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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

ASHLEY DIAMOND, Plaintiff,)
 vs.) Case No. 5:20-CV-453
 TIMOTHY WARD, ET AL., Defendant.) Macon, Georgia

MOTION FOR PRELIMINARY INJUNCTION

VOLUME I OF II

May 12, 2021

BEFORE THE HONORABLE MARC T. TREADWELL
UNITED STATES DISTRICT JUDGE

NOTE: This transcript conforms with the Court's orders and the parties' requests for redactions.

Proceedings reported stenographically

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16
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18
19
20
21
22
23
24
25

WITNESS INDEX

PAGE

ASHLEY A. DIAMOND

Direct Examination By Ms. Littrell:13

Examination By The Court:94

Direct Examination Continued By Ms. Littrell:98

Direct Examination Continued By Ms. Littrell:119

Cross Examination By Mr. Chalmers:124

Examination By The Court:167

Redirect Examination By Ms. Littrell:173

JOHN DOE (PSEUDONYM)

Direct Examination By Mr. McCoy:183

Cross Examination By Mr. Shapiro:202

Examination By The Court:211

Redirect Examination By Mr. McCoy:221

CORRECTIONAL OFFICER COURTNEY BROWN

Direct Examination By Mr. Shapiro:224

Cross Examination By Mr. McCoy:232

Redirect Examination By Mr. Shapiro:251

Examination By The Court:254

JAMMI BLAKE DUCKWORTH

Direct Examination By Ms. Rajaratnam:258

Cross Examination By Mr. Shapiro:290

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PLAINTIFF EXHIBITS ADMITTED DURING TESTIMONY

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
PX 223	Declaration of Timothy Thomas	104
PX 225	Compilation of threat letters	122
PX 229	10-31-20 J-Pay message from Diamond to .. Duckworth	288

DEFENSE EXHIBITS ADMITTED DURING TESTIMONY

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
DX 11	N-Dorm video footage from	154
	10-30-20/10-31-20	

1 Macon, Georgia

2 Wednesday, May 12, 2021

3 9:54 a.m.

4 P R O C E E D I N G S

5 COURT OFFICER: All rise. United States District
6 Court for the Middle District of Georgia, Macon Division, is
7 now in session. Be seated. Come to order.

8 THE COURT: Good morning. All right. We are here in
9 the matter of Ashley Diamond versus various defendants. First,
10 I will ask plaintiff's counsel to announce their appearances.

11 MR. McCOY: Scott McCoy with the Southern Poverty Law
12 Center for Plaintiff Ashley Diamond.

13 MS. LITTRELL: Beth Littrell, Southern Poverty Law
14 Center for Ashley Diamond.

15 MS. EZIE: Chinyere Eizie with the Center for
16 Constitutional Rights for Ashley Diamond.

17 MS. RAJARATNAM: Maya Rajaratnam with the Southern
18 Poverty Law Center for Plaintiff Ashley Diamond.

19 THE COURT: All right. And for the defendants?

20 MR. CHALMERS: Good morning, Your Honor, Roger
21 Chalmers with the State Law Department for the GDC Defendants,
22 Mr. Ward, Assistant Commissioner Holt, all the other GDC
23 Defendants other than Arneika Smith.

24 MR. SHAPIRO: Good morning, Your Honor, Robert
25 Shapiro also with Defendants, other than Arneika Smith.

1 MS. McGOVERN: Good morning, Annarita McGovern of
2 Satcher & McGovern here for Arneika Smith.

3 THE COURT: Good morning to all of you.

4 Is Ashley Diamond here?

5 THE PLAINTIFF: Yes, Your Honor.

6 THE COURT: Good morning, Ms. Diamond.

7 THE PLAINTIFF: Good morning, Judge Treadwell.

8 THE COURT: All right. Let me summarize what I've
9 already talked about with the lawyers in the conferences we
10 have had. In her Complaint, Ms. Diamond makes serious -- well,
11 makes disturbing factual allegations, particularly with regard
12 to what she alleges is the defendants' failure to protect her
13 and retaliation against her at Coastal State Prison.

14 I don't think even the defendants would disagree that
15 if those allegations are true, then Ms. Diamond would be
16 entitled to relief of some sort. In fact, the defendants did
17 not, as is often done in these cases, move to dismiss; they
18 simply filed their answers. And I think that perhaps is a
19 recognition that factually the Complaint contains allegations
20 of a nature that we typically don't see, even in some of the
21 hotly disputed cases we do see.

22 But the defendants adamantly and vigorously deny
23 those factual allegations. And, as I put it bluntly to the
24 lawyers, what that means, pretty clearly, is that somebody's
25 lying. More than one somebody, perhaps. There's either what

1 amounts to a conspiracy at Coastal State Prison against
2 Ms. Diamond or what Ms. Diamond alleges is not true. It's hard
3 to see a middle ground. Rarely do the facts -- the factual
4 poles appear as stark as they do here.

5 So as I told the lawyers, I want to focus on that
6 initial issue, to be sure, as best we can, to determine as best
7 we can who is telling the truth about what is going on at
8 Coastal. That I think is the immediate issue that needs to be
9 addressed. And we will do that today and see perhaps where
10 that leaves us.

11 So with that, I will turn matters over to the
12 plaintiff and the plaintiff may call her first witness.

13 MS. LITTRELL: Thank you, Your Honor. Is there an
14 opportunity for opening statements or would the Court like
15 to --

16 THE COURT: Well, if there's something you think you
17 need to say, make it brief. As you know, I am very familiar
18 with the case. I see no reason to outline the facts. That's
19 what we're here to get from the witnesses. But if you have
20 brief comments, I will hear from you.

21 MS. LITTRELL: Thank you, Your Honor. I'll try to
22 make it brief. As the Court knows, the allegations in the
23 Complaint reflect complete failure on the part of the
24 defendants to provide adequate and -- I want to emphasize --
25 equal protection as well as adequate medical care to our

1 client. And that those failures have created a dangerous and
2 untenable situation for our client.

3 I also want to note that the basis for the relief
4 that we're seeking is wrapped up in the retaliation claims that
5 we have put before the Court that requires a protective order.
6 In particular, the disputed disciplinary report where they
7 allege that she has been involved in a sexual encounter that's
8 the basis for not only the DRs that she has, they are now using
9 it to say we can't transfer her to a women's facility because
10 she did something that we can show is medically impossible for
11 her to have done, and which their witness on which they based
12 the guilty verdict, if you will, in the discipline hearing has
13 recounted and changed her story.

14 In addition, the -- you know, there are other DRs
15 they are relying on as justification, and so we'd like to be
16 able to show how those are relevant to why she needs relief at
17 this point.

18 You will hear about the sexual assaults
19 unfortunately, but also I want to call the Court's attention to
20 our equal protection claim in the sense that not only is she
21 subject to and fearful of the next sexual assault -- we count
22 16 so far, 10 at Coastal -- but more grabbing, groping,
23 threatening, sexualized activity towards her on a frequent
24 basis than any woman should have to endure, including
25 Ms. Diamond.

1 And we'll show she is similarly situated to other
2 women who are equally vulnerable to sexual assault from men, if
3 they are housed in men. And, you know, we have in our briefs
4 pointed to the Eleventh Circuit's decision in *De Veloz* where
5 the Court said it's, you know, unacceptable to place a woman in
6 a men's prison and not expect that they will be sexually
7 assaulted. So that's one of the points of evidence that we
8 will make.

9 I am trying to make sure that I keep it brief and hit
10 the highlights.

11 And briefly, Your Honor, we will need to discuss
12 Ashley's need for medical care. The defendants have put forth
13 the position that they have provided an enormous amount of
14 mental health care. And what we need -- what we will show, the
15 evidence will show, is that Ashley doesn't need counseling for
16 her gender dysphoria; she needs treatment.

17 She's not getting the treatment she needs. And as a
18 result, she's engaging in self-harm, including multiple
19 attempts at self-castration -- another basis for the Court's --
20 for the reason that we're here before the Court for preliminary
21 injunctive relief.

22 And with that, Your Honor -- and thank you for your
23 indulgence in the brief statements -- I'll call my first
24 witness. Which is Ms. Ashley Diamond.

25 THE COURT: Hang on, Ms. Littrell.

1 MS. LITTRELL: Oh, I apologize.

2 MR. CHALMERS: Your Honor, Roger Chalmers. Thank you
3 for hearing from us today. This is a complex case. Days
4 before the pending Motion for Preliminary Injunction was filed,
5 counsel worked to put together a planning report for the case.
6 And the Court approved that report. And the report calls for
7 nine months of discovery, expert witness discovery built into
8 that at the end of the fact discovery period, and for the
9 parties to take all the party depositions and, in addition to
10 that, 10 fact witness depositions. So there will be in excess
11 of 20 or so depositions taken in this case when all is said and
12 done.

13 The attorneys for -- excuse me, the attorneys for
14 Ms. Diamond are competent and good counsel, and they have been
15 involved for her, on her behalf, since at least April or May of
16 2020. Ms. Diamond was moved to Coastal State Prison in June of
17 2020. This lawsuit was filed in October or November of 2020.
18 And this motion that we're here is a motion for an
19 extraordinary emergency injunctive relief, yet it was not filed
20 after all that lengthy period of time.

21 The urgency and the immediacy is not shown, and we'd
22 ask the Court at the end of this process to allow the parties
23 to deal with this complex case in the normal course, which
24 means allowing us to get into discovery, allowing us to
25 identify witnesses, allowing us to identify documents, question

1 our own clients, and then deliberate and choose who to depose
2 and ask those witnesses proper questions in depositions so we
3 can get to the bottom of the issues that we're here to talk
4 about.

5 I would like to say very briefly that Ms. Diamond,
6 Plaintiff here, has refused to participate in the PREA or SART
7 process. And that is very important because she has
8 essentially shut down the process. And she will report, she
9 will say she's been sexually assaulted many times, but none of
10 those assaults have been corroborated or have been proved to
11 have occurred.

12 This is important because she brings an Eighth
13 Amendment deliberate indifference claim. That means ultimately
14 she has to show that someone on the defendants' side knew she
15 was being assaulted and failed to take action. She won't be
16 able to show that, Your Honor, because there is a policy in
17 place and there is a full team on the ground to investigate
18 these issues, and she is stopping that from happening. There
19 is no deliberate indifference.

20 I would like to say very briefly that as to medical
21 and mental health care, Ms. Diamond is receiving comprehensive
22 care. I would venture to guess, because we don't know yet, but
23 I would venture to guess she is receiving far more
24 comprehensive care under GDC custody than she received outside
25 of GDC custody.

1 And I take issue with counsel's statement that she
2 sees counselors. She has a psychiatrist and a psychologist and
3 a general population counselor and a mental health counselor,
4 and she sees additional folks on a regular basis as part of her
5 mental health treatment and her medical treatment throughout
6 all of her time in GDC custody.

7 The last point I'll give, Your Honor, you will hear
8 from the witnesses today there has been no recantation from
9 Correctional Officer Brown of what she said in her disciplinary
10 report. You have the declaration. You will hear from her
11 today. She will testify that she saw a sexual act between
12 Ms. Diamond and another offender. That is not permitted. And
13 it's not the basis -- it's not the reason why Ms. Diamond is at
14 Coastal State Prison, but it's a disputed fact in the case, and
15 you'll hear the testimony about that.

