs.*, 583 F.3d 522, 529 (8th Cir. 2009). Both requirements are met here.

There is no question that Ms. Hicklin suffers from an objectively serious medical condition—namely, her gender dysphoria—and the evidence shows that “Defendants [have been] deliberately indifferent to her serious medical need.” *See Hicklin*, 2018 WL 806764, at *11. Moreover, because the freeze-frame policy at issue fails by its very nature to account for the individual medical needs of transgender prisoners who suffer from the well-recognized serious medical condition of gender dysphoria, it violates the Eighth Amendment both on its face and as applied to Ms. Hicklin. *See Soneya v. Spencer*, 851 F. Supp. 2d 228, 242 (D. Mass. 2012).

1. Ms. Hicklin’s gender dysphoria and risk of self-harm are objectively serious medical needs.

An incarcerated person meets the objective requirement of the deliberate indifference standard by showing the existence of a serious medical need, *Estelle v. Gamble*, 429 U.S. 97, 104 (1976), or a substantial risk of future serious harm resulting from the action or inaction of prison officials, *Helling v. McKinney*, 509 U.S. 25, 35 (1993). Here, Ms. Hicklin has established both a serious medical need—serious psychological and physical symptoms of distress from untreated gender dysphoria—and a substantial risk of future serious harm—ongoing anguish, auto-castration, and possibly suicide—if her medically necessary treatment is withheld. *See* Statement of Uncontroverted Facts, *supra* (“SUF”), at ¶¶ 3, 5, 6, 11, 14, 17, 18.

Two separate psychiatrists diagnosed Ms. Hicklin with gender dysphoria and noted that she required specific treatment, including hormone therapy, in order to treat her condition. SUF ¶¶ at 2, 15. Defendants do not contest that Ms. Hicklin’s gender dysphoria is a serious medical need (Doc. 83 at 24). Nor could they, as courts have routinely held that a diagnosis of gender dysphoria alone may constitute a serious medical need. *See Hicklin*, 2018 WL 806764, at *10; *see also White v. Farrier*, 849 F.2d 322, 325 (8th Cir. 1988); *Fields v. Smith*, 712 F. Supp. 2d 830, 862 (E.D. Wis. 2010), *aff’d*, 653 F.3d 550 (7th Cir. 2011); *Phillips v. Mich. Dep’t of Corr.*,

731 F. Supp. 792, 800 (W.D. Mich. 1990), *aff'd*, 932 F.2d 969 (6th Cir. 1991) (same). Moreover, as this Court has already found, Ms. Hicklin's gender dysphoria is especially severe. *Hicklin*, 2018 WL 806764, at *10.

Additionally, deprivation of medically necessary hormone therapy, permanent body hair removal, and gender-affirming canteen items places Ms. Hicklin at a very high risk of resorting to self-harm. SUF ¶¶ 3, 6, 10, 11, 14, 17, 18. Indeed, the record "indicates that Ms. Hicklin is at significant risk of self-harm and has attempted on one occasion to remove her own testicles with a tourniquet." *Hicklin*, 2018 WL 806764, at *10. Moreover, her medical records show that lack of appropriate treatment for gender dysphoria caused her to experience serious psychological and physical symptoms and put her at substantial risk of self-harm, including auto-castration and suicidal thoughts or acts. SUF at ¶¶ 17, 18. Thus, the evidence establishes that Ms. Hicklin's gender dysphoria and risk of self-harm are objectively serious needs. *See De'lonta v. Angelone* ("*De'lonta I*"), 330 F.3d 630, 634 (4th Cir. 2003) (internal citation omitted); *Soneeya*, 851 F. Supp. 2d at 244-52 (incarcerated plaintiff with gender identity disorder and history of suicide attempts and self-mutilation has a serious medical condition).

2. Defendants knew of Ms. Hicklin's serious medical needs but disregarded them by denying her hormone therapy pursuant to the freeze-frame policy.

To prevail on the subjective prong of the deliberate indifference test, Ms. Hicklin need only show that Defendants "disregard[ed] a known risk to [her] health." *See Gordon ex rel. Gordon v. Frank*, 454 F.3d 858, 862 (8th Cir. 2006). "Knowledge of risk may be inferred from the record." *Id.* This indifference is impermissible "whether . . . 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 the treatment once prescribed." *Estelle*, 429 U.S. at 104-05; *see also Battista v. Clarke*, 645 F.3d 449 (1st Cir. 2011).

“Ms. Hicklin has presented compelling evidence that Defendants’ refusal to provide her with hormone therapy after her diagnosis is based on the Policy rather than on a medical judgment concerning Ms. Hicklin’s specific circumstances.” *Hicklin*, 2018 WL 806764, at *11. Defendants are aware of and do not contest Ms. Hicklin’s gender dysphoria diagnosis and they have knowledge of her escalating distress, anxiety, and thoughts of self-harm as a result of their failure to provide her adequate care. SUF at ¶¶ 2, 3, 6, 17, 18. Despite this knowledge, before this Court entered the preliminary injunction, Defendants failed to provide Ms. Hicklin medically necessary treatment for her gender dysphoria, including hormone therapy, even as their own mental health professionals repeatedly warned them of the serious risks posed to Ms. Hicklin by this continued denial.⁴ SUF at ¶¶ 15-17.

Moreover, the evidence shows that the freeze-frame policy, which requires automatic denial of hormone therapy to any transgender inmate who was not receiving it before entering MDOC, formed the basis of Defendants’ failure to provide hormone therapy for Ms. Hicklin. SUF at ¶¶ 12, 13, 15. “The denial of hormone therapy based on a blanket rule, rather than an individualized medical determination, constitutes deliberate indifference in violation of the Eighth Amendment.” *Hicklin*, 2018 WL 806764, at *11. *See also Fields*, 653 F.3d at 559; *De’lonta I*, 330 F.3d at 634-35; *Allard v. Gomez*, 9 F. App’x 793, 795 (9th Cir. 2001); *Soneeya*, 851 F. Supp. 2d at 249, 253; *Houston v. Trella*, No. 2:04-cv-1393, 2006 WL 2772748, at *8 (D.N.J. Sept. 22, 2006); *Barrett v. Coplan*, 292 F. Supp. 2d 281, 286 (D.N.H. 2003). This is

⁴ It is immaterial that Defendants provided Ms. Hicklin psychotherapy and psychotropic medications; prison officials may not avoid liability by adopting an “easier and less efficacious treatment” that does not adequately address an incarcerated individual’s serious medical needs. *Estelle*, 429 U.S. at 103-06; *Langford v. Norris*, 614 F.3d 445, 460 (8th Cir. 2010) (“a total deprivation of care is not a necessary condition for finding a constitutional violation”); *see also De’lonta v. Johnson (De’lonta II)*, 708 F.3d 520, 526 (4th Cir. 2013); *Fields*, 653 F.3d at 556; *Soneeya*, 851 F. Supp. 2d at 246-50.

because “[a]dequate care is based on an individualized assessment of an inmate’s medical needs in light of relevant medical considerations.” *Soneeya*, 851 F. Supp. 2d at 242. Additionally, such policies serve no legitimate governmental interest or penological purpose. *See Hicklin*, 2018 WL 806764, at *14. Thus, by their very nature, blanket policies like the freeze-frame policy at issue are facially unconstitutional under the Eighth Amendment.

B. Defendants’ Refusal to Provide Ms. Hicklin Access to Permanent Body Hair Removal and Gender-Affirming Canteen Items Also Violated the Eighth Amendment.

In line with the Standards of Care, and based on their own individualized assessments of Ms. Hicklin, Ms. Hicklin’s psychiatrist Dr. Stephens, and gender dysphoria expert Dr. Randi Ettner, both determined that access to permanent hair removal and gender-affirming canteen items are medically necessary for Ms. Hicklin. SUF at ¶ 16; *see also id.* at ¶¶ 8-9. Yet, without conducting an individualized evaluation, Defendants failed to provide her access to these items based on unfounded assertions that they are not medically necessary. *Id.*

As this Court has concluded, “[t]he case law is clear – ‘gender-affirming’ canteen items and permanent hair removal are not merely cosmetic treatments but, instead, medically necessary treatments to address a serious medical disease.” *Hicklin*, 2018 WL 806764, at *12. Thus, Defendants’ refusal to provide Ms. Hicklin these items, despite know that doing so placed her at substantial risk of serious harm, constitutes deliberate indifference in violation of the Eighth Amendment. *See, e.g., Alexander v. Weiner*, 841 F. Supp. 2d 486, 493 (D. Mass. 2012); *Soneeya*, 851 F. Supp. 2d at 246-48; *Konitzer v. Frank*, 711 F. Supp. 2d 874, 909-11 (E.D. Wis. 2010).

II. This Court Should Declare Defendants’ Actions Unconstitutional and Permanently Enjoin Them from Withholding Medically Necessary Gender Dysphoria Treatments from Ms. Hicklin and from Enforcing the Freeze-Frame Policy.

Because Defendants’ actions and policy have violated the Eighth Amendment, this Court should declare their unconstitutionality and permanently enjoin them. While Defendants have

stated that they are complying and intend to continue complying with the 2/9/18 Order and will no longer enforce the freeze-frame policy (Doc. 153 at 3:9-13; 4:24-5:9; 7:6-19), declaratory and injunctive relief are nevertheless warranted because Defendants could later reinstate the unconstitutional freeze-frame policy and withdraw Ms. Hicklin's medically necessary gender dysphoria treatment. *See Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.*, 528 U.S. 167, 189 (2000) (a defendant's voluntary cessation of a challenged practice ordinarily does not deprive a federal court of its power to determine the practice's legality). Declaring Defendants' failure to provide Ms. Hicklin medically necessary gender dysphoria care and their application of the freeze-frame policy (generally and to Ms. Hicklin specifically) unconstitutional would both settle the legal relations in issue and provide Ms. Hicklin—and other similarly situated inmates—relief from the uncertainty, insecurity, and controversy surrounding this issue in MDOC's prison system. *See Alsager*, 518 F.2d at 1163-64.

Moreover, Ms. Hicklin has met all four factors required for this Court to issue a permanent injunction directing Defendants to provide Ms. Hicklin with care that her doctors deem medically necessary and enjoining the enforcement of the freeze-frame policy. *See Bank One*, 190 F.3d at 847; *see also Brown v. Plata*, 563 U.S. 493, 531-32 (2011) (the scope of an order is determined by the constitutional violations established); *Fields*, 653 F.3d at 559 (affirming injunction of facially unconstitutional hormone therapy ban); *Mental Health Ass'n of Minn. v. Heckler*, 720 F.2d 965, 972 (8th Cir. 1983) (courts can provide equitable relief commensurate to the scope of the harm).

First, Ms. Hicklin has established actual success on the merits because discovery has revealed that the material facts in this case are uncontroverted and that Ms. Hicklin should prevail as a matter of law. *See Bank One*, 190 F.3d at 847-50 (movant established actual success

on the merits where there were no disputed facts and the movant was entitled to prevail on the legal questions); *Amos v. Higgins*, 996 F. Supp. 2d 810, 812-14 (W.D. Mo. 2014). Specifically, as discussed in Section I, *supra*, the evidence shows that Defendants knew of Ms. Hicklin's serious medical needs and yet disregarded those needs by failing to provide her with medically necessary hormone therapy pursuant to a facially unconstitutional freeze-frame policy and by denying her medically necessary gender-affirming canteen items and permanent body hair removal. Therefore, this Court should find that Ms. Hicklin has established actual success on the merits.

Second, once a party has demonstrated actual success on the merits, the three remaining factors the Court must consider are identical to that required for a preliminary injunction: (1) the threat of irreparable harm to the movant; (2) the harm to be suffered by the nonmoving party if the injunction is granted; and (3) the public interest at stake. *See, e.g., Bank One*, 190 F.3d at 847. This Court has already concluded based on the preliminary injunction record that all three of these factors weigh in Ms. Hicklin's favor. *Hicklin*, 2018 WL 806764, at *9-10, 13-14. Additional discovery conducted since Ms. Hicklin filed that motion has only strengthened that conclusion.

The evidence establishes that Ms. Hicklin remains at serious risk of irreparable harm should Defendants withdraw her medically necessary gender dysphoria treatments or continue to enforce the freeze-frame policy. SUF at ¶¶ 3, 6, 9-11, 14, 17, 18. *See, e.g., Layton v. Elder*, 143 F.3d 469, 472 (8th Cir. 1998) (granting injunction in favor of disabled plaintiffs because they would suffer irreparable harm if the programs and services of the county courthouse were not made accessible); *see also Elrod v. Burns*, 427 U.S. 347, 373 (1976); *Norsworthy v. Beard*, 87 F. Supp. 3d 1164, 1192-93 (N.D. Cal. 2015).

Moreover, both the balance of harms and the public interest weigh strongly in favor of issuing a permanent injunction. *See, e.g., Layton*, 143 F.3d at 472. While Ms. Hicklin has shown serious risk of irreparable harm stemming from the freeze-frame policy and denial of medically necessary gender dysphoria treatment, the only potential harms identified by either MDOC or Corizon—security risks and costs—are unavailing. As an initial matter, “the challenge of housing thousands of inmates safely cannot impede on the constitutional rights of the individuals in MDOC custody.” *Hicklin*, 2018 WL 806764, at *13. Furthermore, Defendants have already been providing hormone therapy to other transgender prisoners and began providing this therapy to Ms. Hicklin after the 2/9/18 Order. SUF ¶¶ 13, 19; Doc. 153 at 3:9-13; 4:24-5:9. Thus, there is no evidence that a permanent injunction would pose any safety or security issues Defendants are not already handling. *Id.*; *cf. Norsworthy*, 87 F. Supp. 3d at 1194; *Gammitt v. Idaho State Bd. of Corr.*, No. CV05-257-S-MHW 2007 WL 2186896, at *16 (D. Idaho July 27, 2007).

Additionally, there is no evidence that providing gender dysphoria treatment to Ms. Hicklin and other persons in MDOC’s custody for whom it is medically necessary would be cost prohibitive. *See Hicklin*, 2018 WL 806764, at *13. In any event, prison officials cannot withhold medically necessary treatment based on cost. *Barrett*, 292 F. Supp. 2d at 286. Lastly, it is always in the public interest to prevent the violation of constitutional rights. *Phelps-Roper v. Nixon*, 545 F.3d 685, 690 (8th Cir. 2008), *overruled on other grounds by Phelps-Roper v. City of Manchester, Mo.*, 697 F.3d 678 (8th Cir. 2012); *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012); *Phillips*, 731 F. Supp. at 801.

CONCLUSION

For the foregoing reasons, Ms. Hicklin respectfully requests that this Court grant her Motion for Declaratory Relief and a Permanent Injunction.

Respectfully submitted this 30th day of March 2018.

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing Memorandum of Law in Support of Plaintiff's Motion for Declaratory Relief and a Permanent Injunction was made on March 30, 2018 via the Court's CM/ECF system to:

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s/ Demoya R. Gordon

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JESSICA HICKLIN,

Plaintiff,

v.

ANNE PRECYTHE,

et al.,

Defendants.

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

DECLARATION OF DEMOYA R. GORDON

I, Demoya R. Gordon, hereby declare and state as follows:

1. I am an attorney with Lambda Legal Defense and Education Fund, Inc. and I am one of the lawyers representing Plaintiff Jessica Hicklin in the above-captioned matter.
2. I submit this declaration in support of Plaintiff's Motion for Declaratory Relief and a Permanent Injunction.
3. Attached hereto as Exhibit A is a true and correct copy of the Excerpted Transcript of the February 6, 2018 Deposition of Elizabeth Atterberry, Psy.D. in her capacity as Defendant Corizon LLC's designated 30(b)(6) Representative.
4. Attached hereto as Exhibit B is a true and correct copy of the Excerpted Transcript of the November 15, 2017 Deposition of Defendant Elizabeth Atterberry, Psy.D, Corizon's Regional Mental Health Director.
5. Attached hereto as Exhibit C is a true and correct copy of pages PL000712-13 of the Bates stamped copy of the World Professional Association for Transgender Health's Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming

People, 7th Edition, produced by Plaintiff at PL000640-PL000759 during the course of discovery in this case.

6. Attached hereto as Exhibit D is a true and correct copy of the Excerpted Transcript of the January 25, 2018 Deposition of Matt Sturm, MDOC's Deputy Director.

7. Attached hereto as Exhibit E is a true and correct copy of MDOC Defendants' Responses to Plaintiff's Second Set of Requests for Admissions.

8. Attached hereto as Exhibit F is a true and correct copy of MDOC's Second Supplemental Response to Plaintiff's Interrogatory No. 16.

9. Attached hereto as Exhibit G is a true and correct copy of portions of Plaintiff's grievance files produced by Corizon Defendants during the course of discovery in this case.

10. Attached hereto as Exhibit H is a true and correct copy of portions of Plaintiff's files produced by MDOC Defendants during the course of discovery in this case.

11. Attached hereto as Exhibit I is a true and correct copy of Defendant Kimberley Randolph's Response to Plaintiff's First Requests for Admission.

12. Attached hereto as Exhibit J is a true and correct copy of Defendant Kim Foster's Response to Plaintiff's First Requests for Admission.

13. Attached hereto as Exhibit K is a true and correct copy of Defendant Dawn Wade's Response to Plaintiff's First Requests for Admission.

14. Attached hereto as Exhibit L is a true and correct copy of portions of Plaintiff's medical and mental health records produced by Corizon Defendants during the course of discovery in this case.

15. Attached hereto as Exhibit M is a true and correct copy of the Excerpted Transcript of the July 12, 2017 Deposition of Plaintiff Jessica Hicklin.

