

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

CRISTINA NICHOLE IGLESIAS (A.K.A)	
CRISTIAN NOEL IGLESIAS),)	
)	
Plaintiff,)	
)	
vs.)	Civil No. 19-cv-00415-JPG
)	
IAN CONNORS AND DR. KATHLEEN)	
HAWK SAWYER, DIRECTOR OF THE)	
FEDERAL BUREAU OF PRISONS,)	
)	
Defendants.)	

**DEFENDANT’S RESPONSE TO
PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION**

The defendant, Dr. Kathleen Hawk Sawyer, in her official capacity as Director of the Federal Bureau of Prisons, by her attorneys, Steven D. Weinhoft, United States Attorney for the Southern District of Illinois, and Laura J. Jones, Assistant United States Attorney, opposes plaintiff’s Motion for Preliminary Injunction (Doc. 19) and states as follows:

Plaintiff, Cristian Noel Iglesias,¹ is an inmate currently incarcerated at the United States Penitentiary in Marion, Illinois. Plaintiff has been diagnosed with gender dysphoria and borderline personality disorder. (Doc. 1, Ex. 2, pp. 47-48). She identifies as a female although she was born male. Plaintiff seeks a preliminary injunction to require the Bureau of Prisons (BOP) to have a qualified surgeon perform sex reassignment surgery promptly and to transfer her to a female prison.

This Court, after preliminary review, allowed two claims of plaintiff’s complaint to proceed pursuant to 28 U.S.C. § 1915A. (See Doc. 14, p. 10). Count 1 is to proceed against Ian

¹ Cristian Noel Iglesias identifies herself as Cristina Nichole Iglesias.

Connors, the BOP National Inmate Appeals Administrator, in his individual capacity, and Count 5 is to proceed against the current Director of the BOP in her official capacity² for claims filed pursuant to the Rehabilitation Act, 29 U.S.C. §§ 794 *et seq.* The Court did not allow any other claims to proceed at this time. (Doc. 14, p. 3).

Defendant Hawk Sawyer filed a Motion to Dismiss or in the Alternative Motion for Summary Judgment on September 25, 2019, on the grounds that plaintiff failed to exhaust her administrative remedies under the Rehabilitation Act. (Doc. 22). On October 2, 2019, plaintiff filed a response indicating she would dismiss the Rehabilitation Act claim. (Doc. 25, p. 4). Because both parties agree that the complaint should be dismissed without prejudice so that plaintiff may exhaust her administrative remedies, the Motion for Preliminary Injunction must be dismissed as moot.

The Court allowed the plaintiff's complaint to proceed against the Director of the BOP in her official capacity only for a potential violation of the Rehabilitation Act, not for constitutional claims. (*See* Doc. 19, p. 9). Plaintiff's Motion for Preliminary Injunction is based solely on constitutional grounds, not statutory ones.³ Because the Court allowed no claims to proceed against the "Bureau of Prisons" besides the one against the Director in her official capacity regarding the Rehabilitation Act, plaintiff cannot bring these constitutional claims against the Director in a Motion for Preliminary Injunction. Plaintiff's motion did not claim she was entitled to any

² Kathleen Hawk Sawyer is currently the Director of the BOP. At the time of the screening order, the Acting Director of the BOP was Hugh J. Hurwitz (*see* Doc. 14, p. 9, n. 7).

³ The only constitutional claim the Court allowed to proceed was against defendant Connors who was named only because his signature appears on "letters responding to Plaintiff's administrative remedy appeals." (Doc. 14, pp. 3, 5). Plaintiff's Motion for Preliminary Injunction requests no relief against defendant Connors.

preliminary injunctive relief under the Rehabilitation Act.

A plaintiff “cannot seek injunctive relief on a claim that is not properly before the Court.” *Mason v. Freeman*, No. 18-CV-2029-NJR-RJD, 2019 WL 2173480, at *2 (S.D. Ill. May 20, 2019) (citation omitted); *see Ortiz v. Kilquist*, No. 03-cv-11-DRH, 2006 WL 2583713, at *1 (S.D. Ill. Sept. 7, 2006) (plaintiff “cannot merely bootstrap this request for injunctive relief to the instant case”). Assuming the Court dismisses Count 5 against the Director of the Bureau of Prisons in her official capacity without prejudice, the Motion for Preliminary Injunction is moot.

CONCLUSION

For these reasons, defendant, Dr. Kathleen Hawk Sawyer, requests that the Court deny plaintiff’s Motion for Preliminary Injunction as moot.⁴

DR. KATHLEEN HAWK SAWYER
DIRECTOR OF THE FEDERAL BUREAU
OF PRISONS

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⁴ Plaintiff did not request a hearing.

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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and I hereby certify that I mailed by United States Postal Service, the document to the following non-registered participant:

ADDRESS:

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