16 Thank you, Your Honor.

17 THE COURT: All right. Let's hear from our first
18 witness.

19 MS. LITRELL: Plaintiffs call Ashley Diamond to the
20 stand.

21 COURTROOM DEPUTY: Ms. Diamond, will you please raise
22 your right hand. Do you solemnly swear that your testimony in
23 this case shall be the truth, the whole truth, and nothing but
24 the truth, so help you, God?

25 THE PLAINTIFF: Yes, ma'am.

1 COURTROOM DEPUTY: You can be seated. Can you swing
2 that mike so it's in front of you.

3 THE PLAINTIFF: Yes, ma'am. Can you hear me?

4 COURTROOM DEPUTY: Can you please state your name for
5 the record and spell it.

6 THE PLAINTIFF: Yes. My name is Ashley Alton
7 Diamond. Ashley, A-s-h-l-e-y, Alton, A-l-t-o-n, Diamond,
8 D-i-a-m-o-n-d.

9 ASHLEY A. DIAMOND
10 called by Plaintiff at 10:08 a.m., having first been duly sworn,
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MS. LITTRELL:

14 Q. Ashley, you have the ability to take off your mask if you
15 want to. You don't have to --

16 A. Okay.

17 Q. -- if you're more comfortable with it on. That will be
18 fine as well. Good morning.

19 A. Good morning. If you can call it that.

20 Q. How are you doing today?

21 A. Ma'am?

22 Q. How are you today?

23 A. I've seen a lot better days.

24 Q. How old are you, Ashley?

25 A. I am forty-three.

1 Q. And how do you self-identify your gender?

2 A. I am a woman.

3 Q. How long have you identified yourself as a woman?

4 A. Yes, ma'am.

5 Q. How long have you?

6 A. Um, ever since I was fifteen years old. Probably longer
7 than that, but on the record it was fifteen.

8 Q. Okay. And why are you here today?

9 A. I am here today to seek relief from the judge. I am here
10 to hopefully get some justice to be allowed to serve my time
11 safely, as I've requested before--before this same judge,
12 unfortunately--and to hopefully clear up some of these
13 misconceptions.

14 Q. Well, you've heard what we're here today to talk about
15 whether you're safe from sexual victimization--so meaning
16 assault, sexual assault, sexual abuse and sexual harassment--
17 where you're currently housed; whether you're safe from
18 self-harm based on the care for your gender dysphoria that
19 you're currently being provided --

20 A. Okay.

21 Q. -- and whether you're safe from retaliation without Court
22 intervention.

23 MR. CHALMERS: Your Honor, I will just object to the
24 leading nature here. We should just have questioning; not a
25 road map of where counsel wants to go.

1 BY MS. LITTRELL:

2 Q. There are a lot of distressing experiences that you're
3 going to have to relay back, and I just want to give you an
4 idea of -- of what we're here for today so that you're -- so
5 you're prepared for that.

6 THE COURT: Ms. Littrell. Let me rule on the
7 objection.

8 MS. LITTRELL: I apologize, Your Honor.

9 THE COURT: I sustain the objection. I suspect
10 Ms. Diamond knows why we're here today. Proceed.

11 MS. LITTRELL: Fair enough.

12 BY MS. LITTRELL:

13 Q. Before we dive into the safety issues the Court is here to
14 talk about, we need to just briefly touch on gender dysphoria.
15 Have you ever been diagnosed with gender dysphoria or gender
16 identity disorder?

17 A. Yes.

18 Q. When were you first diagnosed?

19 A. When I was fifteen years old.

20 Q. Were you provided information from your diagnosing doctor
21 about whether or not there were protocols to manage and
22 otherwise treat your condition?

23 A. Yes.

24 Q. And what were those?

25 A. The protocol was to live as the desired gender for a year,

1 to take female estrogen, and to just make sure before we
2 discuss surgery that it was something that, you know, was going
3 to be right for me.

4 Q. And were you only supposed to live in your preferred
5 gender, your self-identified gender for a year? Or as part of
6 your treatment did you --

7 A. Well, actually, the beginning of the treatment is just for
8 the year to make sure. Because a lot of people change their
9 minds and so the requirement basement is just for the first
10 year. But I was required to express myself through dress,
11 through grooming, through pronoun usage, all of those things.
12 Self-identification, vocal proclamation.

13 Q. To be able to express your female gender identity; is that
14 correct?

15 A. Yes.

16 THE COURT: Excuse me a minute. We're getting a lot
17 of sound in the mike.

18 BY MS. LITTRELL:

19 Q. And, Ashley, I should have reminded you that this is being
20 transcribed, and for the court reporter's sake and just for
21 clarity, we need to not talk over each other.

22 A. I'm sorry.

23 Q. And so if you will let me ask the question before you
24 answer, and I will do the same for you, okay?

25 A. Okay.

1 Q. So you said you -- did you begin taking hormones, did you
2 say?

3 A. Yes.

4 Q. At what age?

5 A. At seventeen.

6 Q. And so if my math is right, that's 1995; is that right?

7 A. Correct.

8 Q. Did you need mental health counseling? Were you told that
9 you needed mental health counseling to treat your gender
10 dysphoria?

11 A. No, I was told to live as my desired gender.

12 Q. Did you need mental health counseling? Did you need
13 support from psychiatrists or psychologists to treat your
14 gender dysphoria?

15 A. No, not when I'm living -- when I'm living as my desired
16 gender, no. I didn't have problems.

17 Q. Okay. When was the first time you entered GDC custody?
18 And how old were you, if you can recall?

19 A. I'm not quite -- I was in my thirties, but it was in 2012.

20 Q. And was that the first time you were unable to take
21 hormones since you were seventeen?

22 A. Yes.

23 Q. Is that the first time that you were unable to live as a
24 woman and express your gender identity?

25 A. Yes.

1 Q. And tell us about any experience of dysphoria as a result
2 of those two protocols being denied to you.

3 A. I guess the question you're asking me is what is the
4 effect when I'm not doing those -- is that the question?
5 Sorry.

6 Q. What was the -- what was the effect at that time? So the
7 first time, if I am understanding correctly, was 2012 that you
8 were unable to take your hormones, unable to express your
9 gender identity. What happened?

10 A. It was catastrophic for me. My body wreaked havoc on me.
11 Emotionally I was a wreck all the time. It was just really
12 bad.

13 Q. Were there any physical manifestations? You've talked
14 about the hormones.

15 A. Yes, there was a regression.

16 THE COURT: Ms. Diamond, remember, she has to finish
17 her question before you start talking.

18 THE PLAINTIFF: I'm sorry, Your Honor.

19 BY MS. LITTRELL:

20 Q. Were there any physical manifestations, anything that
21 would indicate to the outside world, to medical professionals,
22 that your gender dysphoria was not being properly treated or
23 managed?

24 A. Yes. When I tried castration attempts.

25 Q. And did you attempt castration during those years in which

1 GDC cut you off from your gender dysphoria treatments?

2 A. Yes.

3 Q. Had you attempted castration before that? When you were
4 following those two protocols?

5 A. No.

6 Q. Okay. Have you attempted castration since you reentered
7 GDC custody in October of 2019?

8 A. Yes, ma'am.

9 Q. Do you have any idea of how many times you have attempted
10 castration?

11 A. A couple, maybe three.

12 Q. Okay. When was the last time?

13 A. The last time was back in October.

14 Q. Okay. Can you describe what that means, just for the
15 record. And I apologize to have to ask this question. But is
16 there bleeding involved? How do you attempt to castrate?

17 A. My -- the way I do it is with rubber bands. My brothers
18 used to -- we had dogs, and they used to clip the tails off the
19 dogs with rubber bands. And so I generally will put bindings
20 of rubber bands around my genital area and -- to that area.

21 Q. Is that in an effort to cut off blood flow?

22 A. Yes, ma'am.

23 Q. Is it painful?

24 A. Yes, ma'am.

25 Q. Now we have to talk about the sexual assaults that you've

1 experienced.

2 A. Okay.

3 Q. First, briefly, and I know that we've already -- this has
4 been litigated before, so we're not going to talk much about
5 this, but you have been in GDC custody before; isn't that
6 right?

7 A. Yes, ma'am.

8 Q. Did you file a lawsuit against GDC back in 2015?

9 A. Yes, ma'am.

10 Q. And what was the reason that you filed that lawsuit?

11 A. The basis was for gender dysphoria treatment -- for not
12 receiving dysphoria treatment. And I had some issues -- a lot
13 of issues, unfortunately -- with physical and sexual assault.

14 Q. So we're not going to talk much about that. I know they
15 were horrific. They were detailed in your Complaint.

16 But I do want to ask you where you were housed at the --
17 not -- you don't have to name the facilities, but the types of
18 facilities that you were housed in and in which you experienced
19 multiple sexual assaults.

20 A. Men's facilities. They always house me in men's
21 facilities. And that's where.

22 Q. Were they maximum security? Or were they close security?

23 A. Yes, I know they were maximum security, close and max.

24 Q. Were you ever housed in a medium security facility?

25 A. I was. Yes, ma'am, I was housed in a medium security.

1 Q. Can you tell us the name of those, the medium security
2 facilities you were housed in.

3 A. I was housed at Rutledge State Prison, which was a medium
4 security facility.

5 Q. Any other medium security facilities --

6 A. Um --

7 Q. -- that you know of?

8 A. That I know of, no.

9 Q. Okay. And were you sexually assaulted at Rutledge?

10 A. No.

11 Q. Okay. The sexual assaults that you have alleged, I want
12 to show you --

13 MS. LITTRELL: And at this point I'm going to ask my
14 co-counsel/colleague to bring up Plaintiff's Exhibit 228 (sic).
15 I apologize, there's so much going on in this case, we uploaded
16 a lot of evidence and marked it -- premarked it so we're not
17 going in chronological order.

18 BY MS. LITTRELL:

19 Q. Do you have a screen there?

20 A. I do.

21 Q. Do you -- what is this document?

22 A. This looks like the face sheet of the first lawsuit.

23 Q. Okay. And do you see there on the front where it says,
24 "Verified Complaint"?

25 A. Yes.

1 Q. Can you turn to the last page. I say last page, but --
2 right there. Thank you. And for the record, that is marked as
3 Page 39 of the exhibit, which is marked as Plaintiff's 226
4 (sic). Do you see there a signature?

5 A. I do.

6 Q. Is that your signature?

7 A. Yes, ma'am. It is.

8 Q. Do you know what that signature certifies or attests to?

9 A. Yes. It attests to the fact that I'm under perjury, if I
10 lie on the stand or in that document.

11 Q. So you understand that everything you alleged in that
12 lawsuit --

13 A. Yes.

14 Q. -- you are attesting to by signing the Complaint?

15 A. Yes.

16 MS. LITTRELL: I would like to introduce this into
17 evidence so we don't have to go through anything that happened
18 at the time.

