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IN THE DISTRICT OF THE UNITED STATES OF AMERICA
FOR THE SOUTHERN DISTRICT OF ILLINOIS

_____)	
DEON HAMPTON #M15934,)	
)	
Plaintiff(s),)	
)	
vs.)	Case 18-CV-550-NJR
)	
ILLINOIS DEPARTMENT OF)	
CORRECTIONS DIRECTOR JOHN)	
BALDWIN, et al.,)	
)	
Defendant(s).)	
_____)	

STATUS CONFERENCE

BE IT REMEMBERED AND CERTIFIED that heretofore on **04/16/2018**, the same being one of the regular judicial days in and for the United States District Court for the Southern District of Illinois, **Honorable Nancy J. Rosenstengel**, United States District Judge, presiding, the following proceedings were recorded by mechanical stenography; transcript produced by computer.

APPEARANCES:

FOR PLAINTIFF: Vanessa del Valle and Sheila A Bedi of Roderick and Solange MacArthur Justice Center, Northwestern Univ. Sch. of Law, 375 E. Chicago Avenue, Chicago, IL 60611;

FOR DEFENDANT(S): Christine McClimans Office of the Attorney General-Springfield, 500 South Second Street, Springfield, IL 62701.

REPORTED BY: Molly N. Clayton, RPR, FCRR, Official Reporter for United States District Court, SDIL, 750 Missouri Ave., East St. Louis, Illinois 62201, (618)482-9226,
molly_clayton@ilsd.uscourts.gov

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INDEX OF WITNESS EXAMINATION

DX CX R-DX R-CX

No witness testimony.

INDEX OF EXHIBITS

EXHIBIT DESCRIPTION Id'D Rcv'd

No exhibits identified or received.

MISCELLANEOUS INDEX

PAGE

No miscellaneous index entries.

1 *COURTROOM DEPUTY:* Good afternoon, Counsel.

2 We are now on the record in Case No. 18-CF-550,
3 *Hampton versus Baldwin, et al.*, for a status conference.

4 On the line for plaintiff we have Vanessa del Valle
5 and Sheila Bedi, and for defendants we have Kay McClimans.

6 *THE COURT:* Good afternoon, Counsel. So this was set
7 for status today. I had set the matter for an evidentiary
8 hearing on -- it was April 2nd, and was notified before that
9 that the parties were requesting a continuance and then a
10 status in two weeks. So that's the purpose of this.

11 And I did see that the plaintiffs moved to compel the
12 defendants to produce certain witnesses for deposition, and a
13 response was filed to that.

14 I guess, just in general, where are we today from the
15 plaintiff's perspective.

16 *MS. BEDI:* We did request jointly a continuance as
17 your Honor noted. And we did so because after we filed the
18 motion for preliminary injunction, the plaintiff was moved from
19 Lawrence to Dixon. And we felt like it would be important to
20 be able to gather as much information as we could about her
21 treatment at Dixon prior to filing the preliminary injunction.
22 We had a significant amount of treatment and the plans for
23 further treatment at Lawrence, and we wanted to ensure we had
24 similar information about Dixon before we moved forward.

25 We expressed that position to counsel for the

1 defendants, and she understood and agreed to provide us with
2 some limited discovery. And the conversation that we had
3 talked about both documents and depositions. And we've
4 received some documents. We've received a treatment plan. But
5 we are still missing some significant documents. And we also,
6 as your Honor noted, have been unable to take the depositions
7 of the key witnesses who we would call in evidentiary hearing.
8 So we believe that those depositions are critically important
9 that they could help save some of the Court's resources if we
10 are able to take them. And we also do certainly need some of
11 the outstanding documents that we've requested because the
12 issues that we raised in our preliminary injunction hearing
13 they remain outstanding.

14 The plaintiff is still being housed in segregation.
15 She is not getting the type of care she needs either from her
16 serious mental health needs or for her gender dysphoria, and
17 she is still at great risk. And she was very recently
18 assaulted on the yard, where somebody grabbed her breasts. So
19 she still is at great risk. We'd -- so that's where we are in
20 terms of the plaintiff's position.

21 *THE COURT:* What documents are still outstanding that
22 you have requested and haven't received?