16. Attached hereto as Exhibit N is a true and correct copy of the Excerpted Transcript of the February 2, 2018 Deposition of Vevia Sturm, MDOC's PREA Coordinator.

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

Dated: March 30, 2018



Demoya R. Gordon

EXHIBIT A

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF MISSOURI
3 EASTERN DIVISION

4 JESSICA HICKLIN,)

5 Plaintiff,)

6 vs.)

) Case No.

) 4:16-CV-01357-NCC

7 ANNE PRECYTHE, et al. ,)

8 Defendants.)

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15
16 Jefferson City, MO
17 DEPOSITION OF ELIZABETH ATTERBERRY, PSY.D.
18 TAKEN ON BEHALF OF THE PLAINTIFF
19 February 6, 2018
20
21
22
23

24 Reported by: LISA BALLALATAK

25 Job No. 135754

1 sure I let you finish answering a question before I
2 start asking another one so that our court reporter
3 can get everything down today. And if I ask you any
4 question that you're unclear of the meaning and you
5 want some clarification from me, please do ask me
6 for it, and I'll do my best to clarify.

7 A. Okay.

8 Q. I am handing you what has been marked
9 Exhibit 101 for your deposition. Have you seen that
10 before? And feel free to thumb through it and
11 understand its contents.

12 A. Yes, I have.

13 Q. When did you see it?

14 A. Approximately two weeks ago.

15 Q. So you understand that this is a notice of
16 deposition of defendant Corizon in this case;
17 correct?

18 A. Correct.

19 Q. And so you understand that this deposition
20 is a bit different from your last deposition,
21 because in your last deposition, you were being
22 deposed as an individual; whereas, in this
23 deposition, you are being deposed as Corizon's
24 designee pursuant to this notice. Do you understand
25 that?

1 A. I do.

2 Q. Okay. So I might ask you some questions
3 that are or at least seem redundant from your last
4 deposition, but the reason is because this is a
5 different type of deposition, okay?

6 A. Okay.

7 Q. What did you do to prepare to testify as
8 Corizon's designee today?

9 A. The document that you just handed me. I
10 looked in the patient record -- medical chart, and I
11 reviewed some job descriptions.

12 Q. Anything else?

13 MR. PEEK: Depo transcripts.

14 A. Oh, yes. There were some deposition
15 transcripts that I reviewed.

16 Q. (By Ms. Butler) Okay. So to be clear --
17 you know, in a deposition, you're not expected to
18 have perfect recall of everything, but --

19 MS. BUTLER: Counsel, I will ask you not
20 to tell the witness how to testify, okay?

21 Q. (By Ms. Butler) So you said you read some
22 deposition transcripts as well.

23 A. Yes.

24 Q. All right. So I've got -- you looked at
25 the 30(b)(6) notice, which is Exhibit 101 in front

1 dysphoria.

2 Q. Does Corizon understand that there is a --
3 an increased risk of suicide for individuals with
4 gender dysphoria?

5 A. Yes.

6 Q. What's Corizon's understanding as to why
7 there's an increased risk of suicide in individuals
8 with gender dysphoria?

9 A. Well, that state of dysphoria is chronic
10 and incessant. It's every day, all the time. The
11 levels of how strong that presentation is vary, but
12 with that constant feeling of discomfort. And
13 "discomfort" is a light word to use. The individual
14 does become at risk for wanting to end their life.

15 Q. And do you believe that that risk
16 increases as time goes on with a patient that's
17 diagnosed with gender dysphoria going untreated?

18 A. Yes.

19 Q. Do you believe that three years is a long
20 time to go untreated for a patient with gender
21 dysphoria?

22 A. It is concerning.

23 Q. Why is it concerning?

24 A. Because of that being one of the issues,
25 is that the increase of suicide is present, but,

1 also, just the daily functioning of an individual,
2 even if they aren't suicidal, is impacted. And the
3 mood issues that come into play there can be
4 significant, and it's taxing on an individual.

5 Q. We talked about the PREA training. Are
6 there written materials associated with that
7 training?

8 A. Yes.

9 Q. Where are they kept?

10 A. In two places. There's a departmental
11 training, so that's MDOC.

12 Q. Okay. And the other?

13 A. And then the -- Corizon Health.

14 Q. Understood. So does -- is it the same
15 training that the -- that MDOC --

16 A. It's very similar, uh-huh.

17 Q. But there's two different sets of
18 materials?

19 A. Uh-huh.

20 Q. Does the training take place together or
21 separately, MDOC and Corizon?

22 A. For new employees, they would be getting
23 it together with the other topics, and then once
24 you're working at a facility, then the reviews come
25 up annually.

1 Q. And where is that PowerPoint kept?

2 A. Here in this office at the Department of
3 Corrections Training Academy, and then at the
4 facilities with the institutional chiefs and also
5 the field training officers.

6 Q. Is Corizon aware of any inmates with
7 gender dysphoria who have attempted suicide while
8 being housed as an MDOC facility?

9 A. Yes.

10 Q. How many?

11 A. How many individuals have attempted
12 suicide?

13 Q. Yes. And let's kind of set a time period
14 here. Over the last five years, individuals with
15 gender dysphoria who have attempted suicide in an
16 MDOC facility.

17 A. I couldn't give you an exact number.

18 Q. More than ten?

19 A. No.

20 Q. More than five?

21 A. Somewhere in the middle would be --

22 Q. Between five and --

23 A. -- purely my speculation.

24 Q. Sorry. Somewhere between five and ten?

25 A. Somewhere between five and ten.

1 Q. You've heard of the term "autocastration"?

2 A. Yes.

3 Q. Is Corizon aware of individuals who have
4 attempted, successfully or not, autocastration in an
5 MDOC facility over the last five years?

6 A. Yes.

7 Q. About how many?

8 A. I couldn't say for sure.

9 Q. More than ten?

10 A. No.

11 Q. In that same five-to-ten range?

12 A. Fewer than five.

13 Q. And my question was "attempted whether
14 successfully or not." Are you aware of any inmates
15 over the last five years who have successfully
16 engaged in autocastration?

17 A. No.

18 Q. In those instances where an inmate --
19 well, in the instances where an inmate attempted
20 autocastration, had there been a diagnosis of gender
21 dysphoria in all of those cases?

22 A. I don't believe so.

23 Q. And when an inmate attempts
24 autocastration, what is -- what actions does Corizon
25 engage in this response to that attempt?

1 Q. And I want to know, has that actually
2 happened?

3 A. Yes.

4 Q. Okay. On how many occasions are you aware
5 that that's actually happened?

6 A. I can't say for sure.

7 Q. And that process -- so starting with the
8 medical care and then through the referral to
9 psychiatry and the psychiatric treatment, is MDOC
10 informed of the attempted autocastration?

11 A. Yes.

12 Q. And what is MDOC's involvement in that
13 kind of cycle of treatment from the medical all the
14 way up through the psychiatric care that you've
15 described?

16 A. Notification.

17 Q. So anytime an inmate has attempted
18 autocastration, MDOC is notified of that?

19 A. Yes.

20 Q. Are they also notified if that individual
21 was also someone that's been diagnosed with gender
22 dysphoria?

23 A. It might be if it's specific to that
24 individual part of the notification information.

25 Q. What's the form of that notification?

1 A. To the Missouri Department of Corrections,
2 there's the section in DORS that is mental health.
3 So for the suicide attempt notification, the
4 assistant division direction over mental health
5 services needs to be notified, as well as the
6 contract monitor over the particular institution
7 where this has occurred. And then -- I don't know
8 in detail exactly on the medical side, but there
9 would be notification in similar fashion to the
10 assistant division director over medical services,
11 and then the corresponding director -- or contract
12 monitor over medical services.

13 Q. Have you ever met Ms. Hicklin?

14 A. No, I have not.

15 Q. This process that you described for an
16 attempted autocastration, does that same process
17 apply for a suicide attempt?

18 A. Yes.

19 Q. Besides the GDCSG that we've been talking
20 about throughout the day, are there any other
21 Corizon or -- let me start with Corizon. Are there
22 any other Corizon committees relating to the
23 diagnosis or treatment of individuals with gender
24 dysphoria?

25 A. No.

1 transgender committee meetings?

2 A. They do.

3 Q. Who?

4 A. The HSA -- the health services
5 administrator -- and the institution chief of mental
6 health services. Possibly, also the director of
7 nursing, the site medical director or the
8 psychiatrist.

9 Q. Do you know when the transgender committee
10 at Potosi last met with respect to Ms. Hicklin?

11 A. I do not.

12 Q. Do you know when they last met, period?

13 A. I do not.

14 Q. Do you know how many transgender inmates
15 in MDOC are currently receiving hormone therapy for
16 gender dysphoria?

17 A. I do not.

18 Q. Do you know of any?

19 A. There are some that no longer carry that
20 diagnosis, so I can't say for sure.

21 Q. And -- so when you say "there are some
22 that no longer carry that diagnosis" -- so does that
23 mean that they were once diagnosed with gender
24 dysphoria?

25 A. Yes.

1 Q. Was there any treatment for gender
2 dysphoria?

3 A. Yes.

4 Q. Including hormone therapy?

5 A. Yes.

6 Q. And is it because of the hormone therapy
7 that -- is it more than one individual that we're
8 talking about here?

9 A. I can't say for sure, but I -- in my
10 general awareness, there are multiple offenders who
11 receive hormone replacement therapy.

12 Q. So these are individuals who at one point
13 had a diagnosis for gender dysphoria, received
14 hormone treatment, and then is it because of the
15 hormone treatment that they no longer carry the
16 diagnosis for gender dysphoria?

17 A. I would believe that it's not solely
18 because of that but partially because of treatment,
19 yes.

20 Q. So at least in part, this hormone therapy
21 resulted in the individual no longer having gender
22 dysphoria -- the effects that go along with it;
23 correct?

24 A. Correct.

25 Q. If you wanted to learn how many

1 receiving hormone treatment when they arrived at an
2 MDOC facility?

3 A. I couldn't say for sure until the -- we
4 generated the list and it was reviewed.

5 Q. Are you aware of any inmate who was
6 incarcerated at an MDOC facility and at the time of
7 incarceration, the person was not receiving hormone
8 treatment but who later, while incarcerated, upon a
9 diagnosis of gender dysphoria, received hormone
10 treatment?

11 A. I am not aware of any.

12 Q. And you are aware of individuals who came
13 to MDOC -- was incarcerated in a facility, diagnosed
14 with gender dysphoria while in the facility, and has
15 not received hormone treatment?

16 A. Yes.

17 Q. You're aware of individuals who came to an
18 MDOC facility on hormone treatment and that hormone
19 treatment continued?

20 A. Yes.

21 Q. Including individuals with gender
22 dysphoria?

23 A. Yes.

24 Q. For those individuals who are -- who are
25 in an MDOC facility, have a diagnosis of gender

1 right? For one group, an individual who was not on
2 hormones is incarcerated as an MDOC facility -- as I
3 understand it, it's MDOC policy that that individual
4 will not start hormones if they weren't already on
5 hormones; correct?

6 A. I would say it's practice. I've never
7 seen a policy related to that.

8 Q. But that's been the practice?

9 A. Yes.

10 Q. Okay. And the practice is, as to an
11 individual who was already on hormones, those
12 hormones will continue when the individual is
13 incarcerated; correct?

14 A. If there's -- the assessment by the
15 medical team and the things that need to be reviewed
16 for continuity of care, yes.

17 Q. And as to the individual who was not on
18 hormones and hormones are not started when they're
19 incarcerated, the reason for it, I think you
20 testified, is concern over safety; correct?

21 A. Correct.

22 Q. And that's MDOC's concern?

23 A. Yes.

24 Q. Okay. Do you understand whether MDOC has
25 that same concern for the second category of people,

1 people who were already on hormones and remain on
2 hormones when incarcerated?

3 A. I would believe they do.

4 Q. So do you understand why there's a
5 difference in the decision about whether or not
6 individuals in those two categories are going to
7 receive hormones?

8 A. I do not understand what the difference
9 is.

10 Q. Okay. Is it Corizon's position that --
11 well, I think you already testified, but it's
12 Corizon's position that -- strike that.

13 A. Okay.

14 Q. Strike that.

15 MS. BUTLER: I'm going to move to a
16 totally different subject, so why don't we take a
17 lunch break.

18 (A lunch recess was taken.)

19 (Deposition Exhibit No. 104 was marked for
20 identification.)

21 Q. (By Ms. Butler) So we are back from lunch,
22 Dr. Atterberry, and the court reporter has just
23 placed in front of you a document that's marked
24 Exhibit 104. The Bates numbers of this document are
25 PL000915 through PL001222. Just flip through it and

1 "My understanding is that in the past, the
2 DOC did not initiate hormone replacement therapy but
3 may have continued treatment regimens started prior
4 to incarceration."

5 Do you see that?

6 A. Yes.

7 Q. And that's consistent with Corizon's
8 understanding?

9 (Deposition Exhibit No. 105 was marked for
10 identification.)

11 A. To the best of what I understand, yes.

12 Q. (By Ms. Butler) Dr. Atterberry, you have
13 been handed what's been marked Exhibit 105 to your
14 deposition. Can you take a look at this and let me
15 know if you recognize it.

16 A. Yes, I do.

17 Q. What is it?

18 A. It's portions of the contract between
19 Corizon Health and Missouri Department of
20 Corrections.

21 Q. And is this portion of that contract, is
22 this also portions generated by Corizon?

23 A. Yes.

24 Q. The Bates numbers in this document for the
25 record are PL001701 through 1939. If you would turn

EXHIBIT B

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE EASTERN DISTRICT OF MISSOURI
4 EASTERN DIVISION

5 JESSICA HICKLIN,)

6 Plaintiff,)

7 vs.)

Case No.

) 4:16-CV-01357-NCC

8 ANNE PRECYNTHE, et al. ,)

9 Defendants.)

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18 DEPOSITION OF ELIZABETH ATTERBERRY, PSY.D.
19 TAKEN ON BEHALF OF THE PLAINTIFF
20 NOVEMBER 15th, 2017
21
22
23
24

25 JOB NO. 133533

1 other than counsel or involving counsel, please feel
2 free to let me know that, okay?

3 A. Yes.

4 Q. Okay. Are you employed by Corizon?

5 A. I am.

6 Q. What is your current position?

7 A. Regional mental health director.

8 Q. What does "region" mean? What does that
9 region encompass?

10 A. Missouri.

11 Q. Anything other than Missouri?

12 A. No.

13 Q. Are you responsible for all of the
14 correctional centers that Corizon provides services
15 to in Missouri?

16 A. Yes.

17 Q. How many centers are those?

18 A. Twenty-two.

19 Q. How long have you held this position?

20 A. April of 2015.

21 Q. So before -- I would like to know about
22 what you did before April of 2015, but before we get
23 to that, I'd like to know what goes into your
24 position, what your work currently as regional
25 mental health director entails. Can you describe --

1 A. No.

2 Q. Have you ever asked to speak to
3 Ms. Hicklin?

4 A. No.

5 Q. Why not?

6 A. I don't frequently ask to do that for any
7 of the patients that the site staff are treating.

8 Q. And why is that?

9 A. It's not a function of my role to be
10 directly involved in the care.

11 Q. Understood. Now, again, without revealing
12 any HIPAA-protected information -- in speaking about
13 the two other individuals that you've been involved
14 in diagnosing gender dysphoria, are either of those
15 individuals receiving hormone therapy?

16 A. No.

17 Q. Are either of those individuals receiving
18 gender-affirming canteen items?

19 A. I do not know.

20 Q. Are you aware of any transgendered inmate
21 within the Missouri Department of Corrections
22 receiving hormone therapy?

23 A. Would you ask again?

24 Q. Are you aware of any transgendered inmate
25 within the Missouri Department of Corrections

1 receiving hormone therapy?

2 A. Yes.

3 Q. How many?

4 A. I do not know for sure.

5 Q. If you had to ballpark it, what would you
6 ballpark it at?

7 A. A dozen.

8 Q. Okay. Have you held other positions at
9 Corizon besides the position you hold now?

10 A. Yes.

11 Q. What are those positions?

12 A. Mental health director --

13 Q. What else?

14 A. -- over the central region.

15 Q. Mental health director over the central
16 region. What's the central region?

17 A. It can be parted up different ways, but at
18 the time, it included Northeast Correctional Center;
19 Fulton Reception and Diagnostic Center; Cramer
20 Therapeutic Treatment Community; Tipton Correctional
21 Center; Algoa Correctional Center; and Jefferson
22 City Correctional Center.

23 Q. But not Potosi Correctional Center;
24 correct?

25 A. Correct.

1 about her hair.

2 Q. What is -- what do you mean by
3 "rumination"?

4 A. It's not just a thought that happens
5 randomly; it's more incessant.

6 Q. So she can't put it out of her mind?

7 A. Correct.

8 We discuss when Ms. Hicklin had been seen
9 by psychiatry, August 9th, 2017, and was observed to
10 be fidgety. We discuss that there were multiple
11 stressors. The QMHP previously assigned had left,
12 and that Ms. Hicklin was worried about the length of
13 time it will take to be treated with hormone
14 replacement therapy. We discussed that Ms. Hicklin
15 had revealed to the psychiatrist that self-treating
16 intrusive thoughts were occurring, and this would be
17 self-castration. Also, Ms. Hicklin was not sleeping
18 much.

19 Q. Have you, in connection with your work at
20 Corizon, dealt with other gender dysphoria -- other
21 inmates with gender dysphoria who had thoughts of
22 self-castration?