19 BY MS. LITTRELL:

20 Q. Did you -- did you sign that accurately?

21 A. I did.

22 MR. CHALMERS: When we get there, I object to this.
23 The pleadings are not evidence. Moreover, this is not a
24 pleading from this case. This is a pleading from 2015.

25 Ms. Diamond has simply identified her signature. She

1 hasn't testified to anything that is in the document. It is
2 hearsay. It is not evidence. And we're not here to talk about
3 events from 2015 or 2012. Object to the admission of the
4 exhibit, Your Honor.

5 MS. LITRELL: Because, Your Honor, the relevancy is
6 because of the sexual assaults and the experience she had
7 during those years. The experience she had with reporting
8 those as PREA violations. And we don't want to -- and we're
9 not going to describe or belabor all of that.

10 Instead of giving testimony, she's testifying that
11 everything she said in here was accurate, um, and true at the
12 time. And in that way, we don't have to talk about those
13 again. That's the -- that's the basis to -- um, to have this
14 introduced and its relevancy.

15 THE COURT: Well, a minimal amount of background
16 information can be helpful. And I understand the point you are
17 trying to make. But given the purpose of our hearing today, I
18 don't think you need to spend a whole lot of time making that
19 point, particularly when the defendants haven't made the point
20 that you're anticipating they are going to make.

21 But, Ms. Diamond, this does raise one issue that you
22 say you are familiar with, and I want to remind you, as I will
23 every witness, that when you testify in court, you are placed
24 under oath, and if you testify falsely, you can be prosecuted
25 for perjury. Do you understand that?

1 THE PLAINTIFF: I do understand, Your Honor.

2 THE COURT: Okay. All right. So I -- yes?

3 MR. CHALMERS: I shouldn't interrupt you, Your Honor,
4 go ahead.

5 THE COURT: Well, go ahead, I was through with my
6 question of Ms. Diamond.

7 MR. CHALMERS: Just for the record, I want to make
8 sure our objection is noted and on the record. We do not plan
9 to cross-examine Ms. Diamond on the contents of this 40-page
10 Complaint from 2015. And I just want to make it clear that
11 that is not evidence in the case and should not be considered
12 in determining whether she's entitled to emergency relief
13 today.

14 THE COURT: Well, I don't think that it's being
15 offered to prove the truth of what happened as much as the
16 impact that Ms. Diamond claims that her experiences have had
17 and how that has affected what might be relevant to this case.

18 Again, we know it's in anticipation of an argument
19 that they think you're going to make. I think we might need to
20 wait until they make the point to get into it too deeply.

21 So, if there are a few things you need to go back
22 five or six years to pick up, do it, and I'll let you go for a
23 moment, but, remember, I'm interested in what happened in the
24 latter part of 2020 and the early part of 2021.

25 MS. LITTRELL: Understood, Your Honor. And thank

1 you. I don't want to -- I know that what happened to Ashley
2 back then was very distressing for her to recount, and there's
3 a lot of distressing things to recount that are more current,
4 and so I'm trying to ensure that she maintains her composure,
5 so certainly we're going to not talk about those in detail.

6 BY MS. LITTRELL:

7 Q. Were you -- I'll just ask, did you endure multiple sexual
8 assaults while you were incarcerated the first time?

9 A. Yes.

10 Q. When you were -- and are those assaults documented in the
11 first Complaint that you filed?

12 A. They are.

13 Q. And you already verified that those were true, that you
14 attest to their accuracy.

15 A. Yes.

16 Q. When were you diagnosed with post-traumatic stress
17 disorder?

18 A. When I arrived at Baldwin State Prison, after the initial,
19 first, brutal assault.

20 Q. So after you were sexually assaulted for the first time in
21 GDC custody, you were diagnosed with post-traumatic stress
22 disorder; is that right?

23 A. I was.

24 Q. Did you report any of the sexual assaults that you endured
25 the first time you were in GDC custody?

1 A. Yes, ma'am.

2 Q. Did anything happen as a result of reporting them?

3 A. No, ma'am, sadly.

4 Q. Did anything happen adverse to you as a result of
5 reporting them?

6 A. Yes. I received a great deal of grief, if you will, from,
7 like, my subordinates, the people in charge of me. Every time
8 I would go and try to make these complaints, I would be told,
9 you know, it's because of who I am or because of what I'm doing
10 or because, quote, unquote, people like me come into the system
11 and we like to get boyfriends. Is the types of things that I
12 was told.

13 Q. Did you experience any retaliation? So, in terms of
14 adverse actions -- so, those were things that you were told.
15 Did you lose any privileges? Did you have -- did you fear for
16 your safety? Did anything happen besides things that were said
17 to you after you reported that made you less likely to
18 cooperate --

19 A. Yes.

20 Q. -- in PREA investigations?

21 A. Yes.

22 Q. Tell us about those.

23 A. Staff members would pull up on me after PREA
24 investigations and they would tell me that, you know, they
25 would be private and confidential. But friends or other staff

1 members would pull up on me and be like, "You made this
2 complaint."

3 They would go to the inmates before, and the inmates would
4 run up on me, like, multiple times before I could even -- you
5 know, I had no way to defend myself or say anything. They
6 would be like -- they would come to me and be like, "We were
7 told this," or, "We were told that you did that." There was
8 never any protection allotted towards me. Or they never did
9 anything to prevent.

10 Q. Do you -- when you're talking about the inmates that
11 rolled up on you, were any of those the actual perpetrator of
12 the violence that you had endured?

13 A. Yes.

14 Q. So the people that you told, um, somehow leaked that
15 information or that information got to the perpetrator of the
16 assault; is that what your testimony is?

17 MR. CHALMERS: Your Honor, she's continuing with --
18 counsel is continuing with leading questions here.

19 THE COURT: It is leading. I sustain that objection.
20 And you have laid sufficient groundwork for the point you need
21 to make. You can come back and develop it further should it be
22 necessary on cross examination -- after cross examination, but
23 I understand your point. The groundwork's been laid, so move
24 on to your next subject.

25 MS. LITTRELL: As it turns out, that was my last

1 question --

2 THE COURT: All right. Then I sustain the objection.

3 MS. LITTRELL: -- about the GDC stay the first time.

4 BY MS. LITTRELL:

5 Q. How did you end up back in GDC custody this time?

6 A. A technical parole violation.

7 Q. And when did you arrive at -- back into GDC custody? Do
8 you remember the date?

9 A. It was approximately around October, 2019.

10 Q. Do you think it was the end of October?

11 A. I think it was. Yes.

12 Q. Okay. When you entered GDC custody again, where did you
13 go initially?

14 A. When I entered GDCP custody, I went to -- are you asking
15 when I came into --

16 Q. You first came back into prison.

17 A. I was at Jackson Diagnostic. Jackson Prison.

18 Q. So that's Georgia Diagnostic and Classification Prison,
19 also known as GDCP, also known as Jackson?

20 A. Yes, ma'am.

21 Q. So I think for clarity sake we are going to refer to that
22 as "Jackson," because I know that's --

23 A. That's what we call it.

24 Q. -- how you refer to that. So you initially went to
25 Jackson. And if you can recall, in the first week that you

1 were at Jackson, did you identify yourself as a transgender
2 woman?

3 A. Absolutely.

4 Q. In what ways?

5 A. By vocal proclamation.

6 Q. So you told GDC staff?

7 A. Yes.

8 Q. Do you recall whether anyone at GDC wrote that information
9 down? Did you see anyone document what you said?

10 A. In 2019?

11 Q. Correct.

12 A. Yes.

13 Q. Okay. Do you recall speaking with Grace Atchison?

14 A. I do.

15 Q. Do you recall when you talked to her in relation to your
16 arrival?

17 A. (No response.)

18 Q. On the first day? Was it later?

19 A. It was probably about a week or two after, week or two
20 after.

21 Q. And before you spoke with Ms. Atchison, did you talk to
22 anyone else, any other GDC staff, about being transgender?

23 A. Um, when I first arrived there, they all knew who I was.
24 So they -- when I got off the bus, they came and got me. They
25 all knew who I was. But yes, I did, because I had questions

1 about where I was going to be housed.

2 Q. And did you talk to those GDC staff members about housing
3 and safety?

4 A. I did.

5 Q. Do you know the names of any of those people you talked
6 to, before you talked to Ms. Atchison?

7 A. Lachesha Smith. I spoke with my counselor, Ms. Weinstein,
8 who was at the prison. A transgender psychologist there. Just
9 different people of that nature.

10 Q. And what did you tell them about your safety needs or
11 about your housing preferences?

12 A. Well, I told them, you know, being a woman, that I was
13 hoping that I was going to go to a women's facility this time.

14 Q. And what --

15 A. And, um, everyone was telling me that we weren't there
16 yet. That they didn't know. That I would meet with the
17 classification committee, but the word of mouth was that GD --
18 we weren't there yet, and that it probably wasn't going to
19 happen.

20 Q. When you say "word of mouth," do you mean you were told
21 by --

22 A. By people like Ms. Smith and other staff members, yes.

23 Q. Prior to Ms. Smith -- I'm sorry, I was confused for a
24 second, so Ms. Smith, that's Lachesha Smith?

25 A. Yes.

1 Q. Do you know what her role or title was?

2 A. She was the unit manager, she was my boss, and she was the
3 PREA compliance manager.

4 Q. Okay. And then you talked to Ms. Atchison; is that right?

5 A. I talked to Grace or Ms. Atchison on the phone, yes. On
6 the video conference.

7 Q. And did you -- did she ask you if you had a preference for
8 a male or female facility?

9 A. She did.

10 Q. Okay. And what did you tell her about that?

11 A. I told her that my first preference would be a female
12 facility. But if that was not going to happen, then I would
13 like to go back to Rutledge.

14 Q. Okay. And why did you say that Rutledge would be an
15 acceptable alternative?

16 A. I only said that as an alternative is because I thought
17 that me going to a female facility was never going to happen.
18 Because of what I was told. So I -- as an alternative, I
19 slipped Rutledge in there.

20 Q. And is there a reason that you mentioned Rutledge as an
21 alternative?

22 A. Yes, ma'am, there was a reason. Because when I was housed
23 at Rutledge, that was the one time in GDC custody that I was
24 never harassed or assaulted.

25 Q. Okay. Were you asked by Ms. Atchison or anyone else if

1 you had experienced sexual assault in the past?

2 A. I can't recall if she asked me.

3 Q. Okay. Do you remember telling anyone that you had
4 experienced past sexual assault in GDC custody?

5 A. Yes.

6 Q. Was that part of the intake process?

7 A. It's part of the intake process, yes, ma'am.

8 Q. By the way, were any of the crimes that you committed or
9 the parole violation that landed you back in prison, were any
10 of them violent crimes?

11 A. No.

12 Q. Did any of them involve sex in any way?

13 A. No. No, no.

14 Q. Did GDC ask those questions, those kinds of questions,
15 during what is called a PREA questionnaire or PREA exam?

16 A. Yes, there was a questionnaire, and they asked me all of
17 those questions about my past, past assaults and victimization.

18 Q. I'd like to --

19 MS. LITRELL: And I'm sorry, I did not put this
20 number on here, but do you -- can you find the PREA
21 questionnaire as an exhibit.