23 *MS. del VALLE:* We requested all of her medical mental
24 health records, and we haven't gotten her records from Dixon.
25 We received her mental health treatment plan, but that was the

1 only document. We also haven't gotten a number of her
2 disciplinary records or investigative reports related to
3 incidents at Lawrence, and we haven't gotten the grievances
4 that she filed at Lawrence.

5 Well, so now that was going to be my next question. I
6 understand the defendants are taking the position that she has
7 to exhaust her administrative remedies. Where is that in the
8 process? So she has filed a grievance at Dixon?

9 *MS. BEDI:* She has filed multiple grievances,
10 including a number of emergency grievances bringing up the very
11 issues implicated in the preliminary injunction. The
12 protection from harm, and the treatment she's receiving as a
13 result of her being a transwoman, as well as her continued
14 placement in segregation, and the inadequate mental health care
15 that she was receiving.

16 So she filed emergency grievances. She filed at least
17 six emergency grievances. That she received a response, she
18 was told these are not emergency grievances. Seventh Circuit
19 case law is very clear that under those circumstances, when
20 somebody is experiencing an emergency, and the grievance is
21 filed, and she is told that it's not an emergency, that -- that
22 it is exhaustion.

23 *THE COURT:* So those have all been filed since she's
24 been transferred to Dixon?

25 *MS. BEDI:* No. They were all filed at Lawrence.

1 THE COURT: Okay. So, Ms. McClimans, what do you want
2 to say? What is your position? I don't want to speak for you.

3 MS. McCLIMANS: As far as the continuance, we did both
4 jointly move for continuance of the hearing. And it was my
5 understanding that that was done because -- one of the primary
6 reasons was because she had been transferred to Dixon. And
7 that was actually just in March of -- this past month.

8 With regard to documents, it was not my understanding
9 at all that any of the documents were missing and, if that is
10 the case, we will get those out.

11 We were waiting on the treatment plan. The treatment
12 plan was just sent to them on April 5th. As far as grievances,
13 we were of the understanding that the grievances had not yet
14 been exhausted; the administrative remedies had not yet been
15 exhausted.

16 We don't even -- we aren't even at the point yet where
17 we have to respond to the complaint in this case.

18 As far as the situation with the preliminary
19 injunction, she was at Lawrence Correctional Center when that
20 was filed. So, there was a big change in circumstances because
21 she was sent to Dixon. The treatment plan also gives her the
22 treatment that she is supposed to have pursuant to the *Rasho*
23 settlement. She has treatment while she was in segregation,
24 and she has group treatment.

25 As far as the -- I'm sorry, I'm surprised -- let's

1 see. There is the disciplinary records, we can go ahead and
2 get those together, and we can send those to them. As soon as
3 I get off the phone, I'll request whatever they think is
4 missing.

5 *THE COURT:* Okay. Well, you know, I'm kind of
6 frustrated if we are just doing the run around of requiring
7 this exhaustion, and it doesn't really have the hope of getting
8 anything resolved, and just delaying the ongoing issues.

9 So I do appreciate, Ms. McClimans, that you are
10 willing to get those records. And I guess I'll ask plaintiff's
11 counsel to spell those out in writing as to what you say are
12 missing, and let's get those.

13 So, Ms. McClimans, you are taking the position, then,
14 that she needs to start the grievance process over, now, at
15 Dixon?

16 *MS. McCLIMANS:* No, I wasn't doing that at all. It
17 was my understanding from reviewing the records that we do
18 have, that the administrative remedies were not exhausted. As
19 to the grievances she has filed that are applicable to this
20 case. We want to point out to the Court that we have actually
21 produced over 350 pages of documents. And we also did work on
22 other issues between the last -- when the hearing was set and
23 today. So I don't want it to look like we are giving the run
24 around. There were some commissary issues that were, I
25 believe, for the most part, resolved. The treatment plan, we

1 obtained that. She wanted a couple of other things, and I
2 believe we did that as well.

3 *MS. BEDI:* We did offer -- we did make a offer to try
4 to resolve this matter and to try to dismiss this case in its
5 entirety. The demands included Ms. Hampton having the ability
6 to access female -- women's items for the commissary, as well
7 as her release from segregation, and the provision of the
8 mental health services that she needs to address those, her
9 serious mental health issues and the gender dysphoria. As well
10 as the -- as well as getting her good time, which has been
11 taken away because of the various disciplinary issues.