23 A. Have I known of them?

24 Q. Have you known of them?

25 A. Yes.

1 Q. How many?

2 A. Two.

3 Q. While Corizon has provided medical care
4 and mental health services to Missouri Department of
5 Correction inmates, are you aware of whether
6 anyone -- any transgendered inmate with gender
7 dysphoria has successfully completed autocastration?

8 A. I believe so.

9 Q. When was that?

10 A. My recollection is that it occurred when I
11 was working with the previous vendor.

12 Q. As a mental health provider, do you have
13 any understanding of how hormone treatment would
14 impact the self-harmed thoughts -- the thoughts to
15 auto- -- to self-castrate?

16 A. Generally?

17 Q. Generally, what's your understanding?

18 A. Well, there's -- just the obvious mindset
19 of treatment/no treatment and the comfort that that
20 would bring to patient in having started a regimen.
21 And from there, it would be patient-specific, how
22 they're going to react to the medication. The risk,
23 I believe, would begin to decrease at some point
24 because there would be some body changes, some
25 things that would feel more feminine in this case.

1 Q. That would alleviate the dysphoria; right?

2 A. Yes.

3 Q. Were you asked to collect any documents in
4 connection with this case, other than those that you
5 brought today?

6 A. No.

7 Q. Outside of what you've already testified
8 about, and not including any conversations when
9 counsel was in the room, have you had any
10 communications with anyone at MDOC about treating
11 Ms. Hicklin's gender dysphoria?

12 A. I do not recall that I have.

13 Q. Okay.

14 MS. ROBERG-PEREZ: For now, I have no
15 further questions, but counsel may.

16 CROSS-EXAMINATION

17 BY MR. LEVY:

18 Q. Yeah, I have a couple.

19 Do you know what the relationship is
20 between department of corrections and Corizon?

21 A. Generally, yes.

22 Q. Yes. What is your understanding?

23 A. We are the health care vendor for the
24 Missouri Department of Corrections.

25 Q. And you provide that pursuant to a written

EXHIBIT C



WPATH WORLD PROFESSIONAL
ASSOCIATION for
TRANSGENDER HEALTH

Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People

The World Professional Association for Transgender Health

PL000640

of the neovagina differ substantially from those of a biologic vagina. This anatomic difference can affect intercourse if not understood by MtF patients and their partners (van Trotsenburg, 2009).

Lower urinary tract infections occur frequently in MtF patients who have had surgery because of the reconstructive requirements of the shortened urethra. In addition, these patients may suffer from functional disorders of the lower urinary tract; such disorders may be caused by damage of the autonomous nerve supply of the bladder floor during dissection between the rectum and the bladder, and by a change of the position of the bladder itself. A dysfunctional bladder (e.g., overactive bladder, stress or urge urinary incontinence) may occur after sex reassignment surgery (Hoebeke et al., 2005; Kuhn, Hildebrand, & Birkhauser, 2007).

Most FtM patients do not undergo vaginectomy (colpectomy). For patients who take masculinizing hormones, despite considerable conversion of testosterone to estrogens, atrophic changes of the vaginal lining can be observed regularly and may lead to pruritus or burning. Examination can be both physically and emotionally painful, but lack of treatment can seriously aggravate the situation. Gynecologists treating the genital complaints of FtM patients should be aware of the sensitivity that patients with a male gender identity and masculine gender expression might have around having genitals typically associated with the female sex.

XIV

Applicability of the Standards of Care to People Living in Institutional Environments

The SOC in their entirety apply to all transsexual, transgender, and gender nonconforming people, irrespective of their housing situation. People should not be discriminated against in their access to appropriate health care based on where they live, including institutional environments such as prisons or long-/intermediate-term health care facilities (Brown, 2009). Health care for transsexual, transgender, and gender nonconforming people living in an institutional environment should mirror that which would be available to them if they were living in a non-institutional setting within the same community.

All elements of assessment and treatment as described in the SOC can be provided to people living in institutions (Brown, 2009). Access to these medically necessary treatments should not be denied on the basis of institutionalization or housing arrangements. If the in-house expertise of health professionals in the direct or indirect employ of the institution does not exist to assess

and/or treat people with gender dysphoria, it is appropriate to obtain outside consultation from professionals who are knowledgeable about this specialized area of health care.

People with gender dysphoria in institutions may also have co-existing mental health conditions (Cole et al., 1997). These conditions should be evaluated and treated appropriately.

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*. A “freeze frame” approach is not considered appropriate care in most situations (Kosilek v. Massachusetts Department of Corrections/Maloney, C.A. No. 92-12820-MLW, 2002). 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 autocastration, depressed mood, dysphoria, and/or suicidality (Brown, 2010).

Reasonable accommodations to the institutional environment can be made in the delivery of care consistent with the *SOC*, if such accommodations do not jeopardize the delivery of medically necessary care to people with gender dysphoria. An example of a reasonable accommodation is the use of injectable hormones, if not medically contraindicated, in an environment where diversion of oral preparations is highly likely (Brown, 2009). Denial of needed changes in gender role or access to treatments, including sex reassignment surgery, on the basis of residence in an institution are not reasonable accommodations under the *SOC* (Brown, 2010).

Housing and shower/bathroom facilities 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. Placement in a single-sex housing unit, ward, or pod on the sole basis of the appearance of the external genitalia may not be appropriate and may place the individual at risk for victimization (Brown, 2009).

Institutions where transsexual, transgender, and gender nonconforming 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.

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JESSICA HICKLIN,

Plaintiff,

vs.

ANNE PRECYNTHE, et al. ,

Defendants.

)
)
)
)
) Case No.
) 4:16-CV-01357-NCC
)
)
)
)

DEPOSITION OF MATT STURM
TAKEN ON BEHALF OF THE PLAINTIFF
January 25th, 2018

JOB NO. 135753

1 A. Not to my recollection, no. Not directly.

2 Q. It's my understanding that Ms. Hicklin
3 sent letters to Scott O'Kelley and Deloise Williams,
4 both of whom worked directly under you. Do you
5 recall that?

6 A. I don't.

7 Q. Okay. I just know you said not directly,
8 so I wasn't sure if that's what you were alluding
9 to.

10 A. No. When I say "not directly," I mean I
11 saw transgender reports regarding Ms. Hicklin, but I
12 don't -- so when I say -- I would have responded to
13 those, but those were about Jessica but not to
14 Jessica.

15 Q. Do you have an understanding of what the
16 basis is for Ms. Hicklin's claims?

17 A. I believe so.

18 Q. What's your understanding?

19 A. That her gender dysphoria has reached a
20 point that she requires hormone therapy and gender
21 affirming property items.

22 Q. Anything else?

23 A. Not that I'm aware of.

24 Q. What's your current position at the
25 Missouri Department of Corrections?

1 A. Deputy department director.

2 Q. And how long have you held that position?

3 A. February of 2017.

4 Q. What was your position before you became
5 deputy department director?

6 A. Director of the division of offender
7 rehabilitative services -- or DORS for short.

8 Q. I was just going to ask you if it stands
9 for DORS for short.

10 A. Yes, ma'am.

11 Q. How long were you the DORS director?

12 A. February 2012 to February of 2017.

13 Q. Before you became the DORS director, were
14 you working at Missouri Department of Corrections?

15 A. Yes, ma'am.

16 Q. In what capacity?

17 A. Deputy division director in the division
18 of adult institutions.

19 Q. And how long were you the deputy division
20 director in the division of adult institutions?

21 A. I believe it was sometime in 2010, but I
22 don't recall specifically. Either late 2010, early
23 2011. I can't recall.

24 Q. So sometime in either late 2010 or early
25 2011 to February of 2012?

1 employees regarding Ms. Hicklin's request for gender
2 dysphoria, and it goes from April 20th, 2015,
3 through April 22nd, 2015. If you look at page 9- --
4 well, the bottom of page 911 is an e-mail -- the
5 first e-mail, you know, chronologically speaking in
6 the string which is from Cindy Griffith to Dwayne
7 Kempker from April 20th, 2015, and it continues on
8 page -- on to page 912, Cindy Griffith's e-mail
9 does. And the first sentence in the last paragraph
10 of the e-mail on 912 says:

11 "My understanding -- " this is Cindy
12 Griffith speaking.

13 "My understanding is that in the past, the
14 DOC did not initiate hormone replacement therapy,
15 but may have continued treatment regimens starting
16 prior to incarceration."

17 Is that statement accurate?

18 A. I believe that is correct, yes.

19 Q. The same being -- I want to be clear --
20 the statement being that in the past, the department
21 of corrections did not initiate hormone replacement
22 therapy but may have continued treatment regimens
23 started prior to incarceration. Is that correct?

24 A. That's correct.

25 Q. When this e-mail was sent in April of

1 Q. And is that something that you discussed
2 with director George Lombardi?

3 A. And Dave Dormeyer and -- yeah -- likely
4 legal.

5 Q. Okay.

6 A. Yes, ma'am.

7 Q. Okay. And at that point, Vevia Sturm is
8 saying, This is new, we've never initiated hormones
9 before; we've only continued hormones for people who
10 were receiving it before. So what came out of the
11 conversations that you were having with
12 George Lombardi and Dave Dormeyer with respect to
13 that question -- with respect to the question about
14 initiation of hormones?

15 A. Right. The determination made -- the
16 ultimate decision made by the director was that the
17 department would continue with that same process --
18 that same method.

19 Q. So the director, meaning George Lombardi;
20 correct?

21 A. Uh-huh.

22 Q. Okay.

23 A. Yes.

24 Q. So --

25 A. Sorry.

1 Q. 2016?

2 A. Possibly. I don't recall.

3 Q. Could it have been 2015?

4 A. It could have been.

5 Q. Would it have been before 2015?

6 A. I guess it's possible, but it's -- it
7 doesn't seem like it. I would think more 2015,
8 perhaps.

9 Q. How did you come to see the document
10 that's reflected on Hicklin versus Lombardi 00616?

11 A. This was the document -- or this is the
12 response that was prepared by the department to
13 provide to the transgender committee when hormone
14 therapy is recommended to be initiated.

15 Q. So what I hear you saying is this was
16 prepared by the department -- and by that do you
17 mean the Missouri Department of Corrections or any
18 specific part of the Missouri Department of
19 Corrections?

20 A. Yes, ma'am. No. I'm sorry. It's the
21 department of corrections.

22 Q. So the Missouri Department of Corrections
23 prepared the language in the document that's
24 reflected on Hicklin versus Lombardi 00616 to
25 provide guidance to the transgender -- the

1 site-specific transgender committee?

2 A. It's in response -- when a transgender
3 committee report arrives at central office and if
4 hormone therapy is requested to be initiated, this
5 is the response that is typically sent in response
6 to their transgender committee report.

7 Q. And when did this start being the response
8 that would be sent to a request to initiate hormone
9 therapy --

10 A. I don't recall when it was.

11 Q. Who drafted the language that's reflected
12 on Hicklin versus Lombardi 616?

13 MR. DEAN: If you know.

14 A. It was -- I can maybe better answer that
15 this was drafted to reflect the decision made by
16 executives -- the director with input from executive
17 staff, so I think several people probably had input
18 on it. I know I did. I saw it at that time and
19 legal, likely, Mr. Dormeyer. It was drafted to
20 reflect the ultimate decision by the director.

21 Q. (By Ms. Gordon) So you had input. I think
22 you said Dave Dormeyer.

23 A. To my recollection, yes.

24 Q. What was your input in the drafting of the
25 document reflected on Hicklin versus Lombardi 00616?

1 policy that existed before; is that correct?

2 A. It's -- I guess it's a position but not a
3 procedure, but that's correct.

4 Q. Are you aware of any transgender inmates
5 with gender dysphoria who have received therapy in
6 Missouri Department of Corrections?

7 A. By "therapy," do you mean hormone therapy?

8 Q. Hormone therapy, yes.

9 A. Are you talking about those that entered
10 the facility or the institution already having a
11 valid prescription?

12 Q. I would assume so, since, you know, as
13 we've established, that's DOC's policy, but I guess
14 I'm just asking are you aware of transgender inmates
15 who have received hormone therapy in DOC?

16 A. None specifically, but I believe we have
17 some, yes.

18 Q. So you have no personal knowledge of a
19 specific person --

20 A. Right.

21 Q. -- but you do believe that you have
22 provided hormone therapy for transgender inmates?

23 A. Correct.

24 Q. Do you have an idea of how many?

25 A. I do not.

1 Q. And to your knowledge, all of those people
2 would have been receiving it before coming to
3 Missouri Department of Corrections?

4 A. To my knowledge, yes.

5 Q. Do you know where such inmates would be
6 housed?

7 A. I do not.

8 Q. You -- you had identified in the
9 conversations that you had with George Lombardi and
10 Dave Dormeyer and legal the fact that if you -- you
11 know, if you give someone hormone therapy, one of
12 the effects of that is they're likely to develop
13 female secondary characteristics such as breasts;
14 correct?

15 A. Correct.

16 Q. So given that, to your knowledge, there
17 are people who have been in the Missouri Department
18 of Corrections who have been getting hormone therapy
19 and thus would have developed these secondary sex
20 characteristics, such as breasts, what steps does
21 the Missouri Department of Corrections take to
22 protect such people from sexual abuse and
23 harassment?

24 A. All of the things I've mentioned already,
25 which is the transgender committee. That's the --

1 one of the roles of that committee is to meet with
2 the offenders and make sure that they are living in
3 a prison environment, if they're having any issues
4 or concerns. The PREA hotline is available, and
5 then offenders are instructed to notify a staff
6 member if they're having -- doesn't mean that they
7 will, but they're instructed to -- or encouraged to
8 notify a staff member if they're having concerns or
9 issues or being harassed.

10 Q. I'm sorry. So, you know, I think you've
11 ticked off some of those before. In addition to
12 those mechanisms, the Missouri Department of
13 Corrections has at its disposal to try to protect
14 transgender people in its custody who are receiving
15 hormone therapy the housing options that you laid
16 out before; correct? And that's the restricted
17 housing, protective custody and --

18 A. General population.

19 Q. General population, if it's determined
20 that they can be in general population; is that
21 correct?

22 A. That's correct.

23 Q. Do you know -- well, okay. I think you've
24 already answered that.

25 If you wanted to find out where

1 transgender inmates receiving hormone therapy in
2 Missouri Department of Corrections have been housed,
3 how would you go about doing that?

4 A. We would likely have to contact each
5 institution individually and ask the housing status
6 of each transgender offender located there.

7 Q. So I think you said you'd have to contact
8 the housing staff at each facility and ask them.

9 A. To my knowledge -- I don't know that
10 there's a more efficient way of getting that
11 information.

12 Q. Before I had asked you if during the
13 conversations with George Lombardi, Dave Dormeyer,
14 you, legal, about the policy that is reflected on
15 Hicklin versus Lombardi 00616 -- well, scratch that.
16 Let me just ask you.

17 During those conversations with
18 George Lombardi, Dave Dormeyer, you, legal, was
19 there a belief that initiating hormone therapy for
20 transgender inmates with gender dysphoria posed a
21 greater safety and security risk than would be posed
22 by continuing hormone therapy for someone who is
23 already on there?

24 MR. DEAN: Object to the form. Asked and
25 answered.

1 A. Not that I recall.

2 Q. (By Ms. Gordon) Are -- okay. So
3 Jessica Hicklin is a transgender woman. That means
4 she was assigned the sex at birth -- the sex of male
5 at birth, she has right now secondary sex
6 characteristics that are masculine in nature, which
7 causes her distress clinically called gender
8 dysphoria because she identifies as a woman. Are
9 there any people like that, meaning people who are
10 assigned the sex at birth but whose internal sense
11 of their gender is -- sorry.

12 Are there any people who are assigned the
13 sex of male at birth but whose internal sense of
14 their gender is female, are any of those people
15 housed in female facilities in Missouri Department
16 of Corrections?

17 A. Not to my knowledge.

18 Q. Okay. And this -- I just want to be
19 clear. Even if they're receiving hormone therapy
20 and may or may not have developed secondary sex
21 characteristics like breasts, to your knowledge,
22 none of those people are being housed in female
23 facilities; isn't that correct?

24 A. That is correct.

25 Q. In developing the policy reflected on

1 for which the Missouri Department of Corrections
2 will not initiate a particular treatment but will
3 only continue it if it was being received before the
4 person entered Missouri Department of Corrections?

5 A. Not that I'm aware of. The only caveat
6 being certain types of medications.

7 Q. Could you explain that, please?

8 A. Those with addictive qualities are
9 typically not prescribed in a prison setting.

10 Q. So medications with addictive qualities
11 are particularly not prescribed to a prison
12 situation. That's what you said?

13 A. Correct.

14 Q. So trying to kind of analogize the
15 prescription of medications that have an addictive
16 potential, is there any medication that falls into
17 that class -- medication that someone can become
18 addicted to that Missouri Department of Corrections
19 will continue if you are already getting it but
20 won't start you on it?

21 A. I'm unaware. I cannot answer that.

22 Q. You don't know?

23 A. I don't know.

24 Q. Okay. So if we turn back to Exhibit 79,
25 which is the NCCHC's position statement regarding

1 transgender, transsexual, and gender nonconforming
2 in health care settings. If you turn to the third
3 page, No. 13 of the 19 items that fall under health
4 management in this position statement says:

5 "Gender dysphoric patients who have not
6 received hormone therapy prior to incarceration
7 should be evaluated by a health care provider
8 qualified in the area of gender-related health care
9 to determine their treatment needs."

10 Do you see that?

11 A. I do.

12 Q. Jessica Hicklin has been evaluated by a
13 Corizon psychiatrist; is that correct?

14 A. To my knowledge, yes.

15 Q. And those Corizon psychiatrists have
16 recommended that she be provided hormone therapy to
17 treat her gender dysphoria; is that correct?