22 Take that down -- there we go. If you can scroll to
23 where the date is and -- when she first arrived, which would
24 have been October of 2019.

25 THE COURT: And what's the exhibit number?

1 MS. LITTRELL: The exhibit number is -- can you
2 say -- the exhibit number is 134-A, and there's a Bates stamp
3 at the bottom that says "DEF1427." So that would be the page
4 number within there.

5 BY MS. LITTRELL:

6 Q. Have you ever seen this document before?

7 A. Yes.

8 Q. Do you know what it is?

9 A. It is, um, a victimization questionnaire.

10 Q. Okay. And so the questions on here certified whether or
11 not you had been a victim of prison or jail rape or sexual
12 assault, and you answered that, "Yes." Is that a correct and
13 honest answer?

14 A. Yes.

15 Q. And then where it says, "Are you perceived to be
16 transgender, intersex, or gender non-conforming?" and you said,
17 "Yes," was that an honest answer?

18 A. Yes.

19 Q. And they asked you if you had a history of prior sexual
20 victimization or sexual abuse?

21 A. Yes.

22 Q. You answered, "Yes." Was that an honest answer?

23 A. Yes.

24 Q. And did they ask you whether you had a perception of being
25 vulnerable?

1 A. Yes.

2 Q. And was that an honest answer?

3 A. Yes.

4 Q. And they asked you about the criminal history, which we
5 just talked about, that is exclusively non-violent, you
6 answered that, "Yes"?

7 A. Yes.

8 Q. Was that an honest answer?

9 A. Yes.

10 Q. Okay. And then the last question was whether you had
11 convictions for sex offenses against an adult or a child, and
12 you answered, "No." Is that an honest answer?

13 A. Yes.

14 Q. And then you see the sexual aggressor factors, the answers
15 were all no. Were those honest answers?

16 A. Yes.

17 Q. And a GDC staff member asked you those and noted your
18 answers to that; is that right?

19 A. Yes.

20 Q. By the way, did anyone in your first few weeks that you
21 spoke with -- you mentioned this a little bit, but I just want
22 to make sure we understand. Did anyone seem to be familiar
23 with you or your first lawsuit in this first few weeks?

24 A. Yes. Everybody.

25 Q. Okay.

1 A. That I came in contact with.

2 Q. Can you recall whether any -- any names in particular?

3 A. Um, yes. Um, when I first arrived, I'd spoke with Field
4 Operator, Mr. Robert Toole. I spoke with Mr. Cedric Taylor. I
5 spoke with Mr. Ford. I spoke with -- there was another GDC
6 official, but I can't remember his name.

7 Q. And all of those officials, your testimony is they knew
8 about your first lawsuit, they indicated that to you?

9 A. Yes.

10 Q. What about Ms. Atchison? Did she seem to be aware of your
11 first lawsuit?

12 A. She did.

13 Q. Where were you initially placed? Where were you housed in
14 October? So you initially entered Jackson for classification
15 purposes?

16 A. Um-hum.

17 Q. When did you leave there?

18 A. I left Jackson in June.

19 Q. So October to June, you were placed or housed -- you lived
20 in Jackson; is that right?

21 A. Yes.

22 Q. What kind of facility is Jackson prison?

23 A. It's a Level 5.

24 Q. I don't -- can you explain what that means? Is it a --
25 close security? Medium security?

1 A. Yes, it's a close security facility.

2 Q. Which means maximum security?

3 A. Yes, maximum security facility.

4 Q. And isn't -- is that the same type of facility where you
5 were sexually assaulted before?

6 A. Yes, ma'am.

7 Q. Did you have cellmates when you were at Jackson Prison?

8 A. Yes, ma'am.

9 Q. What is your understanding and your experience of the
10 types of crimes that people housed at GDCP have committed?

11 A. They are usually violent offenders with aggressive
12 histories.

13 Q. And how did that make you feel, to be housed in a maximum
14 security prison, again, with violent offenders?

15 A. It was a nightmare.

16 Q. So now we have to talk a little bit about your experience
17 there. I want to go in chronological order, and I am going to
18 be as brief as I can be.

19 A. Okay.

20 Q. Do you recall the first assault that's described in your
21 lawsuit involving an inmate that occurred in your cell at
22 night?

23 A. I do.

24 Q. Do you recall when that happened in relation to when you
25 were placed there?

1 A. It was within the first couple of nights.

2 Q. And where were you when that occurred?

3 A. In my cell.

4 Q. What were you doing?

5 A. Sleeping.

6 Q. How did you wake up?

7 A. I woke up because I felt something heavy on me, and I woke
8 up, and there was somebody on top of me, and he was doing his
9 business.

10 Q. I'm sorry I have to ask you this. Can you just say
11 whether or not you were --

12 A. He was raping me.

13 Q. Sorry.

14 A. And then when he got done and left, I looked down to make
15 sure I was okay. And, um, I was spotting. There was just a
16 little bit of blood.

17 Q. Again, Ashley, I'm sorry to ask you this question and I'm
18 sorry that happened to you.

19 A. Oh, God.

20 Q. Did you tell any GDC staff member about that incident?

21 A. No, I didn't. I didn't tell anybody.

22 Q. Why not?

23 A. Because I was afraid, and I thought that -- when I first
24 got there, they told me that I wouldn't be there long.

25 Q. Okay.

1 A. And in my mind, I felt like if I didn't make problems,
2 that everything would be easier for me, and then I would just
3 leave. And then I requested that I be moved from where I was
4 and put on single-cell status.

5 Q. Okay. And did that happen?

6 A. Eventually.

7 Q. Okay. Did you have fear of being placed in solitary if
8 you --

9 A. Yes.

10 Q. -- if you told people?

11 A. Yes, I was told that that was -- every person that I went
12 to, from Ms. Smith -- Ms. Smith was my boss and my confidante,
13 and so when I went to her, every time it was, "You're going to
14 lockdown." It was straight, "You're going to solitary." It
15 was never an issue of, you know, what else can we do. It was
16 always, "You're going straight to lockdown."

17 Q. Did you authorize your lawyers to report that incident to
18 GDC?

19 A. I did.

20 Q. To your knowledge, did they?

21 A. I think so.

22 Q. Did that incident impact your existing post-traumatic
23 stress disorder, if you know?

24 A. It did.

25 Q. Did there come a time where you were again assaulted by an

1 inmate shortly after that?

2 A. Uh-huh. Yes. Yes.

3 Q. Can you tell us about what happened there. Do you recall
4 that event?

5 A. Yes, I do. Yes, I recall. I was doing my duties as an
6 orderly, and someone tried to drag me in the closet.

7 Q. Do you recall how long after the first assault that
8 happened?

9 A. Maybe a couple -- about a week or two, couple weeks.

10 Q. Was this the same assault -- I know there have been a lot,
11 so I just want to make sure that we keep things straight. Do
12 you recall having to be rescued by other offenders? Was that
13 the same incident that you're describing now?

14 A. Yes, the first offender was Darrell Smith, who came in
15 when someone had tried to come in on me.

16 Q. Okay.

17 A. We then went to Ms. Lachesha Smith's office.

18 Q. So this is the second assault when you were -- did -- let
19 me testify. It happened in your -- I think you got a little
20 out of order with the closet. But did this happen in your
21 cell? Were you pushed into your cell?

22 A. The first one was in my cell.

23 Q. And the second one?

24 A. Was in the closet.

25 Q. And that's the one in which you were rescued by others?

1 A. Yeah.

2 Q. Okay. What happened next? You say someone rescued you?

3 A. Um-hum.

4 Q. Was it -- was it after -- before or after you were touched
5 sexually?

6 A. After.

7 Q. And what did you do next or who did you tell?

8 A. I went and told Ms. Smith.

9 Q. And what did she say?

10 A. She said that she would move my cell. She moved my cell.
11 And that I was probably going to lockdown because it was too
12 many problems.

13 Q. Was there an investigation? A PREA investigation that you
14 know of?

15 A. No.

16 Q. Did anybody from OPS or otherwise come to speak to you?

17 A. No.

18 Q. So you don't know whether or not -- how that PREA
19 investigation ended?

20 A. I have no idea.

21 Q. And what impact, if any, did what happened after you
22 reported that have on your willingness or fear of participating
23 in a PREA process going forward?

24 A. It made me realize that I was up against -- you know, I
25 felt powerless, like I was up against people who wouldn't even

1 listen or believe anything that I said.

2 Q. Did there come a time where you provided to Ms. Smith some
3 letters? Threatening letters?

4 A. Yes, I did. Yes.

5 Q. And did she file a PREA report as a result?

6 A. No, she was pretty angry.

7 Q. Tell me what you mean, she was angry.

8 A. I brought the letters in to her office and she was like,
9 "You want to be out here? You keep talking about you want to
10 be an orderly and you want to work for us, but you keep talking
11 about people who are harassing you and people who are doing all
12 these things to you."

13 She's like, "You just might as well forget it. You're
14 probably not going to be an orderly anymore or anything. And
15 from my experience, I think the best thing to do is to send you
16 to solitary. So then if you're in lockdown, you won't have
17 these fears."

18 Q. And what did you say in response to that?

19 A. I told her that lockdown wasn't good for me, and I didn't
20 think that that was the answer. And was there no other
21 alternatives? And she said that she wanted to talk to the
22 warden. And she gave me the letters back and said that she was
23 going to have to let him know and see what he said.

24 Q. Did any investigation ensue?

25 A. Not that I know of. No one ever approached me about it

1 after that.

2 Q. Did you authorize your -- I'm sorry, let me move on to the
3 next assault we have alleged in your lawsuit. It was involving
4 Nurse Lucas. Do you recall that incident?

5 A. I do.

6 Q. Do you recall about when it happened? The month?

7 A. No, I don't.

8 Q. If I told you it was March 10th, that there's information
9 in there, does that sound right?

10 A. Yeah.

11 Q. So you described two assaults that happened in November.

12 A. Um-hum.

13 Q. And also threatening letters.

14 A. Um-hum.

15 Q. Between November and March, when this incident happened,
16 can you describe the experience of being a transgender woman in
17 Jackson Prison. Were there any other sexual incidents or
18 sexualized experiences?

19 A. It was always something. Walking down the hallways --
20 there's always mass movement when we move for chow, we go to
21 lunch, and there's so many hundreds of guys that come through,
22 you don't know who's touching you. There's always somebody
23 that was always -- I've always been touched or --

24 Q. And by "touched," you mean inappropriately?

25 A. Patted on the derriere, grabbed on the bosom, grabbed and

1 hugged. Just people constantly trying to in some way touch me.

2 Q. Did you receive any threats of sexual violence during
3 those ensuing months?

4 A. Yeah. There were people, like, that knew -- gang members
5 that knew about the last time that I was in. And there were a
6 lot of them asking me questions about what happened with, you
7 know, Such-and-such.

8 THE PLAINTIFF: And, Your Honor, what they don't tell
9 y'all about the gangs is that they've got phones in there. And
10 if you tell their names, they can get you. There is nowhere
11 for you to hide. There is nowhere. I don't care where you go
12 in GDC, they can get you.