12 The Department rejected that offer. And Kay was
13 trying to work on the commissary issues, and we've not received
14 a response to that. But as of today, Ms. Hampton is not able
15 to access women's commissary items, and she remains in
16 segregation. So the issues remain very much in play.

17 And I want to emphasize that Kay has been accessible
18 and professional, that we have been able to work with her. But
19 also, that I do think the Department's position here is quite
20 unreasonable. Ms. Hampton remains in segregation not because
21 of anything that's happening specific to Dixon, but because of
22 the IDOC's policies. So it is really the IDOC that is
23 responsible for what's happening here, not something that's
24 specific to the Dixon facility. And because she filed numerous
25 emergency grievances on these issues, she's clearly exhausted.

1 *THE COURT:* Well, and that's the other frustrating
2 thing, this all seems to go back to the case that was in front
3 of Judge Daly that reached a settlement. And now we're just,
4 you know, months down the road kind of spinning our wheels.

5 What -- Ms. Bedi what do you want to happen from here?
6 Would it be worth while -- I know we had -- Judge Daly had set
7 a settlement conference to get everybody in the same room. I
8 would be willing to order that. I mean, I don't know. It just
9 seems like we're kind of getting the run around.

10 *MS. BEDI:* I would certainly agree with that, your
11 Honor. I think that we would love the chance to try to resolve
12 this. It's clearly in our client's best interest if you would
13 be willing to order a settlement conference. But at the same
14 time, we would also request an order requiring the IDOC to
15 present the witnesses that we've requested for depositions. We
16 are happy to limit the time of the depositions. We don't think
17 these will be long depositions. We are willing to do them over
18 video conference. But we think it is incredibly important that
19 they occur, so we don't have to wait until she further
20 decompensates, and we can prove that before having to go into
21 court to get the relief that she needs.

22 *THE COURT:* All right. Well, Ms. McClimans, I
23 understand and I appreciate that you are doing everything you
24 can do. It sounds like the problem is with the IDOC. And,
25 again, I understand your client's time to answer hasn't even

1 run. But again --

2 *MS. McCLIMANS:* Right.

3 *THE COURT:* -- this just runs out of the other case
4 that was dismissed because the Court was told that a settlement
5 had been reached.

6 I see it either we can get in front of Judge Daly and
7 have a settlement conference, or your clients will appear for
8 deposition so I can proceed to have a hearing. Because based
9 on the allegations of their motion for preliminary injunction,
10 every day that goes by is important.

11 *MS. McCLIMANS:* Right.

12 And if I can say something. The people, first of all,
13 that they wanted for the depositions were people on the GIV
14 committee; and then they requested 4, two of those I don't
15 believe are on the GIV Committee. I don't know if that's right
16 or wrong. Sheila?

17 *MS. BEDI:* The names of the individuals whose
18 depositions we requested were people who signed off on the
19 decision to keep Ms. Hampton in a men's prison.

20 *MS. McCLIMANS:* Okay. As far as IDOC and the
21 continuation of what appears to be, I mean, it seems like
22 plaintiffs are arguing that it's IDOC's fault that this
23 continues. It is not just IDOC's fault. There are continuing
24 issues with Ms. Hampton as well at each institution. And
25 unfortunately that ends up drawing out her seg time, which

1 makes it very, very hard to place her, treat her, everything.
2 So I don't know that a settlement conference would be fruitful.
3 Before it was not fruitful, that's what IDOC determined. I
4 don't think that would change anyone's mind with IDOC. I can
5 certainly approach them with that idea, but before we were
6 talking about the settlement conference that was their
7 position. And that was just two, three weeks ago. I just want
8 to make sure everyone was aware of that.

9 *THE COURT:* All right. Ms. Bedi, what else do you
10 want to say?