18 A. That's my understanding, yes.

19 Q. And Corizon's Gender Dysphoria Clinical
20 Supervision Group, which I think you testified
21 earlier is a review group, has also determined that
22 hormone therapy is medically necessary for
23 Jessica Hicklin; is that correct?

24 A. I believe that's correct, yes.

25 Q. If you turn to item No. 14 on that same

1 page, it says:

2 "When determined to be medically necessary
3 for a particular patient, hormone therapy should be
4 initiated and regular laboratory monitoring should
5 be conducted according to community medical
6 standards."

7 Do you see that?

8 A. I do.

9 Q. That has not been done in
10 Jessica Hicklin's case to your knowledge; is that
11 correct?

12 A. Correct.

13 Q. If you turn to the second page, number
14 six, the second sentence there says:

15 "Policies that make treatments available
16 only to those who received them prior to
17 incarceration or that limit transition and/or
18 maintenance are inappropriate and out of step with
19 medical standards and should be avoided."

20 Do you see that?

21 A. I do.

22 Q. Per the language that's on Hicklin versus
23 Lombardi 00616, which actually says that initiating
24 hormone therapy for treatment of gender dysphoria is
25 inappropriate, it would seem to be in direct

1 contradiction with Item No. 6 of Exhibit 79;
2 correct?

3 A. Correct.

4 Q. Have you -- forgive me if you've already
5 answered this question, because I forget if I've
6 asked you. Have you ever contacted the NCCHC
7 regarding treatment of gender dysphoria?

8 A. I have not.

9 Q. To your knowledge, has anyone at
10 Missouri Department of Corrections ever contacted
11 the NCCHC regarding treatment of gender dysphoria?

12 A. I don't know.

13 Q. Okay. Do you know -- well, scratch that.
14 Do you know if anyone at Corizon has
15 contracted the NCCHC regarding treatment of gender
16 dysphoria?

17 A. I don't know the answer to that.

18 Q. In developing the policy that's reflected
19 in Hicklin versus Lombardi 00616, was the NCCHC
20 contacted or consulted?

21 A. Not that I'm aware of.

22 Q. Item No. 107, the second page of
23 Exhibit 79 says:

24 "Medical staff should ensure that
25 commissary items consistent with an individual's

1 Q. Dr. Stephens. Did you discuss the content
2 of it with anyone?

3 A. Not to my recollection.

4 Q. We saw that the PCC transgender committee
5 had previously sent a memo discussing Dr. Stephens'
6 presentation from January of 2016 on to you,
7 Vevia Sturm, and at that time, Dwayne Kempker. Do
8 you recall we saw that?

9 A. Yes.

10 Q. Was the final decision regarding what kind
11 of treatment Ms. Hicklin would receive for her
12 gender dysphoria, was that -- was the final decision
13 on that, was that to rest with your committee, the
14 three of you; you, Vevia Sturm, and Dwayne
15 Kempker/Ian Wallace?

16 A. Yes.

17 Q. So the central DOC committee, which I
18 understand is not the formal name.

19 A. Correct.

20 Q. But the three of you in the central office
21 had the final say on what would be provided for
22 Jessica Hicklin for her gender dysphoria; is that
23 correct?

24 A. Yes. That's the avenue to deliver that
25 direction.

1 Q. Was anyone above the three of you -- you,
2 Vevia Sturm, Dwayne Kempker, and then Ian Wallace,
3 was there anyone above you that would weigh in on
4 the kind of treatment that Jessica Hicklin would
5 get?

6 A. That decision had already been made, but
7 those discussions were discussed earlier with the
8 director, so that's the direction, so the response
9 is -- the response of the direction comes through
10 that committee. So there's no one else that reviews
11 it, to answer your question.

12 Q. Okay. So if I'm understanding what you're
13 saying, it wouldn't go any further than you,
14 Vevia Sturm, and whoever the division director for
15 the department of adult institution was at any given
16 time -- it wouldn't go beyond that because the
17 policy we saw on Hicklin 00616 had been already been
18 established and it was already -- the procedure that
19 that would be the response in a situation where
20 we're talking about initiation as opposed to
21 continuation of hormone therapy; is that correct?

22 A. The position, yes.

23 Q. The next e-mail on Hicklin versus Lombardi
24 00942 is from Vevia Sturm to Cindy Griffith, and
25 you're also there and so was Ian Wallace and

1 Jamie Crump was copied, and it says:

2 "Hi, Cindy. I apologize for the delay.
3 Can you please resend the report, and we will review
4 and respond ASAP."

5 Do you see that?

6 A. I do.

7 Q. And if you turn to Hicklin versus
8 Lombardi 944, that same e-mail that we just saw from
9 Vevia Sturm on Hicklin versus Lombardi 942 on
10 July 5th, 2016, where she says, "Hi, Cindy. I
11 apologize for the delay. Can you please resend the
12 report, and we will review and respond ASAP," that
13 same e-mail appears on the bottom of Hicklin versus
14 Lombardi 00944; correct?

15 A. Correct.

16 Q. And then there's an e-mail from
17 Jamie Crump with a response, but there is no
18 substantive -- there's nothing in the body of that
19 e-mail. Presumably, he was resending the report per
20 Vevia Sturm's request; right?

21 A. That would be my assumption.

22 Q. And turning back to Hicklin versus
23 Lombardi 00924, Cindy Griffith's e-mail refers to
24 the last review held on January 13th, 2016; correct?

25 A. I assume so, yes.

1 Q. You can see it?

2 A. Which page are you on?

3 Q. 00942. Cindy Griffith's e-mail. She
4 refers to January 13, 2016, transgender review for
5 Jessica Hicklin.

6 A. Okay.

7 Q. And it's in response to that that
8 Vevia Sturm says, Sorry for the delay, could you
9 please resend; correct?

10 A. Correct.

11 Q. So, presumably, Jamie Crump was resending
12 the transgender committee's recommendations from
13 January 2016; correct?

14 A. Correct.

15 Q. And then there's an e-mail from you on
16 July 6th, 2016, and it says:

17 "The female personal property is DAI's
18 call. As for the request for hormone replacement
19 therapy, DORS's official response is below."

20 And then we see the same text reproduced
21 in your e-mail that we saw on Hicklin versus
22 Lombardi 00616; correct?

23 A. Correct.

24 Q. And that's consistent with what you've
25 testified, that per this policy, that was the

1 response in a situation like this one, where it
2 would involve initiation of hormone therapy for
3 gender dysphoria; correct?

4 A. Our position, yes.

5 Q. When you say "our position" -- I'm
6 sorry --

7 A. It's not a procedure; it's a policy. It's
8 not an actual procedure; it's the department's
9 position.

10 Q. And what's the distinction, just so I
11 understand?

12 A. Well, it's -- this doesn't exist in a
13 procedure, so the department's position, much like
14 NCCHC has positions, this is what their position is;
15 this is what our position is.

16 Q. So what I hear you saying is this isn't
17 written down in any official policy or procedure
18 that the Missouri Department of Corrections has?

19 A. That's -- to the best of my knowledge,
20 correct.

21 Q. Okay. And that's why, from your
22 perspective, the word "policy" is not accurate
23 because it's not a written policy that Missouri
24 Department of Corrections has?

25 A. That is correct.

1 Understanding that you've never spoken to
2 Jessica Hicklin, never corresponded with her in any
3 way -- scratch that.

4 Based on what you know about
5 Jessica Hicklin, from whatever source, is there
6 anything about Jessica Hicklin specifically to your
7 knowledge that makes her more of a safety or
8 security concern than any other transgender inmate?

9 A. Not that I'm aware of.

10 Q. Mr. Sturm, you have been handed what was
11 previously marked as Exhibit 52, and I'll represent
12 to you that these are six pages of notes and a memo
13 pertaining to meetings of the Gender Dysphoria
14 Clinical Supervision Group's discussions related to
15 Jessica Hicklin. These were provided during
16 Dr. Elizabeth Atterberry's deposition.

17 A. Okay.

18 Q. Have you ever seen any of the documents
19 that comprise Exhibit 52?

20 A. Not that I recall.

21 Q. To your knowledge, is the gender dysphoria
22 clinical supervision group, that's a Corizon group;
23 correct?

24 A. To my knowledge, yes.

25 Q. So to your knowledge, Missouri Department

1 of Corrections -- scratch that.

2 To your knowledge, no Missouri Department
3 of Corrections employee or representative sits on
4 that clinical supervision group?

5 A. That is my understanding.

6 Q. Okay. And is it your understanding that
7 the Gender Dysphoria Clinical Supervision Group
8 reviews the site-specific recommendations with
9 respect to gender dysphoria treatment for a given
10 inmate, and then the Gender Dysphoria Clinical
11 Supervision Group then makes their recommendations
12 to the site-specific transgender committees?

13 A. That's my belief, yes.

14 Q. Okay. Put that aside for now.

15 Turning back to Exhibit 82. Turning to
16 Hicklin versus Lombardi 945, the first -- the first
17 e-mail chronologically on this page, which is at the
18 bottom, is from Vevia Sturm on September 15, 2016,
19 to Jamie Crump cc'ing you and Ian Wallace. Do you
20 see that?

21 A. I do.

22 Q. And, again, you, Vevia Sturm, and at this
23 point, Ian Wallace comprised the three people at the
24 central office that would review the transgender
25 committee's recommendations for transgender inmate;

1 correct?

2 A. Correct.

3 Q. Vevia Sturm says:

4 "Good morning, Jamie. The committee has
5 reviewed the Gender Dysphoria Clinical Supervision
6 Group's recommendation regarding hormone therapy for
7 Offender Hicklin; however, after careful
8 consideration, hormone therapy is denied. This
9 decision a based on the following --" and then we
10 see the same language that we saw on Hicklin versus
11 Lombardi 616, and that was also included in your
12 e-mail on Hicklin versus Lombardi 00494; correct?

13 A. Correct.

14 Q. How did the Gender Dysphoria Clinical
15 Supervision Group's recommendation regarding hormone
16 therapy for Jessica Hicklin reach the three of
17 you -- Vevia Sturm, you, and Ian Wallace -- at this
18 point in September of 2016?

19 A. I don't recall. My understanding is it
20 may have been included in the transgender -- the
21 site transgender committee recommendations, but I
22 don't know.

23 Q. But you don't recall?

24 A. I don't.

25 Q. Okay.

1 A. I don't see it here, so ...

2 Q. Did you, Vevia Sturm, and Ian Wallace have
3 a discussion regarding the Gender Dysphoria Clinical
4 Supervision Group's recommendation of hormone
5 therapy for Jessica Hicklin?

6 A. No.

7 Q. So the response here from Vevia Sturm was
8 pursuant to the position that had already been
9 determined with respect to initiation of hormone
10 therapy for gender dysphoria; correct?

11 A. You are correct.

12 Q. The next e-mail on the same page, Hicklin
13 versus Lombardi 0945, is from Vevia Sturm to
14 Jamie Crump, and it's dated November 1st, 2016. Do
15 you see that?

16 A. I do.

17 Q. And it says:

18 "Hello, Jamie. After speaking with
19 Matt Sturm, DORS director, he asked that I convey to
20 you that the committee would like for you to hold
21 off on informing Offender Hicklin of the review
22 committee's response. I will let you know when we
23 would like for you to move forward. Thank you.
24 Vevia Sturm."

25 When did you have the conversation with

1 A. I do not.

2 Q. Okay. Turn to Hicklin versus Lombardi
3 00950. This is a memo that goes through to 00953.
4 It's dated January 30th, 2017, it's from Stan Payne
5 to Ian Wallace, Matt Sturm, and Vevia Sturm, and
6 it's -- the subject is "Transgender committed,
7 Hicklin, Jessica James."

8 Midway on the first page, Hicklin versus
9 Lombardi 00950, it says that a transgender committee
10 was convened on January 20th, 2017, and then it
11 lists the folks who comprise the committee for that
12 meeting. Do you see that?

13 A. I do.

14 Q. And if you turn to Hicklin versus Lombardi
15 00951, about halfway down the page, there's a
16 sentence that starts, "On January 26th, 2017, my
17 office received --" do you see that?

18 A. Yup.

19 Q. "My office received an e-mail from
20 Elizabeth Atterberry, Psy. D., Gender Dysphoria
21 Clinical Supervision Group, GDCSG. She indicated
22 that this group met on January 25th, '17 and found
23 that -- " and then there are two bullets there. And
24 the first bullet says, "The offender is requesting
25 cross-gender hormone treatment. It is the opinion

1 of the GDCSG that cross-gender hormone treatment is
2 needed as part of an individualized treatment plan,
3 as the offender is suffering from significant
4 distress or impairment due to a diagnosis of gender
5 dysphoria and to reduce risk of possible behavioral
6 disturbances which can result due to gender
7 dysphoria.

8 Do you see that?

9 A. I do.

10 Q. The second bullet says, "The offender is
11 requesting a hair removal device. It is the opinion
12 of the GDCSG that a hair removal device is not
13 needed." Do you see that?

14 A. I do.

15 Q. Then below that -- well, in brackets there
16 it notes that the findings are actually attached,
17 and if you look to the next two pages here, those
18 appear to be a memo from Elizabeth Atterberry to
19 Stan Payne recounting these finds of the GDCSG
20 committee. Do you see that?

21 A. I do.

22 Q. Okay. So if you turn back to Hicklin
23 versus Lombardi 00951, under those two bullet points
24 and the note saying the GDCSG findings are attached,
25 it says, "The central office PREA review committee

1 deemed hormone replacement therapy [hrt] not
2 appropriate in the prison setting and, therefore,
3 not approved."

4 Do you see that?

5 A. I do.

6 Q. And, again, that refers to the e-mails
7 that you had conveyed that we saw on Hicklin versus
8 Lombardi 944 and that Vevia Sturm also conveyed on
9 Hicklin versus Lombardi 945; correct?

10 A. Correct.

11 Q. This is in January of 2017. Had there
12 been any additional conversation among you, Matt
13 Sturm -- sorry -- you, Ian Wallace, and Vevia Sturm
14 regarding the recommendation of hormone therapy for
15 Jessica Hicklin since Vevia Sturm sent her e-mail to
16 Jamie Crump on 00945 in September of 2016?

17 A. Not that I recall.

18 Q. To your knowledge, had there been any
19 further discussions involving George Lombardi
20 between the time that the policy that we saw on
21 Hicklin versus Lombardi 00616 was developed and the
22 Gender Dysphoria Clinical Supervision Group weighing
23 in and stating that they thought that hormone
24 therapy should be provided to Jessica Hicklin, was
25 there any additional conversation with

1 George Lombardi in light of the GDCSG's
2 recommendation about provision of hormone therapy?

3 A. Not to my recollection, no.

4 Q. After the GDCSG renders its opinion
5 regarding hormone therapy for Jessica Hicklin, are
6 you aware of any additional conversations inside of
7 DOC regarding provision of hormone therapy for
8 Jessica Hicklin taking into consideration the
9 GDCSG's recommendation?

10 A. Not that I recall, no.

11 Q. Have you spoken -- scratch that.

12 Have you ever spoken to anyone on the
13 GDCSG about their recommendation that Jessica be
14 provided hormone therapy?

15 A. Not that I recall, no.

16 Q. Has Vevia Sturm ever spoken to anyone on
17 the GDCSG regarding the recommendation for hormone
18 therapy for Jessica Hicklin?

19 MR. DEAN: Objection. Speculation.

20 You can answer, if you know.

21 A. I don't know.

22 Q. (By Ms. Gordon) If Vevia Sturm had spoken
23 to the GDCSG about their recommendation, would you
24 expect to have known about that conversation?

25 A. I'd say depending on the relevance of it,

1 likely.

2 Q. (By Ms. Gordon) Well, the relevance of it
3 would have been to the question of should we provide
4 hormone therapy to this inmate?

5 A. Then not that I'm aware of.

6 Q. When you say "not that I'm aware of," I'm
7 confused as to which question you're answering.

8 A. I'm not aware if she spoke to the gender
9 dysphoria group.

10 Q. Right. So I guess my question is, would
11 you have known that -- is it likely that you would
12 have known that if she had talked to the Gender
13 Dysphoria Clinical Supervision Group?

14 A. My answer is, if it was something relevant
15 to the group, which you've defined as hormone
16 therapy, then, yes, I probably would have known, and
17 I was not made aware of anything, so my assumption
18 is she did not.

19 Q. Do you know if Ian Wallace spoke to the
20 GDCSG about their recommendation of hormone therapy
21 for Jessica Hicklin?

22 A. I do not know.

23 Q. Is that something that you likely would
24 have known, if Ian Wallace had spoke to the GDCSG
25 about hormone therapy for Jessica Hicklin?

1 A. Likely.

2 Q. The GDCSG came into being, based on
3 previous testimony, around the fall of 2016, and I
4 believe you said earlier that that comports with
5 your knowledge of this committee; correct?

6 A. Yes.

7 Q. Would that have overlapped at any point
8 with Dwayne Kempker's stint as one of the three
9 people at the central office?

10 A. What date did you say?

11 Q. It was, like, fall -- August or September
12 of 2016.

13 A. I don't recall when --

14 Q. When he stopped --

15 A. -- Dwayne retired and when Ian started.

16 Q. Okay. So assuming that there was --

17 A. So July of -- I'm sorry -- July of 2016,
18 Ian was on the list and Dwayne was not, so in the
19 fall of 2016, Dwayne would have already been gone.

20 Q. Okay.

21 (A recess was taken.)