13 BY MS. LITTRELL:

14 Q. Ashley. So, it sounds like your testimony is that they --
15 you were threatened with violence?

16 A. Yes. Yes. More than once.

17 Q. Were there any sexual threats?

18 A. Yeah. I've had people say all kinds of -- it's a men's
19 facility with men and violent criminals. So the talk and
20 rhetoric is pretty rough.

21 Q. By "rough," do you mean sexualized?

22 A. Sexually and physically.

23 Q. Is it directed towards you or just in general?

24 A. Just -- generally directed towards me and in general,
25 because when you're in an environment that it's all men, you

1 know, they can smell that fear.

2 Q. Just to make sure we understand -- I think it's obvious --
3 but you have been on hormones since you were seventeen, do you
4 have breasts? Female breasts? Female secondary sex
5 characteristics?

6 A. Yes.

7 Q. So it's obvious that you're a woman as you walk down the
8 halls in Jackson?

9 A. Um-hum.

10 Q. So on March 10th, the incident involving Nurse Lucas, can
11 you just briefly tell us what happened in that incident.

12 A. Yes, the warden --

13 MR. CHALMERS: I will object. We're having a lot of
14 testimony on things occurring not at Coastal State Prison and
15 not anytime in the immediate past.

16 MS. LITTRELL: To that, Your Honor, I would say in
17 the status conference, because Your Honor mentioned Nurse Lucas
18 and Ms. Smith, we understood that Your Honor wanted to hear
19 some information about those incidents. If -- if you don't, we
20 can just skip to whether she reported it and what happened
21 next, which is what I think is relevant to -- to what's
22 happening now.

23 THE COURT: I noted that I might be interested in
24 hearing from the alleged -- or the staff member who allegedly
25 assaulted Ms. Diamond, but that didn't seem to be of particular

1 interest to the plaintiffs that I hear from her.

2 I understand you want to lay some background about
3 what happened at GDC -- or, pardon me, at Jackson to the extent
4 it might have some bearing on what happened at Coastal, but we
5 don't need to walk through everything that happened at Jackson.

6 MS. LITTRELL: Thank you, Your Honor.

7 THE COURT: I think you probably made the point you
8 need to make on that.

9 MS. McGOVERN: And, Your Honor, I was just going to
10 note that we did have the discussion about the possibility of
11 my client being here and discussing Jackson, and Your Honor had
12 decided at this point of the hearing that would not occur, so
13 that was our understanding as well.

14 THE COURT: Well, that was the parties' understanding
15 as relayed to me.

16 So, you may proceed.

17 BY MS. LITTRELL:

18 Q. I am just going to ask you briefly, after the Nurse Lucas
19 incident, did you tell anyone, any GDC staffers, or did you ask
20 anyone about that incident?

21 A. Yes, I told my counselor.

22 Q. And --

23 A. I asked the doctor. I told the doctor.

24 Q. And what did your counselor say to you?

25 A. She told me that that is a form of abuse and that she must

1 report it.

2 Q. So she reported that?

3 A. Yes.

4 Q. Not you?

5 A. No. She did.

6 Q. Was there an investigation?

7 A. I did speak with someone from Internal Affairs.

8 Q. Do you know the results of that investigation?

9 A. I got a disposition that said that it was going to be
10 turned over to IOC, and that the staff member was moved.

11 Q. So after that, you were -- and I'm sorry, in the meantime,
12 before the resolution of that PREA investigation happened, did
13 any other GDC -- or staff members, GDC staff members at Jackson
14 approach you in any negative way?

15 A. Yes. I was approached by the sergeant, several COs,
16 several other affiliates. It got really bad. I had to go to
17 the retaliation monitor.

18 Q. And did you think that that was as a result of the PREA
19 report that occurred?

20 A. I'm sorry? I was distracted. I thought she was pointing
21 at me. I'm sorry.

22 Q. So you talked about the people that talked -- staff
23 members who talked to you about that assault.

24 A. Um-hum.

25 Q. Did that put you in fear --

1 A. Yes.

2 Q. -- that other people knew?

3 A. Yes.

4 Q. And then there is the incident involving Defendant Smith,
5 which we are not going to talk about, the facts underneath
6 that. But tell me, did you report that after it happened?

7 A. I did. I reported to a third party.

8 Q. So did you report it or did you authorize your attorneys
9 to report it on your behalf?

10 A. I authorized my attorneys to report it. Third party.

11 Q. And do you recall whether or not there was an
12 investigation?

13 A. There was no investigation that I am aware of.

14 Q. Do you think you might have been interviewed by someone at
15 some point about that?

16 A. At some point, a couple of weeks ago, someone came to me
17 and asked me -- maybe two weeks ago, three weeks ago, four
18 weeks ago.

19 THE COURT: Two weeks ago? Was the first time you
20 were interviewed about the Nurse Smith incident?

21 THE PLAINTIFF: Yes, sir. Yes, sir.

22 BY MS. LITTRELL:

23 Q. And that's what you recall as you sit here today, is the
24 last time you were -- or this interview that happened recently?

25 A. Uh-huh.

1 Q. And in the meantime -- this happened in May, I will submit
2 to you, of 2020. And when you were finally investigated, while
3 you were still at Jackson, did not knowing what the results of
4 that PREA report have any impact on you? Did it create any
5 fear?

6 A. Yeah. It created a great deal of fear and, um,
7 hopelessness.

8 Q. And why is that? Why were fearful in the interim between
9 when you reported it and afterwards?

10 A. Because I was fearful of what was going to happen to me.

11 Q. And did other staff members at Jackson seem to know about
12 that report?

13 A. Everybody did.

14 THE COURT: Let me interrupt. I assume that we had
15 some non-party witnesses in the courtroom and Ms. Crowder has
16 asked them to leave even though nobody has invoked the rule.
17 But why don't we invoke the rule for the record.

18 MR. McCOY: Your Honor, we had discussed it before
19 with opposing counsel. I thought that's what we were going to
20 do. Sorry for being a distraction. I was asking counsel if
21 any of those were witnesses. I appreciate it.

22 THE COURT: Okay. Well, it's invoked now, and the
23 witnesses have left.

24 Mr. Chalmers, could you tell us for the record which
25 defendants are here?

1 MR. CHALMERS: Your Honor, Chief Assistant
2 Commissioner Ahmed Holt, and we also have Grace Atchison
3 sitting behind Mr. Holt. And those are the only defendants in
4 the courtroom.

5 I'm sorry, Your Honor, you may see Warden Benton, who
6 is in a light brown suit. He was also here for a period of
7 time, and I think he will likely return as well.

8 THE COURT: All right. Ms. Littrell, you may
9 continue.

10 MS. LITRELL: Are we invoking the rule?

11 THE COURT: Yes, the rule is invoked.

12 MR. MCCOY: The parties can stay. Witnesses have to
13 leave.

14 MS. LITRELL: Parties, of course.

15 BY MS. LITRELL:

16 Q. Did you experience any retaliation after the reporting of
17 the Arneika Smith PREA allegation?

18 A. Yes.

19 Q. So we've talked about other staff members talking to you
20 and creating some fear as a result of finding out about it.
21 Did you -- did it have an impact on your job? You said you
22 were an orderly.

23 A. Yes, ma'am.

24 Q. Tell us about that.

25 A. My duties -- suddenly I was relieved of a lot of my

1 duties. A lot.

2 Q. Okay.

3 A. Um, my cell was ransacked. They took soap, they took food
4 items for -- you know, I could not -- Your Honor, at the time,
5 I could get no answer as to why. But those things were taken.
6 Soap, toiletries, things that Ms. Smith had given me for my
7 work as an orderly. And that was later verified.

8 Q. Okay. All right. So now let's talk about your current
9 placement. When did you arrive at Coastal Prison?

10 A. I arrived at Coastal in June.

11 Q. In June of 2020?

12 A. I did. Yes, ma'am.

13 Q. Okay. What is your understanding of the type of facility?
14 Is it a medium or close or minimum security facility?

15 A. I had no understanding of Coastal or what type of facility
16 it was. The only time I had ever heard of Coastal was just in
17 passing. It was my first experience with Coastal.

18 Q. Did you feel safe there?

19 A. When I first got there, I didn't know anything about it.
20 But I -- but as time went on, no. I didn't.

21 Q. Let's talk about how you came to feel less safe.

22 A. Yes.

23 Q. Do you recall a dorm meeting involving a Defendant Unit
24 Manager Jackson?

25 A. I do. I do recall very vividly.

1 Q. And when did that occur in relation to when you first
2 arrived?

3 A. It was exactly -- when I first arrived at Coastal, I was
4 put on the 14-day quarantine, which is pretty standard. And it
5 was immediately following that quarantine that I was placed in
6 the dormitory. Two of the defendants -- Mr. Toole,
7 Mr. Shepherd -- they came and saw me in the cell, and they told
8 me that they were going to move me next door.

9 Q. Okay. And then how did you find out that there had been a
10 dorm meeting in which you were discussed?

11 A. The day before, Mr. Jackson had come to see me. Before I
12 was released from quarantine, he came over to my door and he
13 asked me who was Ashley Diamond. And I said, "It's me."

14 And he said, "You're supposed to be a woman but you've got
15 a full-grown beard on your face."

16 And I said, "Yes, sir."

17 He said, "Ain't that kind of weird?" He said, "You don't
18 feel like a freak? You got titties and that?"

19 And I said, "Yes, sir."

20 He said, "No matter what you got up here, down there
21 you're still a man, and I'm going to treat you like a man. Do
22 you understand?"

23 And I said, "Sir," I said, "you're really upsetting me.
24 Please get away from my door." And I asked for Mental Health.

25 Q. And this is the unit manager of the dorm that you were

1 going to be placed in; is that right?

2 A. Yes, ma'am.

3 Q. How did that make you feel in terms of your safety at
4 Coastal?

5 A. There ain't going to be any. I was going back into the
6 same stuff that I'd been going through the whole time. Nothing
7 has changed.

8 Q. And did you come to understand that there was a meeting?

9 A. Yes, there was. I walked into the dormitory next door.
10 And as soon as I walked in, everybody stops and starts staring
11 at me. And I bring in my belongings and I'm like -- it was
12 really weird and awkward. Not just, like, a normal staring.
13 This was literally every eye in there stopped doing what they
14 were doing and stared at me.

15 I came in. The dormitory meeting was going on. Everybody
16 was, like, doing this (indicating hands up) when I walked by.
17 They were trying to show me to my cell, and everybody was going
18 (indicating).

19 And I said, "Wait a minute," I said, "this is not how this
20 is supposed to go." And they were having a dormitory meeting,
21 and I said, "May I speak?" And I got up and they said yes.
22 And I said, "I'm not here to bother any offender. I am not
23 here to make friends with anybody. I am not here to do any of
24 that. All I want to do is get through this." And I said, "I
25 know this is as awkward for everybody here as it is me."

1 Q. Did you come to find out that there had been some
2 announcements or some statements by Mr. Jackson before you
3 arrived?

4 A. Yes, ma'am. Immediately following that speech that I gave
5 to the dormitory, other offenders came up to me. What we have
6 in evidence-based, we have mentors. I don't want to get too
7 off, but I need y'all to understand that evidence-based is an
8 inmate-ran program. That this is ran by inmates. So they are
9 the facilitators in that program.