11 *MS. BEDI:* I think if that's going to be the IDOC's
12 position then, your Honor, if you could order the depositions
13 to occur, and we would like a hearing date. I do think that
14 the disciplinary issues that Kay is referencing to, your Honor,
15 our position is many of them are a result of some of the
16 retaliation that Ms. Hampton has experienced. And others by
17 IDOC's medical staff own admission are about the manifestations
18 of her mental illness that remains untreated. So the IDOC
19 can't have it both ways. They can't fail to treat her;
20 discipline her when she acts out; and then give her more time
21 where she is in a position that she is not getting adequate
22 treatment.

23 *THE COURT:* That's exactly what I would have to take
24 up in an evidentiary hearing. What Ms. McClimans is pointing
25 out, and then I would have to weigh what exactly is going on.

1 I don't have that. It sounds like to me this was exhausted
2 before, I think this is just a continuation of it. And I think
3 just saying, well, we are going to make her go through it again
4 when IDOC seems clear to not think that any relief is
5 appropriate, there's no point in requiring further exhaustion.

6 So I'm going to order that you all get together by the
7 end of the day today. Plaintiff indicate what additional
8 documents are needed, and then the defendants are to produce
9 those within a week from today. And then within two weeks --
10 these are the witnesses I guess this Dr. Jack I didn't think
11 Dr. Hinge ton doctor ricer the and Kelly gay, is that who you
12 want to deposition, Ms. Bedi.

13 *MS. del VALLE:* We would like to depose those
14 individuals who were on the gender committee, and also the two
15 mental health counselors who are treating Ms. Hampton at Dixon,
16 which we believe is a professional named Jay Wangan [ph] and
17 Mrs. Var. We don't have Mrs. Var's full name.

18 *THE COURT:* You think it is Var, how do you spell
19 that?

20 *MS. del VALLE:* We think it is V-A-R, but we don't
21 have any documents with her name on it.

22 *THE COURT:* Well, I will allow those depositions, and
23 granting the plaintiff's motion to compel those depositions.
24 Again, I understand the defendant's position is that the
25 plaintiff hasn't exhausted, but I think under these facts she

1 has or that any further exhaustion wouldn't be productive. And
2 so let's get the documents produced, go forward with these
3 depositions. I don't see any reason why they can't be
4 completed two weeks from today. And then give me a status
5 report where we are at that point, and I will get it set for an
6 evidentiary hearing just as soon as I can.

7 Anything else from plaintiff?

8 *MS. BEDI:* Not for the plaintiff, your Honor. Thank
9 you.

10 *THE COURT:* Ms. McClimans, anything else.

11 *MS. McCLIMANS:* Yes. I would like leave to submit a
12 short brief regarding the exhaustion issue, just because now
13 that she is at a different institution I would think that her
14 exhaustion there would have to done, as well, with regard to
15 whether or not she is appropriately there.

16 I mean, it seems like there are a couple of different
17 issues. Is she appropriately placed there, and has IDOC
18 treated her problems with regard to every where.

19 *THE COURT:* Well, I'll give you leave to file
20 something by the end of the week.

21 *MS. McCLIMANS:* Okay, that's fine.

22 *THE COURT:* I don't see any point in if we are just
23 going to -- I mean, that she is going to go through it and
24 everything is going to remain the same. Then all we've done is
25 lost another month or two to delaying the evidentiary hearing.

1 I understand, but I also, you know, think that there's
2 something serious here that needs to be addressed. I need to
3 know the whole story, and I can't get to finding out the whole
4 story until the plaintiffs are prepared to proceed with their
5 case. So you can file something by the end of the week, and
6 I'll take a look at. But, in the meantime, let's keep moving
7 towards an evidentiary hearing.

8 MS. McCLIMANS: Okay, sounds good.

9 THE COURT: Anything else, anyone?

10 MS. BEDI: No, your Honor.

11 MS. McCLIMANS: No, your Honor.

12 THE COURT: All right. Have a good afternoon.

13 (Court adjourned)

14 -oOo-

15 REPORTER'S CERTIFICATE

16 I, Molly N. Clayton, RPR, FCRR, Official Court Reporter
17 for the U.S. District Court, Southern District of Illinois, do
18 hereby certify that I reported with mechanical stenography the
19 proceedings contained in pages 1 - 14; and that the same is a
20 full, true, correct and complete transcript from the record of
21 proceedings in the above-entitled matter.

22 DATED this 20th day of April, 2018.

23
24 s/Molly Clayton, RPR, FCRR
25