22 (Deposition Exhibit No. 83 was marked for
23 identification.)

24 Q. (By Ms. Gordon) Mr. Sturm, you've been
25 handed What's been marked Exhibit 83. It's a

EXHIBIT E

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JESSICA HICKLIN,)
)
 Plaintiff,)
)
 v.) Case No. 4:16-cv-01357-NCC
)
ANNE PRECYTHE, et. al.,)
)
 Defendants.)

**DEFENDANTS' RESPONSES TO
PLAINTIFF'S SECOND SET OF REQUESTS FOR ADMISSION**

Defendants Anne Precythe, Joan Reinkemeyer, Cindy Griffith, Stan Payne, Scott O'Kelly and Latoya Duckworth ("MDOC Defendants"), by and through counsel and pursuant to Federal Rule of Civil Procedure 36, hereby respond to Plaintiff's Second Set of Requests for Admission as follows:

3. Request for Admission No. 3:

Admit that the statement at HICKLIN V. LOMBARDI 00616 is the current, Missouri Department of Correction position on initiating hormone therapy for inmates diagnosed with Gender Dysphoria.

Response: MDOC Defendants object to this Request as vague and ambiguous. The document identified as HICKLIN v. LOMBARDI 00616 includes numerous "statements." Subject to and without waiving the foregoing objections: Denied.

4. Request for Admission No. 4:

Admit that the statement at Hicklin v. Lombardi 00616 was the Missouri Department of Correction's position on initiating hormone therapy for inmates diagnosed with gender dysphoria in 2017.

Response: MDOC Defendants object to this Request as vague and ambiguous. The document identified as HICKLIN v. LOMBARDI 00616 includes numerous "statements." Subject to and without waiving the foregoing objections: Admitted.

5. Request for Admission No. 5:

Admit that the statement at Hicklin v. Lombardi 00616 was the Missouri Department of Correction's position on initiating hormone therapy for inmates diagnosed with gender dysphoria in 2016.

Response: MDOC Defendants object to this Request as vague and ambiguous. The document identified as HICKLIN v. LOMBARDI 00616 includes numerous "statements." Subject to and without waiving the foregoing objections: Admitted.

6. Request for Admission No. 6:

Admit that the statement at Hicklin v. Lombardi 00616 was the Missouri Department of Correction position on initiating hormone therapy for inmates diagnosed with gender dysphoria in 2015.

Response: MDOC Defendants object to this Request as vague and ambiguous. The document identified as HICKLIN v. LOMBARDI 00616 includes numerous "statements." Subject to and without waiving the foregoing objections: Admitted.

7. Request for Admission No. 7:

Admit that the Missouri Department of Corrections will not initiate hormone therapy for inmates who are diagnosed with Gender Dysphoria, and for whom hormone therapy has been recommended by a Corizon mental health provider.

Response: Denied.

8. Request for Admission No. 8:

Admit that the Missouri Department of Corrections will continue hormone therapy for inmates who—prior to incarceration within the Department—were diagnosed with Gender Dysphoria, and were prescribed hormone therapy.

Response: Admitted.

9. Request for Admission No. 9:

Admit that the former Director of the Missouri Department of Corrections, George Lombardi, approved the position on initiating hormone therapy for inmates diagnosed with Gender Dysphoria that is stated in HICKLIN v. LOMBARDI 00616.

Response: Objection. This Request seeks information irrelevant to any claim in Plaintiff's First Amended Complaint. George Lombardi is not named as a defendant in Plaintiff's First Amended Complaint. Moreover, the phrase "approved the position" is vague, ambiguous, undefined, and subject to multiple conflicting interpretations.

10. Request for Admission No. 10:

Admit that the current Director of the Missouri Department of Corrections, Anne Precythe, approves of the position on initiating hormone therapy for inmates diagnosed with Gender Dysphoria that is stated in HICKLIN v. LOMBARDI 00616.

Response: Objection. The phrase "approves of the position" is vague, ambiguous, undefined, and subject to multiple conflicting interpretations. Subject to and without waiving these objections: Denied.

11. Request for Admission No. 11:

Admit that the former Director of Adult Institutions of the Missouri Department of Corrections, Dave Dormire, assisted in developing, and executing on, the position on initiating hormone therapy for inmates diagnosed with Gender Dysphoria that is stated in HICKLIN v. LOMBARDI 00616.

Response: Objection. This Request seeks information irrelevant to any claim in Plaintiff's First Amended Complaint. Dave Dormire is not named as a defendant in Plaintiff's First Amended Complaint. Moreover, the phrase "executing on the position" is vague, ambiguous, undefined, and subject to multiple conflicting interpretations.

12. Request for Admission No. 12:

Admit that the current Director of Adult Institutions of the Missouri Department of Corrections, Alana Boyles, assists in executin on the position on initiating hormone therapy for inmates diagnosed with Gender Dysphoria that is stated in HICKLIN v. LOMBARDI 00616.

Response: Objection. The phrase "assists in executin on the position" [SIC] is vague, ambiguous, undefined, and subject to multiple conflicting interpretations. Subject to and without waiving these objections: Denied.

Respectfully submitted,

JOSHUA D. HAWLEY

Attorney General



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*Attorneys for Defendants
Anne Precythe, Cindy Griffith,
Joan Reinkemeyer, Scott O'Kelly,
Stan Payne, Latoya Duckworth*

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of March 2018, the foregoing was served by e-mail upon the following.

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EXHIBIT F

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JESSICA HICKLIN,)
)
Plaintiff,)
)
v.) Case No. 4:16-cv-01357-NCC
)
GEORGE LOMBARDI, et. al.,)
)
Defendants.)

**DEFENDANTS' SECOND SUPPLEMENTAL RESPONSES TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Defendants George Lombardi, Dwayne Kempker, Ian Wallace, Cindy Griffith, Stan Payne, Scott O'Kelly and Deloise Williams ("MDOC Defendants"), by and through counsel and pursuant to Federal Rule of Civil Procedure 33, hereby supplement their responses to Plaintiff's First Set of Interrogatories Directed to Defendants as follows:

16. Response to Interrogatory No. 16:

Eight inmates in MDOC custody are currently receiving Hormone Replacement Therapy (HRT). Of the eight inmates currently receiving HRT, five have Gender Dysphoria or Gender Identity Disorder charted in their Department of Corrections (DOC) medical record.

Eighteen inmates have received HRT since 2009. Of the eighteen inmates who have received HRT since 2009, ten have Gender Dysphoria or Gender Identity Disorder charted in their DOC medical record.

The remaining inmates identified above who do *not* have Gender Dysphoria or Gender Identity Disorder charted in their DOC

medical record have one or more of the following noted:
“transgender”, “transsexual”, or “MTF” (Male to Female).

17. Response to Interrogatory No. 17:

See Response to Interrogatory No. 16.

Respectfully submitted,

JOSHUA D. HAWLEY
Attorney General



David D. Dean, #67190MO
Assistant Attorney General
Missouri Atty General's Office
P.O. Box 861
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*Attorneys for Defendants
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George Lombardi, Scott O'Kelly,
Stan Payne, Ian Wallace,
and Deloise Williams*

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of February 2018, the foregoing was served by e-mail upon the following.

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Assistant Attorney General

EXHIBIT G

OFFENDER GRIEVANCE APPEAL RESPONSE

TO: Hicklin, James #527993

INSTITUTION: Potosi Correctional Center

GRIEVANCE NUMBER: PCC-15-476

DATE OF APPEAL: July 10, 2015

Your grievance appeal has been received and reviewed. As well, your healthcare record has been reviewed. The purpose of this review is to assure that timely and appropriate healthcare has been provided to you. This assessment of your healthcare needs may differ from your personal desires.

I understand your one original IRR complaint to be you allege that you are being denied treatment for gender dysphoria. You claim this treatment, in accordance to "the modern, accepted Standards of Care", consists of hormone therapy, electrolysis and access to gender affirming canteen items.

Upon review of your medical record, grievance records and investigation of your concern, I found that you as stated in your IRR and Grievance responses, you had an appointment with the provider on 4/22/15 to discuss your treatment plan. You were educated that you would not be receiving hormone therapy. Subsequently, you had an appointment with the provider on 6/19/15 regarding your request for a TRIA hair removal laser or for electrolysis. It was determined that neither of these is medically necessary. In regards to access to gender affirming canteen items, this is not a medical issue. You will need follow the appropriate Standard Operating Procedure for this request.

Conclusion: Based on the above information, your grievance appeal is not supported, as outlined above. We rely upon the independent, discretionary medical judgment of the site providers to determine the needed care, medication, and treatment.

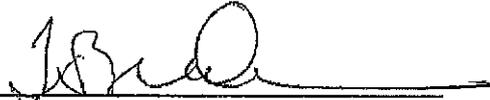
This should resolve your grievance. No further action is indicated at this time.

Should your medical condition change, please address any concerns through the sick call process at your facility.

08/11/2015
Date Received

10/21/2015
Date of Response


S. Moeller


Reviewed by/ Date
T.K. Bredeman, D.O., Assoc Regional Medical Director

Cc: File, H.S.A., Medical Director

Grievance Response

To: James Hicklin #527993
Institution: Potosi Correctional Center
Grievance Number: PCC-15-476
Date of Grievance: May 28, 2015

Your Grievance has been received and reviewed as well as your medical record. The purpose of this review is to determine if medically necessary health care, as determined by your health care providers, has been provided to you. This assessment of your medical needs may differ from your personal desires.

Your concern is understood to be:

You have been denied treatment (hormone therapy, electrolysis, gender affirming canteen items, and other standard treatments) for your diagnosis of Gender Dysphoria.

Subsequent to review and investigation, the results are as follows:

You received a mental health diagnosis of Gender Dysphoria on March 23, 2015. Subsequently, you were scheduled with the medical provider to discuss medical treatment for this diagnosis. You were educated at that time that you would not receive hormone therapy for this diagnosis. There is no documentation that electrolysis or other treatments were discussed.

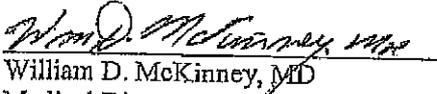
In conclusion, hormone therapy will not be ordered to treat your diagnosis of Gender Dysphoria. Please continue to attend scheduled Mental Health appointments or seek the counseling of Mental Health staff as needed.

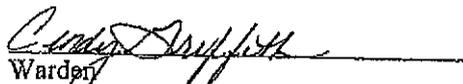
If your medical condition changes please address any concerns through the sick call process at your facility.

6.4.15
Date Received

6.7.15
Date of Response


Kimberly S. Randolph RN, BSN, CCHP
Director of Operations


William D. McKinney, MD
Medical Director


Warden

Received on 7-14-2015.
Please note, grievance appeal
submitted on 7-10-2015

Jan Hicklin

**Informal Resolution Request
Response**

To: Hicklin, James

Institution: PCC

IRR Number: PCC-15-476

Date of IRR: 04/23/15

Your IRR has been received and reviewed as well as your medical record. The purpose of this review is to determine if medically necessary health care, as determined by your health care providers, has been provided to you. This assessment of your medical needs may differ from your personal desires.

Your concern is understood to be: You state that you have had a refusal of medical/mental health treatment in violation of the Missouri Human Rights Act, Equal Protection Rights, and right to be free from Cruel and unusual punishment. Specifically, you state that you have a Mental Health condition, gender dysphoria that requires certain treatments, and that you have been denied those treatments.

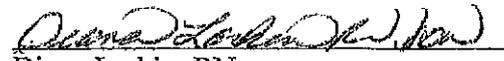
Subsequent to review and investigation, the results are as follows: According to your medical record you received an initial evaluation by the psychiatrist on 03/23/15 at which time you were assigned the diagnosis of gender dysphoria. Subsequent to that evaluation, you then had an appointment with the medical doctor, requesting hormonal therapy on 04/22/15. On that date the physician recorded that per PCC administration, after discussions between DOC and Corizon Health representatives, there are no plans to proceed with hormone treatment.

In conclusion, per DOC and Corizon Health discussion, there are no plans to proceed with your request to receive hormonal treatment.

If your medical condition changes please address your concerns through the sick call process at PCC.

04/24/15
Date Received

04/27/15
Date of Response


Diana Larkin, RN
Director of Nursing

Grievance Category:

I II III IV V VI VII VIII IX X

Grievance Response

To: Hicklin, James
Institution: Potosi Correctional Center
Grievance Number: PCC-15-734
Date of Grievance: 07-29-15

Your Grievance has been received and reviewed as well as your medical record. The purpose of this review is to determine if medically necessary health care, as determined by your health care providers, has been provided to you. This assessment of your medical needs may differ from your personal desires.

Your concern is understood to be:

You state that you are being denied treatment for your diagnosed mental health condition of gender dysphoria. Specifically you are requesting hair removal through electrolysis, laser treatment or waxing.

Subsequent to review and investigation, the results are as follows:

Your medical record reveals that you were seen by Dr. McKinney on 06/15/2015, at which time you requested a TRIA device or formal electrolysis. Dr. McKinney in turn discussed your request with the Warden's office and with the Associate Regional Medical Director Dr. Babich.

In conclusion, medical staff did evaluate you on 06/15/2015 and it was determined at that time that the procedure(s) you are requesting are not a medical necessity, and as such will not be provided.

If your medical condition changes please address any concerns through the sick call process at your facility.

07/29/15
Date Received

08/12/15
Date of Response

Diana Larkin, RN, HSA
Diana Larkin, RN, HSA
Health Services Administrator

William D. McKinney, MD
William D. McKinney, MD
Medical Director

Alan Payne, Acting Warden
Warden

**Informal Resolution Request
Response**

To: Hicklin, James #527993

Institution: PCC

IRR Number: PCC-15-734

Date of IRR: 6/23/15

Your IRR has been received and reviewed as well as your medical record. The purpose of this review is to determine if medically necessary health care, as determined by your health care providers, has been provided to you. This assessment of your medical needs may differ from your personal desires.

Your concern is understood to be: Denial of treatment for your diagnosed mental health condition of gender dysphoria. Specifically, "Hair removal through electrolysis, laser treatment or waxing."

Subsequent to review and investigation, the results are as follows: You were seen by Dr. McKinney on 6/19/15 for your request for a TRIA device or formal electrolysis. Dr. McKinney discussed your request with PCC Warden and ARMD Dr. Babich. On 6/23/15 in an addendum to the doctor sick call note of 6/19/15, it states "Dr. Babich confirmed that neither the electrolysis or a TRIA hair removal device is medically necessary".

In conclusion, please continue to make your needs and concerns known through health service requests. As a reminder, nursing staff is available 24/7 and should be notified in the event of any urgent or emergent medical or mental health concern or complaint. Any complaint can be declared emergent by the offender/patient at any time at which point nursing staff will notified by custody staff to respond. Please notify staff immediately if you develop an urgent or emergent medical or mental health complaint or concern.

If your medical condition changes please address your concerns through the sick call process at PCC.

6/29/15
Date Received

7-20-15
Date of Response


Dawn Wade, RN
Director of Nursing

Grievance Category:

I II III **IV** V VI **VII** VIII **IX** X

EXHIBIT H

Laird, Jackie

From: Griffith, Cindy
Sent: Wednesday, April 22, 2015 7:47 AM
To: Larkin, Diana; Senter, Phil
Cc: Crump, Jamie; Payne, Stanley; Laird, Jackie
Subject: FW: PCC Offender Request for Gender Dysphoria Treatment

You may have received this information from elsewhere, but wanted to pass along.

From: Sturm, Matt
Sent: Tuesday, April 21, 2015 4:24 PM
To: Kempker, Dwayne; Dormire, Dave
Cc: Earls, Alan; Prudden, Cyndi; Williams, Richard; Briesacher, Matt; Collins, Carl; Rost, David E; Williams, Deloise; Griffith, Cindy; O'Kelley, Scott
Subject: RE: PCC Offender Request for Gender Dysphoria Treatment

FYI - Corizon is not moving forward with hormone treatment or with surgery. He was diagnosed with gender dysphoria, but that in itself does not warrant hormone treatments or surgery. After discussing this today with Corizon MH and Medical, there are no plans to proceed with hormone treatment or surgery. Of course, the offender may legally challenge that decision. Thank you.

From: Kempker, Dwayne
Sent: Tuesday, April 21, 2015 8:17 AM
To: Dormire, Dave
Cc: Earls, Alan; Prudden, Cyndi; Williams, Richard; Briesacher, Matt; Collins, Cari; Sturm, Matt; Rost, David E; Williams, Deloise; Griffith, Cindy; Garrison, Julie
Subject: FW: PCC Offender Request for Gender Dysphoria Treatment

Director Dormire,

Please see the below notification from Warden Griffith. To summarize, Psychiatrist Dr. Throop assigned offender Hicklin the diagnosis of gender dysphoria and referred him to Dr. Eyman for cross-sex hormone treatment. Reportedly Dr. Eyman has not yet given any direction or prescription.

Do you have any direction related to this?

Dwayne V. Kempker
Deputy Division Director/Zone II
Division of Adult Institutions

From: Griffith, Cindy
Sent: Monday, April 20, 2015 4:30 PM
To: Kempker, Dwayne
Cc: Payne, Stanley
Subject: PCC Offender Request for Gender Dysphoria Treatment

Offender James Hicklin #527993 has been assigned to PCC since 1997 with a life without parole sentence for Murder 1st degree, and has been assigned to our Incentive Unit for a number of years. Due to recent court cases and his age at the time of his offense, he believes that he will have his sentence modified and receive a release date in the next year or so.