10 So I was pulled up by those facilitators. They began to
11 tell me that Mr. Jackson had just came in and announced to
12 everybody that a freak was about to walk in and that no matter
13 how much like a woman that he looks, do not be fooled by this
14 person, that they have -- excuse my language in court, Your
15 Honor -- that they have a huge dick.

16 Q. So you came to understand that there had been comments
17 made by Unit Manager Jackson --

18 A. Uh-huh.

19 Q. -- by other inmates --

20 A. Uh-huh.

21 Q. -- who were in your dorm?

22 A. Yes, ma'am.

23 MS. LITTRELL: And at this time I'd like to ask my
24 colleague to bring up, I think it's Exhibit 226. It would be a
25 letter --

1 BY MS. LITTRELL:

2 Q. Did you receive a letter of -- sort of verifying that that
3 had happened to you?

4 A. Um.

5 Q. From other inmates?

6 A. Um-hum.

7 Q. So do you see a letter on the screen right now?

8 A. From Brenden Perry, yeah.

9 Q. Who is Brenden Perry?

10 A. One of the people that tried to defend me and take up for
11 me.

12 Q. Do you see that there's a date at the top of this?

13 A. Uh-huh.

14 Q. Is it June 18th, 2020?

15 A. Uh-huh.

16 Q. Okay. I think we've established that that's shortly after
17 you arrived --

18 A. Yes.

19 Q. -- at Coastal?

20 A. Or the next day, yes.

21 Q. Okay. So, can you tell us -- do you know what this
22 document is?

23 A. Ma'am?

24 Q. Do you know what this document is? What it appears to be?

25 A. A declaration.

1 Q. And can you read what the declaration says.

2 MR. CHALMERS: Objection, Your Honor.

3 A. Yes, I can.

4 THE COURT: That's not necessary. I've got a hard
5 copy of it.

6 MS. LITTRELL: Okay. Thank you, Your Honor.

7 MR. CHALMERS: Well, more than that, Your Honor, this
8 is hearsay. And counsel is getting into the contents of it.
9 But before counsel does, I would like to state I object for the
10 record to consideration of hearsay at this time.

11 THE COURT: Actually, it's a declaration. We can
12 argue later about its admissibility. I've got a lot of
13 affidavits and declarations in front of me, but we certainly
14 don't need to read it into evidence.

15 MR. CHALMERS: That is true, Your Honor. It's --
16 it's not properly sworn, in addition to being hearsay. But we
17 don't have this witness before us.

18 THE COURT: And we don't have Mr. Jackson,
19 unfortunately.

20 MR. CHALMERS: That is true.

21 THE COURT: All right. You may continue.

22 MS. LITTRELL: Thank you, Your Honor. And just to,
23 um, you know, get some clarity around the relaxed rules for
24 preliminary injunction, my understanding was that the
25 evidentiary standard is more lenient in the context of a

1 preliminary injunction. Okay.

2 BY MS. LITTRELL:

3 Q. And this document, it purports to support what it is that
4 you just described you were told; is that fair to say?

5 A. Yes.

6 Q. And how did that make you feel to understand that those
7 comments had been made to all of your dormmates by the person
8 who is in charge of that dorm?

9 A. I felt horrible. I wanted to die.

10 Q. Did you have -- did it make you fearful for your safety?

11 A. Of course. Yes. I was very fearful.

12 Q. Was there a second dorm-wide meeting in which you were
13 singled out?

14 A. Yes.

15 Q. By Defendant Jackson?

16 A. Yes.

17 Q. Can you tell us about that.

18 A. Yes. There was a second dormitory meeting that I was
19 called down to after a lawyer called.

20 Q. Okay. Can you tell us what happened in that --

21 A. I was told then that -- you know, that snitches -- that
22 Mr. Jackson was familiar with people who liked to run in behind
23 him and go and tell the things that he says and does. And that
24 he had people that could get at me -- "...get at you," is what
25 his exact words were.

1 Q. Did you feel threatened by that?

2 A. Oh, of course. Absolutely. I got immediately on the
3 phone with my family, and I got immediately on the phone with
4 my attorney. Yeah.

5 Q. And how did he -- how did you -- and you may have said
6 this, and I just may have missed it.

7 THE WITNESS: Your Honor, can I have a second,
8 please? I just need to --

9 MS. LITTRELL: I'm sorry, Ashley.

10 THE WITNESS: Okay. Go ahead. I'm sorry.

11 MS. LITTRELL: Take a deep breath, if you would.

12 THE PLAINTIFF: I'm ready. I'm sorry, Your Honor.

13 MS. LITTRELL: No apologies, okay. I know this is
14 hard.

15 BY MS. LITTRELL:

16 Q. I just want to make sure that I understand that the -- did
17 you report the first dorm-wide meeting to anyone directly?
18 Where Unit Manager Jackson had said these things?

19 A. I did. I told my counselors. I told -- at the time,
20 Ms. Cantera was a counselor. And I told my mental health
21 counselor. And I told Dr. Fass.

22 Q. About the dorm-wide meeting with Mr. Jackson?

23 A. Yes.

24 Q. And you also said you told your lawyers?

25 A. Yes.

1 Q. And as a result of telling people what had happened, you
2 say that you were pulled aside by Mr. Jackson again?

3 A. Um-hum.

4 Q. And that's the testimony you just gave about what he said
5 to you?

6 A. Um-hum.

7 Q. Okay. Did there come a time where you were sexually
8 assaulted? Do you remember the first time you were sexually
9 assaulted at Coastal when you were followed into your cell in
10 July? Do you recall that incident?

11 A. July 3rd, yes.

12 Q. July 3rd. You recall the date?

13 A. Um-hum.

14 Q. Can you talk about it?

15 A. Um-hum. Well, we were all -- it was a group of us
16 standing outside the cell, as we often do, congregate. I went
17 into the cell. I was followed by a man.

18 And when I got inside the cell, I turned around behind me,
19 and he was behind me, he grabbed me, he put his hand over my
20 mouth, then he proceeded to pull down my pants.

21 Q. Did he touch you?

22 A. Yeah. He touched me. He had my -- he had me.

23 Q. How did that -- how did that attack end?

24 A. Luckily, two gentlemen in the dormitory jumped on him.
25 They came inside and saved me. Yeah, they got him.

1 Q. Do you recall their names?

2 A. Jammi Blake Duckworth and Scotty Hammond.

3 Q. Okay. Was there video cameras that would have captured
4 that attack?

5 A. Yes. There is a camera that is adjacent to my cell. It
6 is right -- um, because of the way Mr. Toole and everyone had
7 it set up, you know, they let me know that there's a camera
8 right in front of my cell that shows exactly my door,
9 everything, anybody coming in and out of my room, anything.
10 That the camera would have caught it.

11 Q. And did you or anyone on your behalf report that attack?

12 A. Yes. Yes. It was reported.

13 Q. Okay. Do you know who reported it and how it came to be
14 reported? Do you recall?

15 A. I had told Ms. Cantera, my counselor, and then I also
16 asked my lawyers and family to make third-party reports.

17 Q. Do you know whether either of the witnesses, the people
18 who rescued you, reported it or said anything to anyone about
19 that?

20 A. I can't recall at this time.

21 Q. Okay. Was there an investigation that you know of as a
22 result of the reporting, third-party or directly?

23 A. Not that I know of. I do know that I was called down to
24 the office, to Ms. Cantera's office, and Warden Benton called
25 and wanted to know if I was ready to talk about it. And I said

1 yes, I'm ready to talk about it, but I would like my attorneys
2 present.

3 Q. Was that the July 3rd incident?

4 A. Yes.

5 Q. Okay. And did you believe that your attorneys would be
6 made available so that you could speak freely?

7 A. Yes, I thought it was a simple request. I thought it
8 would be honored, yes.

9 Q. And why did you ask for your attorneys to be present
10 during that meeting?

11 A. Because of the way investigations had went in the past,
12 because of retaliation, because of the way that everything has
13 ever -- has always went wrong and I was always on the back end,
14 of the receiving end of that.

15 Q. Okay. So, in the Complaint you talk about things that
16 happened to you in September.

17 A. Um-hum.

18 Q. September was a bad month?

19 A. It was a horrible month. I remember vividly. Very
20 vividly.

21 Q. Between July, which is the assault that you just talked
22 about, and September, can you describe whether you were -- you
23 were -- you experienced any sexual harassment or sexualized
24 incidents of any sort that are not outlined in the lawsuit?
25 Can you describe the environment at Coastal?

1 A. Yeah, yeah, yeah.

2 Q. Okay. Tell us about that. Give us some examples of what
3 it's like to be a transwoman in Coastal.

4 A. Okay. Your Honor, okay, for example, I go to get a hair
5 cut. And I'm sitting in the chair, getting my hair cut. The
6 guy that's cutting my hair has his erection on the back of my
7 neck.

8 Let's see. We go out for yard. If we're running around,
9 and there's five or six of us running out, someone reaches down
10 and everybody takes a feel.

11 Um, letters -- constantly letters that are coming from
12 inmates and people that I -- I -- I -- I never reciprocate
13 this. I never ask anyone to write me those letters. And those
14 are the types of things that happened and continuously happen.

15 Q. Are you saying that in terms of these letters that you are
16 either threatened with sexual activity?

17 A. Yes, it's always something of that nature. My dorm has
18 more sex offenders than anyone. It's 92 people, and even
19 though it's evidence-based, I'm housed with at least 70 of
20 those people are sex offenders.

21 Q. Were you propositioned sexually?

22 A. Constantly.

23 Q. So between July and September, did you have anyone sort of
24 looking out for you that made you feel a little more protected?

25 A. Unfortunately, yes. I had to turn to the inmates for

1 protection. I was paying people for protection. And I had
2 friends in the dormitory who were witnessing what was
3 happening, and people were like, "This is not right."

4 Q. Can you just name any -- anyone who was looking out for
5 you between July and September that helped --

6 A. Yes, one of those people has become one of my best
7 friends, Blake Duckworth.

8 Q. But then in September -- when did Blake leave Coastal?

9 A. I would say -- I am not quite sure.

10 Q. So in September, the first assault that you allege in your
11 lawsuit was when you were sleeping in September. Do you recall
12 what happened during that assault?

13 A. I remember that I was asleep, and I remember being -- the
14 next day, the inmates pulling up on me, telling me, you know,
15 what happened to me last night. And I said, "What are you
16 talking about?"

17 And one inmate in particular was like, "Well, there was a
18 dude that was sitting on the foot of your bed, and I had ran
19 him off."

20 And then they were -- like, Earl had told me that he
21 caught -- I won't use this person's name because they are a
22 gang member -- this particular person rubbing me and
23 masturbating himself while I was asleep. And so Earl pulled up
24 on him. And I told Earl that he needed to go and report it. I
25 said, "You need to tell these people what you saw." Because I

1 was not conscious. I don't know. I wasn't awake.

2 Q. So just to be clear, were there a number of times in which
3 somebody came into your cell at night in which you were either
4 fondled or were told that they masturbated while you weren't
5 aware?

6 A. There were these three instances.

7 MR. CHALMERS: Objection, Your Honor, if I can get in
8 a word. These are leading questions.

9 MS. LITTRELL: I am just trying to get through this
10 testimony and make sure that we have a chronology. It is a lot
11 of distress, I think you can imagine, to talk about sexual
12 assault.

13 THE COURT: I will overrule the objection. Let's
14 move along.

15 MS. LITTRELL: Sure.

16 BY MS. LITTRELL:

17 Q. So there's an incident in September. Did you report it?

18 A. Um --

19 Q. If you can recall, the first incident in which someone
20 came in?

21 A. Yes, when it came to my knowledge, I did report.

22 Q. Did any investigation ensue that you recall?

23 A. I spoke with Mr. Betterson in his office. And I gave as
24 much info as I could. I let him know that I wasn't the one
25 that saw this particular incident and that he needed to speak

1 with the offenders that saw it, and he said that he would do
2 that.

3 Q. There came a time in September where you -- a weekend in
4 which you experienced multiple assaults. Are you able to talk
5 about those?

6 A. (No response.)

7 Q. You don't have to go into gory detail, but let's see if we
8 can talk about a few of those.

9 A. Yeah.

10 Q. Did it happen over a weekend? Do you remember that
11 weekend?

12 A. Yeah. I do a lot of law work for the other inmates. I do
13 people's *habeas*-es and things of that nature. And I was told
14 to go upstairs to Tennessee's room. I was told that I needed
15 to take the file that I had up there so What's-His-Name could
16 check his work. This is a gang member as well. I am not
17 saying his name.

18 So, I go upstairs. And as soon as I get into the room, as
19 soon as I get into the room, he grabs me, he starts kissing me
20 on my neck, trying to rip my shirt off, trying to have sex on
21 me.

22 The count is called. I run out of the room, grab my shirt
23 like this, run out of the steps and down to the steps. I
24 called my people and I told them and I told my lawyer and I was
25 like, "If you get the video, they would be able to see it."

1 Q. Okay.

2 A. Then the -- after that one, someone else, whom I thought
3 was a friend -- same scenario, except he didn't forcibly try to
4 penetrate me. But he tried to force me to give him oral sex.

5 Q. Did he try to or was he successful?

6 A. He -- I -- I had to.

7 Q. And do you recall being attacked the next day?

8 A. Yeah, I recall. A friend of mine from Rome, that was in
9 the dorm with me, called me up to the cell. I went up to the
10 cell. His roommate was in there. And we were sitting, and we
11 were talking, and he blocks the door. My friend, the person I
12 knew from Rome. And they tell me that because of whatever,
13 some sodas or something I need to pay up, I needed to pay him,
14 and so -- it wasn't willingly.

15 Q. It wasn't -- I'm sorry?

16 A. Nothing in that room that happened was willingly.

17 Q. Nothing that happened in that room was willing. It was
18 not consensual?

19 A. Yes.

20 Q. Were you sexually assaulted?

21 A. Yes.

22 Q. By one or both of those?

23 A. By one. The other just held the door.

24 Q. How did that end, if you recall?

25 A. It ended with me honestly going to the cell and trying to

1 kill myself.

2 Q. What do you mean?

3 A. I tried to take my life.

4 Q. Do you remember another assault that happened that
5 weekend? Or was that the universe of assaults that you can
6 recall right now?

7 A. All I can recall.

8 Q. So, you have also -- you talked about people coming into
9 your cell at night, while you were sleeping.

10 A. Um-hum.

11 Q. Did any of those occur in October, to the best of your
12 recollection?

13 A. Um-hum.

14 Q. Was there video that would have captured people coming
15 into your room?

16 A. Yes, there's four cameras in our dorm. Outside of the one
17 that is set up outside of my dorm. There's four aerial
18 cameras, they're in the sky, that capture the entire dormitory,
19 everything that's going on in there.

20 Q. When you found out that men were coming into your dorm
21 room, either to fondle you or masturbate, as you testified to,
22 did that upset you?

23 A. Of course. Yes.

24 Q. I think it goes without saying, but I think for the
25 record, if you were asleep and didn't know about some of these,

1 how -- how were you harmed?

2 A. That's the grossest violation I can ever think of.

3 Q. Did these incidents have any impact on your PTSD?

4 A. I would say so. Yes.

5 Q. Okay. And we already talked about video. Did you report
6 any of these incidents that happened in September directly to
7 anyone at Coastal?

8 A. Um, I think I did it through third party.

9 Q. Through third parties?

10 A. Um-hum.

11 Q. Did you authorize your attorneys to report them?

12 A. Um-hum. Um-hum.

13 Q. And then there came a time in the late October --
14 October 29th, where a man entered your room and yet again, you
15 understand, did some sexualized things. Is that right?

16 A. Um-hum.

17 Q. Can you tell us about that. Or how you came to find out
18 about that?

19 A. Um, are you talking -- the incident with Thigpen? Where
20 he was the --

21 Q. Yes. You tell us.

22 A. Yeah, I found out about that incident because -- actually,
23 it was in my face. He woke me up and tapped me on the leg. On
24 my foot. And said, "Look!"

25 Q. Okay.

1 A. And he had his penis exposed, it was fully erect, standing
2 by my locker. And I said, "Really?" I said, "Really?" I
3 said, "You're supposed to be my -- really"?

4 Q. Did that upset you?

5 A. Yes, very much so.

6 Q. Did it make you feel unsafe?

7 A. Very much so. It was the final straw. So I tried to kill
8 myself. Again.

9 Q. So that happened on -- in late October. Do you know when
10 in relation to when you tried to kill yourself that last
11 incident happened? The day before? A week before?

12 A. Oh, God, I would say -- see, the 29th. I reported -- I
13 was approached in the pill call line by one of the assaulters,
14 and they told me that the Warden Betterson had pulled them over
15 and told them that I had made up some lies on them.

16 Q. Okay.

17 A. And he threatened me with violence. And so on the 29th or
18 the 30th--that's approximate--I went back into the dorm and --
19 there was also a dormitory meeting with the facilitators in the
20 dorm because they admitted -- he admitted to the facilitators
21 that he did come in and expose himself to me.

22 Q. Did anything happen to him as a result of admitting that
23 he had exposed himself to you?

24 A. Nothing. After about a week, he was moved. After I
25 continuously went to Mental Health and was like, "Why is he

1 still in this dorm with me? I don't understand."

2 He was moved. Finally.

3 Q. Was there any -- you mentioned threats in a pill call
4 line. Can you -- what exactly was the threat? Do you remember
5 the language that was used?

6 A. He said, "Bitch, I'll kill you."

7 Q. Okay.

8 A. That's exactly what he told me.

9 Q. Did he say anything of a sexual nature?

10 A. No, it was just that, "I'm going to kill you." "You're
11 trying to throw dirt on my name." You know, "I'm ghost face,"
12 you know, blah, blah, blah, blah, blah, blah, just --

13 Q. Okay. Was there ever a time where somebody -- maybe it
14 was another time said they wanted to stuff their --

15 A. Yes. And that was a gang member who came up to me and
16 told me that. He said, "Every time I see you hanging out with
17 these white boys, it makes me want to really come over here and
18 shove my...in your..."

19 Q. Did that happen close in time to when you attempted to
20 take your life?

21 A. Yeah.

22 Q. Okay. All of these incidents that you either woke up and
23 someone was masturbating or in which you were told, did you --
24 how did they gain entrance, do you believe?

25 A. The door wasn't locking at the time. There had been

1 several instances where I asked for the door to be fixed.

2 I went through to Ms. Moody, who is not only my GP
3 counselor, but she is the transgender liaison. I went to her,
4 and she said that she went to administration, and
5 administration told her, do not -- quote, "Do not come back up
6 to me again talking about Diamond's door. That door is fine."

7 She had checked it herself. And at the time she was like,
8 "I'm sorry, but I was cussed out about going -- about the
9 door."

10 Q. Did you tell anyone else about the door not locking?

11 A. What had happened was someone -- supposedly they had said
12 that they came and fixed it. But when I got to my cell, no
13 power, I had no electricity, and the door wasn't working. So
14 when the warden came through, Mr. Benton came through --

15 Q. Can we just make sure we understand what time frame you're
16 talking about?

17 A. This is all in the same --

18 Q. Before you tried to kill yourself?

19 A. Yes, it is before the hanging.

20 Q. Thank you.

21 A. And I said, "Mr. Benton," I said, "they are telling me
22 that the" -- the maintenance protocol people tell me that
23 Mr. Benton and them have my door set on specific protocols.

24 And I was like, "What are you talking about?"

25 They were like, well, this door is only supposed to do

1 this or only supposed to do that, and it is not supposed to do
2 this or that. And then I was like, "Well, why don't I have
3 electricity?"

4 So, again, I went up to Mr. Benton and I told him about
5 it. And he said he never told anybody that.

6 So the maintenance man, he went over to them and told them
7 to go in there and fix my electricity and stuff.

8 Q. Did you tell anyone else that your door didn't lock,
9 besides the people that --

10 A. Yes, I told Dr. Fass and Ms. Cantera and Ms. Fletcher, the
11 mental health director.

12 Q. Okay. All right. And you said there was video of all
13 these incidents?

14 A. There should be plenty of video --

15 Q. Should have been. Of people coming in your room.

16 A. -- because I'm escorted everywhere that I go. I'm
17 supposed to have video on me, and then there's supposed to be
18 video in the dorm.

19 Q. Did you give your lawyers permission to provide details
20 and dates when they reported on your behalf?

21 A. I did.

22 Q. Okay. So that if there was video, they would have the
23 dates on which those things happened?

24 A. I have specifically asked that they ask for the video. So
25 that we would have it in case there was any dispute as to what

1 the factual basis was.

2 Q. Okay. And after that October -- we're going to skip for a
3 minute what happened when you tried to kill yourself. We're
4 going to get back to that.

5 Have there been any other incidents of sexual
6 victimization at Coastal that you can -- I say "victimization,"
7 I want to say "assaults," because we've already testified that
8 victimization is different.

9 A. I would say the fact that the inmates put a big blow
10 fan -- I was taking a shower, and they put a huge -- in our
11 dormitory, it's supposed to be different than the regular
12 dormitories. This is supposed to be, like, elite inmates, if
13 you will.

14 And while I was showering, there's a big blow fan, a huge
15 cylinder blow fan. Well, it was placed in front of the shower.
16 And when they placed it in front of the shower, it blew all the
17 curtains down. So I was standing there, naked, and everybody
18 was, you know, calling and hooting and hollering. And I just
19 grabbed the shower curtain and wrapped myself up in it and went
20 to my cell.

21 And I remember going: This is too much. And I remember
22 reporting that incident. And then I remember just being met
23 with, "Oh, it was an accident." Or it was -- you know, "Nobody
24 did that to hurt you." Um, but it -- I would say it wasn't an
25 accident.

1 Q. Was there an incident in a TV room? An incident or two in
2 a TV room?

3 A. There was an incident in the TV room. This is during the
4 Capitol riots. I try to stay as involved as I can with what is
5 going on in the outside world. And we were watching, and I was
6 really -- because I have friends, you know, that work for the
7 Capitol Police and friends in Washington, and I was really
8 worried. So I got up early that morning. I was the only
9 person that was headed toward the TV room.