Any time in the past when questioned, he has refused to identify as transgendered, but recently told medical staff (in his attached notarized request) that he wants to start hormone treatments to pursue his goal of becoming female prior to his anticipated release. Note that his proposal also includes a request to purchase "Gender Affirming" canteen items as well as a body hair removal method. Our transgender committee will address his housing, work, and program assignments on Thursday, 4/23/15, but we will need guidance on the Department's stance on his other requests.

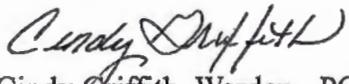
Hicklin appears to have obtained the support of a Corizon psychiatrist, Dr. Throop, who assigned Hicklin the psychiatric diagnosis of gender dysphoria on 3/23/15. Dr. Throop also recommended referral to an endocrinologist for consideration to initiate cross-sex hormone treatment. I have been advised that Dr. Throop sent his recommendation to Dr. Eyman with Corizon, and that it is Dr. Eyman who makes the decision. If Dr. Eyman approves, then our onsite medical staff are required to follow through with the treatment. To my knowledge, no response has been received from Dr. Eyman.

My understanding is that in the past the DOC did not initiate hormone replacement therapy, but may have continued treatment regimens started prior to incarceration. (Offender Hicklin has no history of prior treatment). I am unaware whether any other DOC offender has made similar requests, and if so, our normal response. I have copied Stan Payne, our new PREA Site Coordinator for his information. We would appreciate your review of this matter, and any advice on how to respond.

DEPARTMENT OF CORRECTIONS
POTOSI CORRECTIONAL CENTER
* * * M E M O R A N D U M * * *

DATE: April 24, 2015

TO: Dwayne Kempker, Deputy Director, DAI
Matt Sturm, Director, DORS
Vevia Sturm, DOC PREA Coordinator

FROM: 
Cindy Griffith, Warden - PCC

SUBJECT: Transgender Committee – HICKLIN, JAMES #527993

Offender James Hicklin arrived to the Missouri DOC on 4-29-97 to serve a life without parole sentence for Murder 1st degree. He has resided at the Potosi Correctional Center since 6/5/97.

For most of his sentence he has been assigned to general population, but file material reflects one assignment to protective custody from May 2003 to February 2004. He claims to have been sexually assaulted by other offenders three times in his first two years of incarceration. As a result he states he was hesitant to self-identify as transgender until recently - even though he claims to have experienced gender dysphoria issues for the past 25 years. He recently received a diagnosis of gender dysphoria from Dr. Throop, and in turn he has submitted a request to start hormone replacement therapy, which has been denied at this time. Offender Hicklin has scored as a Sigma on the Adult Internal Risk Assessment (AIRA).

Per IS5-3.1 Offender Housing Assignments, a transgender committee was convened on 4/23/15. This committee consisted of:

- Cindy Griffith, Warden
- Stanley Payne, Deputy Warden – Offender Management
- William McKinney, MD, Medical Director
- Diana Larkin, Health Services Administrator
- Kim Randolph, Regional Director of Operations - Corizon
- Phil Senter, Institutional Chief of Mental Health Services

Offender Hicklin was interviewed prior to the meeting, and was asked for his input regarding his housing unit assignment. He is currently assigned to general population, and resides in the incentive unit due to his above average institutional adjustment. He resides in a two-man cell with an offender with a capital punishment sentence (AIRA score of Kappa). Hicklin is very satisfied with his current housing and cell assignment, but is concerned that if his cellmate receives a warrant of execution he may then be celled with an incompatible cellmate. He has no interest in protective custody assignment, has no current concerns for his safety/privacy and prefers to remain in general population. He has made a list of offenders in Housing Unit 5A that he feels he would be compatible with, and is aware of the cell assignment request process already in place for GP offenders should the

need arise. Housing unit wing showers have half barriers for privacy, and he expressed no issues with the shower setup. If he were to be placed in a facility with multi-person shower facilities he would prefer to shower alone. He currently works in the PRIME offender tv/video studio, and has no concerns with the assignment. The PRIME studio is monitored by camera and by staff patrolling the area. No Alpha-classified offenders are currently assigned to the studio. Hicklin also expressed no concern with offender programming, as a staff member is always present.

Offender Hicklin's statements were shared with the transgender committee, and his input was considered. Committee members indicated that there are neither mental health nor medical reasons that would necessitate specific cell, work or program assignment for Hicklin.

The committee finds that his current assignment is suitable. He knows to request protective custody should the need arise. He has fared well thus far in general population and does not anticipate any issues. He plans to submit for assignment with the general population cellmate of his choice if/when the need arises. He is aware that he will double cell with an otherwise compatible cellmate if he is placed in segregation for some reason in the future.

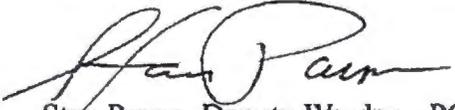
A six month review of Offender Hicklin's assignment was tentatively set for October 23, 2015.

cc: Committee members listed above
file

DEPARTMENT OF CORRECTIONS
POTOSI CORRECTIONAL CENTER
* * * M E M O R A N D U M * * *

DATE: November 2, 2015

TO: Dwayne Kempker, Deputy Director, DAI
Matt Sturm, Director, DORS
Vevia Sturm, DOC PREA Coordinator

FROM: 
Stan Payne, Deputy Warden - PCC

SUBJECT: Transgender Committee – HICKLIN, JESSICA JAMES #527993

Offender Jessica James Hicklin arrived to the Missouri DOC on 4-29-97 to serve a life without parole sentence for Murder 1st degree. He has resided at the Potosi Correctional Center since 6-5-97.

For most of his sentence he has been assigned to general population, but file material reflects one assignment to protective custody from May 2003 to February 2004. He claims to have been sexually assaulted by other offenders three times in his first two years of incarceration, and that as a he was hesitant to self-identify as transgender until recently - even though he claims to have experienced gender dysphoria issues for the past 25 years. He recently received a diagnosis of gender dysphoria from Dr. Throop, and in turn he has submitted a request to start hormone replacement therapy, which has been denied at this time. Offender Hicklin has scored as a Sigma on the Adult Internal Risk Assessment (AIRA).

Per IS5-3.1 Offender Housing Assignments, a transgender committee was convened on October 26, 2015. This committee consisted of:

- Stanley Payne, Deputy Warden – Offender Management
- Dawn Wade, Director of Nursing
- Phil Senter, Institutional Chief of Mental Health Services
- Jami Ross, QMHP (observing with Phil Senter)

Offender Hicklin was interviewed prior to the meeting, and was asked for his input regarding his housing unit assignment. He is currently assigned to general population, and resides in the incentive unit due to his above average institutional adjustment. He resides in a two-man cell with an offender with a capital punishment sentence (Barnett, David #9901350 AIRA - Kappa). Hicklin is very satisfied with his current housing and cell assignment, but is concerned that if his cellmate receives a warrant of execution he may then be celled with an incompatible cellmate. He has no interest in protective custody assignment, has no current concerns for his safety/privacy and prefers to remain in general population. He is aware of the cell assignment request process already in place for GP offenders should the need arise. Housing unit wing showers have half barriers for privacy, and he expressed no issues with the shower setup. If he were to be placed in a facility with multi-person shower facilities he would prefer to shower alone. He currently works in the PRIME offender

tv/video studio, and has no concerns with the assignment. The PRIME studio is monitored by camera and by staff patrolling the area. No Alpha-classified offenders are currently assigned to the studio. Hicklin also expressed no concern with offender programming, as a staff member is always present.

Offender Hicklin's statements were shared with the transgender committee, and his input was considered. Committee members indicated that there are neither mental health nor medical reasons that would necessitate specific cell, work or program assignment for Hicklin.

Hicklin had a legal name on August 6, 2015 to Jessica James Hicklin. He indicated that there were no issues with his legal name change in regards to his incarceration. He stated to me that staff have been very respectful.

The committee finds that his current assignment is suitable. He knows to request protective custody should the need arise. He has fared well thus far in general population and does not anticipate any issues. He plans to submit for assignment with the general population cellmate of his choice if/when the need arises. He is aware that he will double cell with an otherwise compatible cellmate if he is placed in segregation for some reason in the future.

A six month review of Offender Hicklin's assignment was tentatively set for April 22, 2016.

cc: Committee members listed above
file

From: Griffith, Cindy
Sent: Tuesday, July 05, 2016 1:42 PM
To: Sturm, Matt; Sturm, Vevia; Wallace, Ian
Cc: Crump, Jamie
Subject: FW: [encrypt] HRT

Offender Hicklin's last transgender review was held on 1/13/16. To my knowledge the recommendations of the local transgender committee are under review at your level. I don't see any point in having the committee meet again until we know the outcome of the last one. Any thoughts or direction would be appreciated.

From: Crump, Jamie
Sent: Tuesday, July 05, 2016 11:58 AM
To: Griffith, Cindy
Subject: FW: [encrypt] HRT

From: Stephens, Evelynn
Sent: Friday, July 01, 2016 4:14 PM
To: Polk, Carolyn; McKinney, William; Crump, Jamie
Subject: [encrypt] HRT

As the patient Hicklin 527993 has successfully completed over 6 months of therapy while living as a female and still has a strong desire for hormone therapy with likely decrease of agitation and anxiety surrounding diagnosed gender dysphoria if this therapy was to start. I have resubmitted a medical referral. If the Gender Dysphoria Committee would like to discuss this at all I am more than happy to meet. I feel this referral needs to be done in accordance with the APA 2012 guidelines and I would be negligent in my duties as this patient's provider if I did not make it. If anyone has any questions let me know!

Dr. Stephens

Crump, Jamie

From: Griffith, Cindy
Sent: Tuesday, July 05, 2016 3:27 PM
To: Crump, Jamie
Subject: RE: [encrypt] HRT

The last paragraph mentioned that we would start the wait period after the "standard of care" was provided to Hicklin (weekly psychotherapy, etc). So even though Dr. Stephens mentions 6 months of therapy, you will want to ask her to specify the type/frequency of his therapy at the next transgender review to see if it met the APA standard of care. Looks like he is now due for the 6 month review by policy, but hopefully we'll have something back from the central office committee prior to the review?

From: Crump, Jamie
Sent: Tuesday, July 05, 2016 3:17 PM
To: Sturm, Vevia; Griffith, Cindy; Sturm, Matt; Wallace, Ian
Subject: RE: [encrypt] HRT

From: Sturm, Vevia
Sent: Tuesday, July 05, 2016 1:46 PM
To: Griffith, Cindy; Sturm, Matt; Wallace, Ian
Cc: Crump, Jamie
Subject: RE: [encrypt] HRT

Hi Cindy,

I apologize for the delay. Can you please resend the report and we will review and respond ASAP.

Thanks,
Vevia

From: Griffith, Cindy
Sent: Tuesday, July 05, 2016 1:42 PM
To: Sturm, Matt; Sturm, Vevia; Wallace, Ian
Cc: Crump, Jamie
Subject: FW: [encrypt] HRT

Offender Hicklin's last transgender review was held on 1/13/16. To my knowledge the recommendations of the local transgender committee are under review at your level. I don't see any point in having the committee meet again until we know the outcome of the last one. Any thoughts or direction would be appreciated.

From: Crump, Jamie
Sent: Tuesday, July 05, 2016 11:58 AM
To: Griffith, Cindy
Subject: FW: [encrypt] HRT

From: Stephens, Evelyn
Sent: Friday, July 01, 2016 4:14 PM
To: Polk, Carolyn; McKinney, William; Crump, Jamie
Subject: [encrypt] HRT

As the patient Hicklin 527993 has successfully completed over 6 months of therapy while living as a female and still has a strong desire for hormone therapy with likely decrease of agitation and anxiety surrounding diagnosed gender dysphoria if this therapy was to start. I have resubmitted a medical referral. If the Gender Dysphoria Committee would like to discuss this at all I am more than happy to meet. I feel this referral needs to be done in accordance with the APA 2012 guidelines and I would be negligent in my duties as this patient's provider if I did not make it. If anyone has any questions let me know!

Dr. Stephens

Crump, Jamie

From: Wallace, Ian
Sent: Wednesday, July 06, 2016 12:34 PM
To: Griffith, Cindy
Cc: Crump, Jamie; Sturm, Matt
Subject: FW: [encrypt] HRT

Please find the attached from Director Sturm.

From: Sturm, Matt
Sent: Wednesday, July 06, 2016 8:14 AM
To: Sturm, Vevia; Wallace, Ian
Subject: RE: [encrypt] HRT

The female personal property is DAI's call. As for the request for Hormone Replacement Therapy, DORS' official response is below:

PREA is designed to keep all offenders safe from sexual assault and harassment, particularly those at greater risk of sexual victimization. The Department has adopted and is committed to enforce PREA zero tolerance of sexual abuse and harassment by complying with all PREA standards and making every effort to keep our offenders safe. The Department believes the initiation of Hormone Replacement Therapy (HRT) is not appropriate in a prison environment. An attempt at such transition in the prison venue severely compromises the safety of the offender and places them at substantial risk of sexual abuse and harassment. Therefore, after carefully balancing the potential benefit of HRT therapy to an offender, the increased risk to their personal safety as well as impact on the safety and security of other offenders and staff, we conclude such therapy is not appropriate in a prison setting and is not approved. Although HRT therapy is not approved, Mental Health is directed to and shall continue to provide all counseling and support deemed necessary.

Matt

From: Crump, Jamie
Sent: Tuesday, July 05, 2016 3:17 PM
To: Sturm, Vevia; Griffith, Cindy; Sturm, Matt; Wallace, Ian
Subject: RE: [encrypt] HRT

From: Sturm, Vevia
Sent: Tuesday, July 05, 2016 1:46 PM
To: Griffith, Cindy; Sturm, Matt; Wallace, Ian
Cc: Crump, Jamie
Subject: RE: [encrypt] HRT

Hi Cindy,

I apologize for the delay. Can you please resend the report and we will review and respond ASAP.

Thanks,
Vevia

Crump, Jamie

From: Sturm, Vevia
Sent: Tuesday, November 01, 2016 12:02 PM
To: Crump, Jamie
Subject: FW: Offender Hicklin #527993

Hello Jamie,

After speaking with Matt Sturm, DORS Director, he has asked that I convey to you that the committee would like for you to hold off on informing Offender Hicklin of the Review Committee's response. I will let you know when we would like for you to move forward.

Thank you,

Vevia Sturm
PREA Coordinator
(573) 522-3335

From: Sturm, Vevia
Sent: Thursday, September 15, 2016 8:44 AM
To: Crump, Jamie
Cc: Sturm, Matt; Wallace, Ian
Subject: Offender Hicklin #527993

Good Morning Jamie,

The committee has reviewed the Gender Dysphoria Clinical Supervision Group's recommendation regarding hormone therapy for Offender Hicklin, however, after careful consideration, hormone therapy is denied. This decision was based on the following:

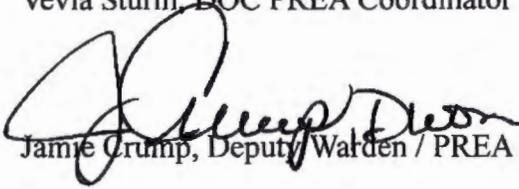
PREA is designed to keep all offenders safe from sexual assault and harassment, particularly those at greater risk of sexual victimization. The Department has adopted and is committed to enforce PREA zero tolerance of sexual abuse and harassment by complying with all PREA standards and making every effort to keep our offenders safe. The Department believes the initiation of Hormone Replacement Therapy (HRT) is not appropriate in a prison environment. An attempt at such transition in the prison venue severely compromises the safety of the offender and places them at substantial risk of sexual abuse and harassment. Therefore, after carefully balancing the potential benefit of HRT therapy to an offender, the increased risk to their personal safety as well as impact on the safety and security of other offenders and staff, we conclude such therapy is not appropriate in a prison setting and is not approved. Although HRT therapy is not approved, Mental Health is directed to and shall continue to provide all counseling and support deemed necessary.

Sincerely,
Vevia Sturm
PREA Coordinator
(573) 522-3335

DEPARTMENT OF CORRECTIONS
POTOSI CORRECTIONAL CENTER
* * * M E M O R A N D U M * * *

DATE: July 18, 2016

TO: Ian Wallace, Deputy Director, DAI
Matt Sturm, Director, DORS
Vevia Sturm, DOC PREA Coordinator

FROM:  Jamie Crump, Deputy Warden / PREA Site Coordinator - PCC

SUBJECT: Transgender Committee – HICKLIN, JESSICA JAMES #527993

Offender Jessica James Hicklin arrived to the Missouri DOC on 4-29-97 to serve a life without parole sentence for Murder 1st degree. He has resided at the Potosi Correctional Center since 6-5-97.

For most of his sentence, he has been assigned to general population, but file material reflects one assignment to protective custody from May 2003 to February 2004. He claims to have been sexually assaulted by other offenders three times in his first two years of incarceration, and that as a homosexual, he was hesitant to self-identify as transgender until recently - even though he claims to have experienced gender dysphoria issues for the past 25 years. He recently received a diagnosis of gender dysphoria from Dr. Throop, and in turn he has submitted a request to start hormone replacement therapy, which has been denied at this time. Offender Hicklin has scored as a Sigma on the Adult Internal Risk Assessment (AIRA). Hicklin had a legal name change on August 6, 2015 to Jessica James Hicklin. He indicated that there were no issues with his legal name change in regards to his incarceration. He stated to me that staff has been very respectful.

Per IS5-3.1 Offender Housing Assignments, a transgender committee was convened on July 15, 2016. This committee consisted of:

- Jamie Crump, Deputy Warden / PREA Site Coordinator
- Carolyn Polk, ICMHS
- Dr. Evelyn Stephens

Offender Hicklin was interviewed on July 15, 2016 prior to this report and was asked for his input regarding his housing unit assignment, programming and any issues with showering in his housing unit. He is currently assigned to general population, and resides in the incentive unit due to his above average institutional adjustment. He resides in a two-man cell with an offender with a capital punishment sentence (Barnett, David #9901350 AIRA - Kappa). Hicklin is very satisfied with his current housing and cell assignment, but is concerned that if his cellmate receives a warrant of execution he may then be celled with an incompatible cellmate. He has no interest in protective custody assignment, has no current concerns for his safety/privacy and prefers to remain in general population. He is aware of the cell assignment request process already in place for GP offenders should the need arise. Housing unit wing showers have half barriers for privacy, and he expressed no

issues with the shower setup. If he were to be placed in a facility with multi-person shower facilities he would prefer to shower alone. He currently works in the PRIME offender TV/video studio, and has no concerns with the assignment. Hicklin assured me that he knows the correct avenues to take should he encounter any problems, i.e. notifying an officer, contacting his FUM or writing to the Administration.

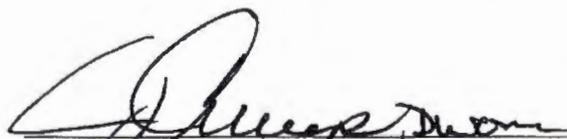
The PRIME studio is monitored by camera and by staff patrolling the area. No Alpha-classified offenders are currently assigned to the studio. Hicklin also expressed no concern with offender programming if he were to wish to participate. Hicklin stated that he currently facilitates the ICVC program with a staff member present which has presented no issues.

Hicklin did mention that he should be hearing something from the courts in the near future in reference to his lawsuit requesting hormone treatment. He stated he filed an IRR PCC-15-478, which has been exhausted at all levels.

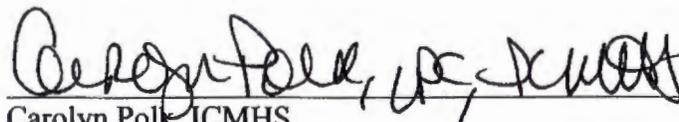
Offender Hicklin's statements were shared with the transgender committee, and his input was considered. Committee members indicated that there is neither mental health nor medical reasons that would necessitate specific cell, work or program assignment for Hicklin.

The committee finds that his current assignment is suitable. He knows to request protective custody should the need arise. He has fared well thus far in general population and does not anticipate any issues. He plans to submit for assignment with the general population cellmate of his choice if/when the need arises. He is aware that he will double cell with an otherwise compatible cellmate if he is placed in segregation for some reason in the future.

A six month review of Offender Hicklin's assignment was tentatively set for January 15, 2017.



Jamie Crump, DWOM/PREA Site Coordinator (chair)



Carolyn Polk, ICMHS



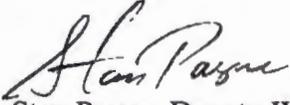
Dr. Evelyn Stephens

cc: Committee Members listed above
Cindy Griffith, Warden
File

DEPARTMENT OF CORRECTIONS
POTOSI CORRECTIONAL CENTER
* * * M E M O R A N D U M * * *

DATE: August 3, 2017

TO: Alan Earls, Deputy Director, DAI
Joan Reinkemeyer, Director, DORS
Vevia Sturm, DOC PREA Coordinator

FROM: 
Stan Payne, Deputy Warden / PREA Site Coordinator - PCC

SUBJECT: Transgender Committee – HICKLIN, JESSICA JAMES #527993

Offender Jessica James Hicklin arrived to the Missouri DOC on 4-29-97 to serve a life without parole sentence for Murder 1st degree. He has resided at the Potosi Correctional Center since 6-5-97.

For most of his sentence, he has been assigned to general population, but file material reflects one assignment to protective custody from May 2003 to February 2004. He claims to have been sexually assaulted by other offenders three times in his first two years of incarceration, and that as a homosexual, he was hesitant to self-identify as transgender until recently - even though he claims to have experienced gender dysphoria issues for the past 25 years. He has received a diagnosis of gender dysphoria from Dr. Throop, and in turn he has submitted a request to start hormone replacement therapy, which has been denied at this time. Offender Hicklin has scored as a Sigma on the Adult Internal Risk Assessment (AIRA). Hicklin had a legal name change on August 6, 2015 to Jessica James Hicklin. He indicated that there were no issues with his legal name change in regards to his incarceration. He stated to me that staff has been very respectful.

Per IS5-3.1 Offender Housing Assignments, a transgender committee was convened on July 25, 2017. This committee consisted of:

- Stan Payne, Deputy Warden / PREA Site Coordinator
- Carolyn Polk, ICMHS
- Tom Pearson, FUM
- Diana Larkin, HSA

Offender Hicklin was interviewed on July 25, 2017 prior to this report and was asked for his input regarding his housing unit assignment, programming and any issues with showering in his housing unit. He is currently assigned to general population, and resides in the incentive unit due to his above average institutional adjustment. He resides in a two-man cell with an offender with a capital punishment sentence (Barnett, David #9901350 AIRA - Kappa). Hicklin is very satisfied with his current housing and cell assignment, but is concerned that if his cellmate receives a warrant of execution he may then be celled with an incompatible cellmate. He has a couple of other offenders in mind for cellmates if/when the need should arise. He has no interest in protective custody assignment, has no current concerns for his safety/privacy and prefers to remain in general

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HICKLIN V. LOMBARDI 00957

population. He is aware of the cell assignment request process already in place for GP offenders should the need arise. Housing unit wing showers have half barriers for privacy, and he expressed no issues with the shower setup. If he were to be placed in a facility with multi-person shower facilities he would prefer to shower alone. He currently works in the PRIME offender TV/video studio, and has no concerns with the assignment. Hicklin assured me that he knows the correct avenues to take should he encounter any problems, i.e. notifying an officer, contacting his FUM or writing to the Administration.

The PRIME studio is monitored by camera and by staff patrolling the area. No Alpha-classified offenders are currently assigned to the studio. Hicklin also expressed no concern with offender programming if he were to wish to participate. Hicklin stated that he currently facilitates the ICVC program with a staff member present which has presented no issues.

Hicklin did mention that he should be hearing something from the courts in the next couple weeks in reference to his lawsuit requesting hormone treatment.

Offender Hicklin's statements were shared with the transgender committee, and his input was considered. Committee members indicated that there is neither mental health nor medical reasons that would necessitate specific cell, work or program assignment for Hicklin. There have been no PREA allegations or investigation pertaining to offender Hicklin.

The committee finds that his current assignment is suitable. He knows to request protective custody should the need arise. He has fared well thus far in general population and does not anticipate any issues. He plans to submit for assignment with the general population cellmate of his choice if/when the need arises. He is aware that he will double cell with an otherwise compatible cellmate if he is placed in segregation for some reason in the future.

A six month review of Offender Hicklin's assignment was tentatively set for January 25, 2018.

cc: Cindy Griffith, Warden
File

DEPARTMENT OF CORRECTIONS
POTOSI CORRECTIONAL CENTER
* * * M E M O R A N D U M * * *

DATE: January 29, 2018

TO: Cindy Griffith, Deputy Director, DAI
Joan Reinkemeyer, Director, DORS
Vevia Sturm, DOC PREA Coordinator



FROM: Stan Payne, Deputy Warden / PREA Site Coordinator - PCC

SUBJECT: Transgender Committee – HICKLIN, JESSICA JAMES #527993

Offender Jessica James Hicklin arrived to the Missouri DOC on 4-29-97 to serve a life without parole sentence for Murder 1st degree. He has resided at the Potosi Correctional Center since 6-5-97.

For most of his sentence, he has been assigned to general population, but file material reflects one assignment to protective custody from May 2003 to February 2004. He claims to have been sexually assaulted by other offenders three times in his first two years of incarceration, and that as a homosexual, he was hesitant to self-identify as transgender until recently - even though he claims to have experienced gender dysphoria issues for the past 25 years. He has received a diagnosis of gender dysphoria from Dr. Throop, and in turn he has submitted a request to start hormone replacement therapy, which has been denied at this time. Offender Hicklin has scored as a Sigma on the Adult Internal Risk Assessment (AIRA). Hicklin had a legal name change on August 6, 2015 to Jessica James Hicklin. He indicated that there were no issues with his legal name change in regards to his incarceration. He stated to me that staff has been very respectful.

Per IS5-3.1 Offender Housing Assignments, a transgender committee convened on January 24, 2018. This committee consisted of:

- Stan Payne, Deputy Warden / PREA Site Coordinator
- Carolyn Polk, ICMHS
- Tom Pearson, FUM
- Ashley Eastman, QMHP/POPC BHS

NOTE: Medical personnel were not present at the committee meeting but were provided with the committee recommendations by email. Director of Nursing Daly Smith indicated no medical concerns at this time and approved of the committee's recommendations.

Offender Hicklin was interviewed on January 24, 2018 prior to this report and was asked for his input regarding his housing unit assignment, programming and any issues with showering in his housing unit. Offender Hicklin resides in the incentive unit in general population due to his above average institutional adjustment. He resides in a two-man cell with an offender with a capital punishment sentence (Barnett, David #990135 AIRA - Kappa). Hicklin is very satisfied with his current housing

and cell assignment. He has no interest in protective custody assignment, has no current concerns for his safety/privacy and prefers to remain in general population. He is aware of the cell assignment request process already in place for GP offenders should the need arise. Housing unit wing showers have half barriers for privacy, and he expressed no issues with the shower setup. If he were to be placed in a facility with multi-person shower facilities he would prefer to shower alone. He currently works in the PRIME offender TV/video studio, and has no concerns with the assignment. Hicklin assured me that he knows the correct avenues to take should he encounter any problems, i.e. notifying an officer, contacting his FUM or writing to the Administration.

The PRIME studio is monitored by camera and by staff patrolling the area. No Alpha-classified offenders are currently assigned to the studio. Hicklin also expressed no concern with offender programming if he were to wish to participate. Hicklin stated that he currently facilitates the ICVC program with a staff member present which has presented no issues.

Hicklin did mention that he has a trial date of May 7, 2018 in reference to his lawsuit requesting hormone treatment.

Offender Hicklin's statements were shared with the transgender committee, and his input was considered. Committee members indicated that there is neither mental health nor medical reasons that would necessitate specific cell, work or program assignment for Hicklin. QMHP Ashley Eastman mentioned in the meeting that offender Hicklin voiced concern about a particular officer and his use of masculine pronouns when referring to offender Hicklin. Again, when I interviewed offender Hicklin he was adamant that he had no issues with staff and that each was respectful. I will however, follow-up with the staff member mentioned by QMHP Eastman to ensure professionalism and respectfulness from staff. There have been no PREA allegations or investigation pertaining to offender Hicklin.

The committee finds that his current assignment is suitable. He knows to request protective custody should the need arise. He has fared well thus far in general population and does not anticipate any issues. He plans to submit for assignment with the general population cellmate of his choice if/when the need arises. He is aware that he will double cell with an otherwise compatible cellmate if he is placed in segregation for some reason in the future.

As of this date, the mental health Dysphoria Group has not provided comments regarding this six-month assessment. Should we receive their comments an addendum will be submitted.

A six-month review of Offender Hicklin's assignment was tentatively set for July 25, 2018.

cc: Rich Jennings, Acting Warden
File

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JESSICA HICKLIN,

Plaintiff,

v.

WILLIAM MCKINNEY, et al.,

Defendants.

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

**DEFENDANT KIMBERLEY RANDOLPH’S RESPONSE TO PLAINTIFF’S FIRST SET
OF REQUESTS FOR ADMISSION**

COMES NOW Defendant, Kimberley Randolph, by and through undersigned counsel,
and for her Response and Objection to Plaintiff’s Request for Admission, hereby states as
follows:

1. Admit that YOU have never conducted a gender dysphoria evaluation of
JESSICA HICKLIN.

**RESPONSE: Objection – vague as to “gender dysphoria evaluation.” Subject to said
objection, Defendant admits.**

Respectfully submitted,



J. Thaddeus Eckenrode, MoBar #31080
Kevin K. Peek, MoBar #67440
ECKENRODE-MAUPIN, Attorneys at Law
11477 Olde Cabin Rd., Ste. 110
St. Louis, MO 63141
(314) 726-6670 (Telephone)
(314) 726-2106 (Fax)

jte@eckenrode-law.com

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Attorney for Defendants Corizon, LLC, William McKinney, M.D., Glen Babich, M.D., Thomas Bredeman, D.O., Diana Larkin, Kimberley Randolph, Dawn Wade, Stormi Moeller, Shirley Eyman, M.D., Elizabeth Atterberry, M.D., and Kim Foster.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via electronic mail and the court's electronic filing system on this 1st day of November, 2017 to the following:

Kevin L. Schriener
Law & Schriener, LLC
141 N. Meramec Avenue, Suite 314
St. Louis, MO 63105
kschriener@schrienerlaw.com

Demoya Gordon
Lambda Legal Defense and Education Fund, Inc.
120 Wall Street, 19th Floor
New York, NY 10005
dgordon@lambdalegal.org

Attorneys for Plaintiff Jessica Hicklin

Henry F. Luepke
Assistant Attorney General
Missouri Attorney General's Office
P.O. Box 861
St. Louis, MO 63188

Attorney for Defendants George Lombardi, Dwayne Kempker, Ian Wallace, Cindy Griffith, Stan Payne, Scott O'Kelly, and Deloise Williams.

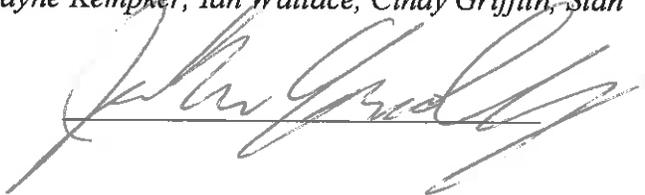


EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JESSICA HICKLIN,

Plaintiff,

v.

WILLIAM MCKINNEY, et al.,

Defendants.

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

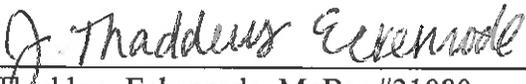
**DEFENDANT KIM FOSTER’S RESPONSE TO PLAINTIFF’S FIRST SET OF
REQUESTS FOR ADMISSION**

COMES NOW Defendant, Kim Foster, by and through undersigned counsel, and for her
Response and Objection to Plaintiff’s Request for Admission, hereby states as follows:

1. Admit that YOU have never conducted a gender dysphoria evaluation of
JESSICA HICKLIN.

**RESPONSE: Objection – vague as to “gender dysphoria evaluation.” Subject to said
objection, Defendant admits.**

Respectfully submitted,



J. Thaddeus Eckenrode, MoBar #31080
Kevin K. Peek, MoBar #67440
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Jte@eckenrode-law.com
kkp@eckenrode-law.com

Attorney for Defendants Corizon, LLC, William McKinney, M.D., Glen Babich, M.D., Thomas Bredeman, D.O., Diana Larkin, Kimberley Randolph, Dawn Wade, Stormi Moeller, Shirley Eyman, M.D., Elizabeth Atterberry, M.D., and Kim Foster.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via electronic mail and the court's electronic filing system on this 15th day of November, 2017 to the following:

Kevin L. Schriener
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kschriener@schrienerlaw.com

Demoya Gordon
Lambda Legal Defense and Education Fund, Inc.
120 Wall Street, 19th Floor
New York, NY 10005
dgordon@lambdalegal.org

Attorneys for Plaintiff Jessica Hicklin

Henry F. Luepke
Assistant Attorney General
Missouri Attorney General's Office
P.O. Box 861
St. Louis, MO 63188

Attorney for Defendants George Lombardi, Dwayne Kempker, Ian Wallace, Cindy Griffith, Stan Payne, Scott O'Kelly, and Deloise Williams.

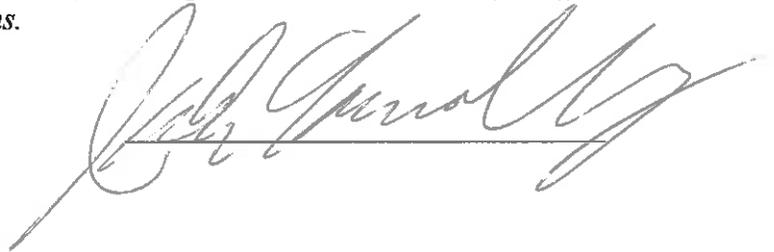
A handwritten signature in black ink, appearing to read "Henry F. Luepke", is written over a horizontal line. The signature is cursive and stylized.

EXHIBIT K

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JESSICA HICKLIN,

Plaintiff,

v.

WILLIAM MCKINNEY, et al.,

Defendants.

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

**DEFENDANT DAWN WADE’S RESPONSE TO PLAINTIFF’S FIRST SET OF
REQUESTS FOR ADMISSION**

COMES NOW Defendant, Dawn Wade, by and through undersigned counsel, and for her
Response and Objection to Plaintiff’s Request for Admission, hereby states as follows:

1. Admit that YOU have never conducted a gender dysphoria evaluation of
JESSICA HICKLIN.

**RESPONSE: Objection – vague as to “gender dysphoria evaluation.” Subject to said
objection, Defendant admits.**

Respectfully submitted,



J. Thaddeus Eckenrode, MoBar #31080
Kevin K. Peek, MoBar #67440
ECKENRODE-MAUPIN, Attorneys at Law
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Attorney for Defendants Corizon, LLC, William McKinney, M.D., Glen Babich, M.D., Thomas Bredeman, D.O., Diana Larkin, Kimberley Randolph, Dawn Wade, Stormi Moeller, Shirley Eyman, M.D., Elizabeth Atterberry, M.D., and Kim Foster.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via electronic mail and the court's electronic filing system on this 15th day of November, 2017 to the following:

Kevin L. Schriener
Law & Schriener, LLC
141 N. Meramec Avenue, Suite 314
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Demoya Gordon
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120 Wall Street, 19th Floor
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Attorneys for Plaintiff Jessica Hicklin

Henry F. Luepke
Assistant Attorney General
Missouri Attorney General's Office
P.O. Box 861
St. Louis, MO 63188

Attorney for Defendants George Lombardi, Dwayne Kempker, Ian Wallace, Cindy Griffith, Stan Payne, Scott O'Kelly, and Deloise Williams.

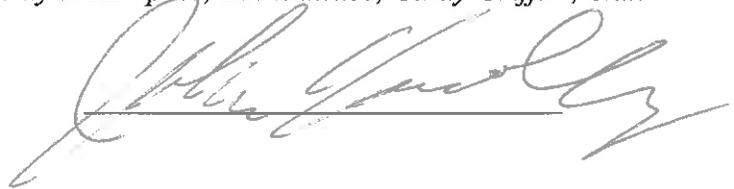
A handwritten signature in black ink, appearing to read "Scott O'Kelly", is written over a horizontal line. The signature is cursive and somewhat stylized.

EXHIBIT L

AFS923C

COMPLETE MENTAL HEALTH HISTORY

PAGE: 25

DOC ID OFFENDER

00527993 JAMES W HICKLIN

***** SUBJECTIVE CONTINUATION FROM PREVIOUS PAGE *****

nd communicating with other "trans people." /o/ was r 20171206 153812
 edirect back to treatment plan to get further thoughts and i 20171206 153812
 nsights to how she feels therapy is progressing and what s 20171206 153812
 he would like to continue to work on. /o/ identified p 20171206 153812
 riorty to continue to assimilate from MTF gender. C 20171206 153812
 urrently rating her sense of normalcy to MTF as a 6 on a s 20171206 153812
 cale of 1-10, 10 being positive sense. Described normalcy a 20171206 153812
 s internal confidence in gender, such as not being overly e 20171206 153812
 xcited by others use of appropriate and preferred pronouns. / 20171206 153812
 o/ would like to develop a sense of normalcy in reaction t 20171206 153812
 o appropraite use of pronouns. Discussed depression p 20171206 153812
 roblem listed, articulated she would often use depression l 20171206 153812
 abel in place of reporting intrusive thoughts of self-harm i 20171206 153812
 n fear of consequences to honest dialogue. /o/ identifies a 20171206 153812
 nd reports anxiety as fluctuating between a 4 and 8 on a s 20171206 153812
 cale of 1-10, 10 being worse, again noting gender dysphira s 20171206 153812
 ymptoms are what lead to fluctuation and severity of a 20171206 153812
 nxiety. /o/ was asked about consideration of medication as p 20171206 153812
 reviously discussed by this QMHP and psychiatrist, /o/ c 20171206 153812
 ontinues to decline the medication. 20171206 153812

OBJECTIVE

O: /o/ was oriented x4, linear and organized. Affect 20171206 153812
 was appropriat, mood was appropriate to context. Hygiene 20171206 153812
 showed no concerns, /o/ grooming was discussed and she 20171206 153812
 indicated she made a point to get up early to do her hair 20171206 153812
 and eye brows. /o/denies SI/HI A/V/H. Denied current 20171206 153812
 thoughts of self-mutilation. /o/ can identify coping skills 20171206 153812
 and how to seek support if thoughts change. Memory intact. 20171206 153812
 Speech: WNL. High vocabulary.Good eye contact. 20171206 153812

Consulted with psychiatrist about treatment plan revisions, 20171206 153812
 advised completion of the Hamilton depression inventory. 20171206 153812
 QMHP will coordinate and administer the inventory. 20171206 153812

ASSESSMENT

A; Gender dysphoria complicated by anxiety NOS- (consider 20171206 153812
 PTSD 20171206 153812
 given recent work in therapy vs due to fixed false 20171206 153812
 beliefs 20171206 153812
 of personality vs combination) - per psychiatrist 20171206 153812

PLAN

P: /o/ will continue to be seen bi-weekly for individual 20171206 153812
 encounter and per HSRs. 20171206 153812
 20171206 153812
 - Hamilton depression inventory will be scheduled 20171206 153812
 20171206 153812
 Case note entry was delayed due to crisis intervettions and 20171206 153812
 suicide watch evaluations. Notes were shredded upon 20171206 153812
 completion of this note. 20171206 153812

TECH./MH AJE000EMMH ASHLEY J EASTMAN

EM001364

AFR0*0T
6:23:01

Department of Corrections
Medical Accountability Records System
Doctor Encounter Soap Notes

Page: 2
Date: 12/12/2017

DOC ID: 527993 JAMES HICKLIN
SICK CALL COMPLAINT
PSYCHIATRIST - CHRONIC CARE/FOLLOW-UP
Nurse Id: EMS000EMMH EVELYNN M STEPHENS

TIME: A/P
3:00 P
MM/DD/CCYY
12/06/2017

Plan
patient again declines

It is my recommendation that patient be started on cross
sex hormone therapy for gender dysphoria - referral has
been made

Continue with gender integration therapy

RTC monthly, sooner prn

Medical following hypovitaminosis D

2017/12/08 161835
2017/12/08 161835
2017/12/08 161835
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2017/12/08 161835
2017/12/08 161835

CORAZON
Infection Control _____
X-Ray _____
Nursing _____
Med. Room _____
Other _____
NH _____
Lab _____
Chronic Care _____
Scheduler _____
Noted by:
Date: 12-12-17

EXHIBIT M

JESSICA HICKLIN 7/12/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JESSICA HICKLIN,)
)
Plaintiff,)
) Cause No.
vs.) 4:16-cv-01357-NCC
)
WILLIAM MCKINNEY, et al.,)
)
Defendants.)

DEPOSITION OF JESSICA HICKLIN
Taken on behalf of the Defendants
July 12, 2017

Pamela G. Williams, CCR 880
(The deposition commenced at 10:30 a.m.)

JESSICA HICKLIN 7/12/2017

Page 21

1 A. Uh-huh.

2 Q. Depression. And I think I saw somewhere, but
3 I could be wrong, have you been diagnosed with bipolar at
4 all?

5 A. At one time in the past I was, but my current
6 psychiatrist, as far as I understand her records, says that
7 this is not a -- my only standing mental health diagnosis
8 and condition is gender dysphoria.

9 Q. Okay. And that's why I asked. I wanted to
10 clarify that. I guess, as it relates to gender dysphoria,
11 could you tell me a little bit about the anxiety that you
12 experience? I know that's a complicated question. If you
13 want me to clarify, I can do my best.

14 A. If you would please clarify a little bit,
15 because the anxiety is a broad umbrella. I mean, I can
16 explain the anxiety, but there are what -- what part of the
17 anxiety are you asking about?

18 Q. That's fair. As we noted -- as we just said,
19 anxiety is considered kind of a symptom of gender dysphoria
20 and anxiety itself has symptoms. What have you
21 experienced, what anxiety symptoms have you experienced?

22 A. That helps to clarify. Geez, it's a little
23 long, but I have difficulty sleeping at night a lot of
24 times. Eating disorder or disturbances. A lot of times I
25 don't have appetite. And it depends, you know, like any

JESSICA HICKLIN 7/12/2017

Page 22

1 mental health condition or symptom, you know, there are
2 highs and lows. So the symptoms or the experience of it
3 I'll use when it's at its heighth, that way it's easier to
4 understand.

5 Sometimes I get what I would describe as like
6 a panic attack in the sense of, you know, elevated heart
7 rate, short breath. Depending upon the day and the level
8 of the anxiety, I find myself wanting to isolate because
9 I'm very short tempered or -- that's probably the best way
10 to describe it. I have a hard time dealing with other
11 people when my sense of disgust with the things that are
12 not correct. So that's -- the anxiety relates to my
13 ability to communicate with other people.

14 Depending, again, on the day and the level of
15 the anxiety, sometimes I fixate on the need to be treated.
16 And so that interferes with my work or, you know, other
17 things I may be doing.

18 I think that's a good general umbrella of the
19 symptoms.

20 **Q. Yeah. And these are all symptoms that you've**
21 **experienced in the past couple of years?**

22 A. Yes, sir.

23 **Q. Have you experienced these symptoms prior to**
24 **that, that you recall?**

25 A. Yes, sir.

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JESSICA HICKLIN 7/12/2017

Page 23

1 Q. Okay. And regarding the depression, could you
2 give me kind of a brief description on that, symptoms of
3 that. Like, do you have trouble getting out of bed, things
4 of that nature?

5 A. Yes. Again, like the anxiety, depression is
6 something that has its ups and downs. On the bad times, it
7 fluctuates between a sense of not being motivated to do
8 anything. So, yes, the not get out of bed, normal what
9 people understand depression to be. But when it becomes
10 really severe, and -- as well as with the anxiety, as well,
11 for clarification, I start fixating on thoughts of treating
12 myself.

13 Rarely, but from time to time when the
14 depression gets so bad and it seems hopeless, I get senses
15 of feeling of hopelessness, there are thoughts of, you
16 know, suicide. I'll admit those are more spread out,
17 that's not a every day thought but, you know, thoughts of
18 treating myself and things like that are much more common.

19 When my depression is at a height again, I
20 like to isolate because I don't feel I have the energy
21 to -- to engage in social communication.

22 Q. Okay. Do you believe that all of your anxiety
23 and depression is attributed to gender dysphoria?

24 A. I believe that all of my anxiety is. My
25 depression, I would believe probably 80 percent, if you're

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JESSICA HICKLIN 7/12/2017

Page 39

1 Q. Okay. And you would consider all those items
2 to be gender affirming?

3 A. Yes, sir.

4 Q. Okay.

5 A. To -- and perhaps this clarifies, I've had a
6 conversation with family about such things. And basically,
7 if I was going to get up and go to work this morning in the
8 normal world as a woman, the things I would use.

9 Q. Are the items on the --

10 A. Are basically the things we're requesting.

11 Q. Okay. Have you had any suicidal ideations
12 recently? And recently, I mean in the past three or four
13 months?

14 A. Yes, in the last three or four months.

15 Q. And can you tell me how often?

16 A. It's roughly an every two or three month
17 perhaps. And, of course, that depends upon what's going on
18 in life and specifically, honestly, my sense of progress in
19 this arena. But generally speaking, you could say every
20 two to three months I'll have a couple bad days, so
21 that's --

22 Q. About how often do you see therapy? Or, I'm
23 sorry, how often do you see the mental health people?

24 A. Up until very recently, I saw a therapist --
25 basically, it's two weeks apart. I would see a

MIDWEST LITIGATION SERVICES

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EXHIBIT N

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JESSICA HICKLIN,)
)
 Plaintiff,)
)
 vs.) Case No. 4:16-CV-01357-NCC
)
 ANNE PRECYTHE,)
 et al.,)
)
 Defendants.)

Jefferson City, MO

DEPOSITION OF VEVIA STURM

Taken on Behalf of the Plaintiff

February 2, 2018

Reported by: KELLENE K. FEDDERSEN
Job No. 137078

1 A. That is fair.

2 Q. And so an official procedure, for
3 example your PREA policy, that was approved by the
4 executive committee, right?

5 A. Yes.

6 Q. Okay.

7 A. Yes.

8 Q. And the executive committee that
9 approved the PREA policy in July of 2017, that
10 included Director Precythe, right?

11 A. Correct.

12 Q. And Mr. Sturm?

13 A. Yes.

14 Q. And Alana Boyles?

15 A. I don't know.

16 Q. And Cari Collins?

17 A. Yes.

18 Q. But you just don't have any
19 information about who approved the policy or the
20 position that's Exhibit 94?

21 A. I have no idea.

22 Q. Okay. So this is a position that you
23 were -- that was given to you, it is not a position
24 that you had any input on, right?

25 A. Correct.

1 Q. Even though you're PREA coordinator?

2 A. Correct.

3 Q. Okay.

4 A. Hormone therapy really doesn't have
5 anything to do with PREA. PREA doesn't address
6 hormone therapy.

7 Q. So you testified that if a
8 transgendered individual comes in to MDOC already
9 prescribed hormones by a doctor, that in that case
10 MDOC continues the therapy?

11 A. Correct.

12 Q. Do you know why?

13 A. I don't.

14 Q. In connection with PREA compliance,
15 is there any monitoring at MDOC to see if
16 individuals who come in on hormone therapy, is
17 there any monitoring to track their safety relative
18 to the safety of individuals who are transgendered
19 who are not on hormone therapy?

20 A. I don't know what you're asking. I'm
21 confused.

22 Q. Okay. So part of PREA compliance is
23 tracking the safety of transgendered individuals?

24 A. Safety, yes.

25 Q. And is there any data that your

1 office collects to see if individuals on hormone
2 therapy are more or less safe compared to
3 individuals who are not on hormone therapy?

4 A. No.

5 Q. I believe you've just testified that
6 PREA doesn't address hormone therapy.

7 A. It does not.

8 Q. I'm going to ask the reporter to mark
9 what will be marked Exhibit 95.

10 (EXHIBIT 95 WAS MARKED FOR
11 IDENTIFICATION BY THE REPORTER.)

12 BY MS. ROBERG-PEREZ:

13 Q. You've testified about PREA
14 standards.

15 A. Uh-huh.

16 Q. Are these the PREA standards?

17 A. Yes, they are.

18 Q. And again, for the record, these
19 standards don't anywhere address hormone therapy,
20 right?

21 A. They do not.

22 Q. Okay. Earlier you testified that
23 there is a PREA Resource Center that you refer to
24 to make sure that MDOC is in compliance.

25 A. For interpretive guidance, yes.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JESSICA HICKLIN,

Plaintiff,

v.

ANNE PRECYTHE,

et al.,

Defendants.

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

**[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR DECLARATORY
RELIEF AND A PERMANENT INJUNCTION**

This matter came before the Court on Plaintiff Jessica Hicklin's ("Plaintiff" or "Ms. Hicklin") Motion for Declaratory Relief and a Permanent Injunction. The Court, having considered the briefing and evidence submitted in connection with Plaintiff's Motion and the arguments of counsel, finds as follows:

On February 9, 2018, this Court issued a Memorandum and Order granting in part Plaintiff's Motion for Preliminary Injunction and ordering Defendants to provide Ms. Hicklin with care that her doctors deem to be medically necessary treatment for her gender dysphoria, including hormone therapy, access to permanent body hair removal, and access to gender-affirming canteen items (Doc. 145).

In support of her previous Motion for Preliminary Injunction (Doc. 63), and the currently pending Motion for Declaratory Relief and a Permanent Injunction (Doc. ___), Plaintiff has presented evidence to show that Defendants violated the Eighth Amendment by knowingly disregarding Ms. Hicklin's serious medical needs and through the enforcement of Missouri

Department of Corrections' ("MDOC") policy, practice, custom, or usage of banning the provision of hormone therapy to any transgender inmate who was not receiving such therapy before entering MDOC ("the freeze-frame policy").

The Court finds that Plaintiff has presented evidence to show that the freeze-frame policy at issue fails by its very nature to account for the individual medical needs of transgender prisoners who suffer from gender dysphoria, and therefore violates the Eighth Amendment both on its face and as applied to Ms. Hicklin.

The Court finds that providing the declaratory relief requested would both settle the legal relations in issue and provide relief from the uncertainty, insecurity, and controversy surrounding this issue within MDOC. The Court finds that Plaintiff has presented evidence to show that she has suffered irreparable injury as a result of Defendants' failure to provide her with medically necessary treatment for her gender dysphoria and their application of the freeze-frame policy and will again suffer such injury if the requested relief is not granted.

The Court finds that Plaintiff has demonstrated actual success on the merits of her claims of violation of her Eighth Amendment rights due to Defendants' denial of medically necessary treatment for her gender dysphoria and application of the freeze-frame policy generally and to Ms. Hicklin specifically. The Court further finds that the balance of harms favors the Plaintiff, as she will suffer irreparable harm if the requested relief is not granted while Defendants would not be harmed if the requested relief is ordered. Given the deprivation of constitutional rights that Plaintiff has suffered and will suffer if Defendants withhold medically necessary gender dysphoria treatment from her or continue to enforce the freeze-frame policy, the public interest favors entry of such an order.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Declaratory Relief and a Permanent Injunction is hereby **GRANTED** and it is further **ORDERED** that:

(1) Defendants' failure to provide Ms. Hicklin medically necessary care related to her gender dysphoria violates the Eighth Amendment to the United States Constitution;

(2) MDOC's policy, practice, custom, or usage of banning the provision of hormone therapy to any transgender inmate who was not receiving such therapy before entering MDOC ("the freeze-frame policy") violates the Eighth Amendment to the United States Constitution, both on its face and as applied to Ms. Hicklin;

(3) For as long as Ms. Hicklin remains in the custody of MDOC, Defendants shall provide her with care that her doctors deem to be medically necessary treatment for her gender dysphoria, including hormone therapy, access to permanent body hair removal, and access to gender-affirming canteen items;

(4) Defendants are permanently enjoined from enforcing the freeze-frame policy;

(5) Defendants shall pay Ms. Hicklin's costs, expenses, and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988 and other applicable laws; and

(6) Ms. Hicklin shall not be required to post a bond or security.

NOELLE C. COLLINS
UNITED STATES MAGISTRATE JUDGE