10 When I got to the TV room -- because usually the officers
11 are in there, and I'm -- in my dorm, up early. So I was
12 sitting in the TV room, a man comes in there. And I know who
13 this person was because I was not the only person that caught
14 him, he was caught by the facilitators doing this same exact
15 behavior. He pulled out on me and masturbated.

16 Q. Was that caught on video or should it have been?

17 A. You could see the video if -- yeah, yes, it should be
18 video. It should be.

19 After it happened, the first time -- I wouldn't go back in
20 the TV room. And another offender said, "We see why you don't
21 get up in the morning anymore." They're like, "What are you
22 going to do about it?"

23 I was like, "Nothing. What can I do?"

24 They're like, "That's not right."

25 And so they pulled up on the other facilitators, the

1 mentors, they all pulled me down. They were like, "Don't go to
2 the warden and them." They were like, "Be quiet about it."
3 They were like, "We'll make it right. We'll get rid of him if
4 you just let us handle it our way."

5 Q. Those are the mentors -- you say it's an inmate-run dorm,
6 so those are the people who are supposed to protect you and
7 you're supposed to talk to; is that right?

8 A. Um-hum.

9 Q. Okay. So in terms of PREA investigations, all these
10 allegations of assaults that you have testified happened, that
11 you testified you either reported at Coastal or authorized your
12 attorneys to report on your behalf, which one of those or how
13 many of those were investigated by PREA investigators or OPS?

14 And, I'm sorry, I should ask that in a different way. How
15 many of those were you interviewed by someone that you
16 understood to be part of a PREA investigation?

17 A. Um, I was interviewed by Mr. Warden Carl Betterson Junior
18 in regards to my PREAs.

19 Q. All of them or some of them?

20 A. The ones at Coastal.

21 Q. Okay. And did you tell him about the specifics?

22 A. Um-hum. We talked about it a lot. And his response would
23 be, "I'm tired of doing PREAs." He's like, "I'll be glad when
24 they get rid of you so I don't have to keep doing PREAs."

25 I said, "Sir, if that's how you feel," I said, "why don't

1 you just come to court and tell the judge that I need to be
2 somewhere else."

3 Q. Were there any questions anytime you were questioned by
4 anyone, Mental Health or otherwise, about the allegations that
5 have been reported on your behalf in which you did not give the
6 details?

7 A. Um-hum. It was -- it's awkward because you're -- part of
8 my mental health sessions is therapy. And then, you know,
9 going and trying to do all of those things and tell all of
10 that, do all of that. It's really weird because different
11 people have to wear a lot of different hats in that. And so
12 not being able to talk to exactly who you need to talk to, and
13 having this person having to go through all these people, and
14 it still never been any resolved or anything coming from it.
15 It was really -- it is just exhausting.

16 Q. Did you ever tell anyone that you -- at Coastal -- that
17 you wanted to talk about the details of some of these incidents
18 but you were afraid to and you wanted your lawyers present?

19 A. Absolutely.

20 Q. Anything like that?

21 A. Yes, I did, multiple times to multiple staff.

22 Q. Okay. And did you anticipate that your lawyers would be
23 brought in or made available so that you could speak freely?

24 A. Yes. I thought that it would be a simple request. That
25 it would be made. Um-hum.

1 Q. Did anyone ever tell you that if you don't give them the
2 details without a lawyer in the room, the investigation would
3 be closed?

4 A. Absolutely not. I had no idea. I thought all of these
5 investigations were still ongoing. I had no idea until the
6 other day that all those investigations were canceled and that
7 nothing was going to come of it.

8 Q. Did you have any anticipation that they were maybe
9 investigating those based on the details that were provided by
10 your --

11 A. I just figured they'd look at the camera. I thought,
12 well, they have the video, they have the dates, they have the
13 times, surely they will just look at the cameras.

14 Q. Okay. A few other questions. Showering. You mentioned
15 one incident in which an industrial fan was placed in a way
16 that blew the curtain shower up?

17 A. Directly in front of my shower. Directly in front of
18 the shower.

19 Q. So there are shower curtains in the showering facilities
20 that you are required to use; is that right?

21 A. Um-hum.

22 Q. Do those protect you? Do you get to use those showers
23 separately when men aren't around? Or is it the same time?

24 A. No, and that's what was weird. Because the other
25 transgender offenders were given the option to go to Medical to

1 shower. And that is an option that I was never given.

2 I was just -- so, in the dormitory, I used the handicapped
3 shower because, to me, it's the safest because it's closest to
4 the dorm. The officer's window is here, and the shower is
5 literally like right here (indicating).

6 But, unfortunately, all because it's all connected, the
7 handicapped shower only allots this small space to do it in.
8 So you still have several curtains that can still be opened and
9 swayed, and so there's really not a lot of privacy at all.
10 Actually, there's none whatsoever.

11 And when I'm showering, there's men always at the water
12 fountain, looking at my feet. They are always -- always there.
13 In fact, I had to get the warden of security -- I actually had
14 to get him and bring him into the dormitory and show him. I
15 said: "Mr. Jones, can you see..."

16 And then he was like, "Whoa, yes, I get this."

17 So I moved -- at one point we had 92 men passing my door.
18 Like, right -- my door is here (indicating). Right here
19 (indicating).

20 Q. You are talking about your door? So just so we know
21 what's happened to you.

22 A. I am just trying to give you an idea of how the dorm is
23 set up and why there's no privacy.

24 Q. Okay.

25 A. And the efforts that I made to go to staff to get this

1 corrected. I made every effort. Because I think that there's
2 this inkling that maybe I was kind of like, oh, telling and not
3 telling or kind of, you know, not really forthcoming from the
4 details. And I wanted to flat out say that that is not true.
5 That I've always been forthcoming in talking to the wardens and
6 everybody about what's happening to me.

7 Q. You were just mentioning the shower stall, the situation
8 where you shower.

9 A. Um-hum.

10 Q. Did you -- can men see into the shower to see you naked?

11 A. Um-hum. You can get on the steps, you can look down and
12 see. If you stand at the water fountain, you can see.

13 Q. And is it still -- even though it's a handicap shower, is
14 it in the same bathroom or shower facility with other men?

15 A. Absolutely. Absolutely.

16 Q. Okay. How does that make you feel, to have to shower
17 around men?

18 A. I'm going to be honest. I feel like a sideshow freak. I
19 feel like I'm there to be -- I'm a woman in a prison with a
20 bunch of men all the time. I don't understand why no one can
21 see that that's not right. I just -- I can't wrap my mind
22 around that.

23 Q. How about strip searches? Have you been strip searched at
24 Coastal?

25 A. Absolutely. By multiple male offenders (sic). Always

1 male offenders (sic). And at one point it got to the point
2 where I went to Warden Benton and I said, "Mr. Benton, these
3 men are continuously strip searching me."

4 And he said, "Well, that is the way we do it. If a female
5 ever cross-searched you, I would walk her out of my prison."

6 Q. Okay. And how many times would you estimate that you've
7 been strip searched by men --

8 A. At least --

9 Q. -- at Coastal?

10 A. -- eight times.

11 Q. I think you said, "by offenders." Did you mean by GDC
12 staff?

13 A. I meant GDC staff, I'm sorry. I didn't mean "offenders."

14 Q. All right. I know it's a lot. And you're struggling, and
15 we appreciate you recounting these difficult circumstances.

16 So you alleged that you are also the victim of a campaign
17 of retaliation. So we need to talk about that.

18 The first -- the first incident that, you know, I think we
19 need to talk about is what happened on October 31st, the
20 morning of October 31st.

21 Before we get there, let me just ask you one quick
22 question. When you -- before October 31st, did you have any
23 disciplinary reports?

24 A. No.

25 Q. So from the time that you arrived until this one we're

1 about to talk about --

2 A. I had one disciplinary report, but the warden -- we took
3 care of that because it was a medical issue of why I couldn't
4 do what was needed to be done, and the warden got rid of it.

5 Q. Are you referring to a DR that you got for not being
6 able --

7 A. Not being able to urinate.

8 Q. -- to urinate?

9 A. Um-hum.

10 Q. Based on the fact that you had been attempting to
11 self-castrate; is that right?

12 A. Right.

13 Q. We're going to talk about that. Because you were found
14 not guilty. So you have zero, you know, DRs up to that point.
15 Just this one.

16 And then you say that you tried to kill yourself
17 October 30th because of the escalating retaliation and the
18 threats by gang members.

19 A. Um-hum.

20 Q. Tell us what happened that night. Where were you? Did
21 someone help you? How are you not -- how are you here with us
22 today?

23 A. I was in my cell, and I had taken some prescription
24 medication to try to -- I had tied a tourniquet, and then I
25 tried to hang myself.

1 Q. When you say "tied a tourniquet," what do you mean by
2 that?

3 A. It's like the binding with the rubber bands. I put it on
4 my genitals.

5 Q. Okay. And you also tried to hang yourself?

6 A. I did.

7 Q. How did that end, if you recall?

8 A. From what I remember, is I was cut down by a friend, a
9 platonic friend, Jason -- (pseudonym inserted) John Doe.

10 Q. We're going to refer to that person as "John Doe," and I'm
11 sorry I forgot to remind you about that.

12 A. Sorry.

13 Q. So what happened the next morning? And so you tried to
14 kill yourself. He came in. Did he -- did he stay with you
15 that night?

16 A. I can't -- I don't really remember a lot of the details.
17 I do remember being cut down. I do remember being given water
18 and, you know, something to eat. And I remember everyone
19 looking for the police, but the police had been gone for hours
20 and hours.

21 Q. By "police," you mean someone in the dorm that's not a
22 correctional officer?

23 A. Yes, but not a correctional officer. But it's so
24 understaffed right now that we have, like, one officer that
25 floats between three buildings so we didn't have an officer for

1 hours.

2 Q. And the next morning, when you woke up, was John Doe in
3 the room?

4 A. He was.

5 Q. With you?

6 A. He was.

7 Q. Do you remember what he said to you when you woke up in
8 the morning?

9 A. Yes, ma'am. He said, "You made it." And, "You scared
10 us."

11 Q. I'm glad you did. What happened next that makes you
12 believe that they -- GDC officials at Coastal are retaliating
13 or out to get you?

14 A. Well, shortly after, Ms. Brown, an officer, came up to me.
15 She came to the cell. Because normally I announce the counts
16 in the dorm. Because I am the first one, I announce the
17 counts. I do everything as far as to do my part. And she came
18 in for the count.

19 I guess she didn't see me or know who I was. She came in
20 for the count, and I was sitting in there, and she's like,
21 "What's this? Huh-huh! No, no, no. Come on out! You come
22 out!" To me and to him.

23 I said, "Who do you want to come out? Me or him?"

24 She said, "You come out first." So me, I went outside.

25 Q. Were you dressed at the time?

1 A. Yes. I was dressed. Completely.

2 Q. Okay.

3 A. And she asked me, "What's going on in there? I see you in
4 your cell."

5 I said, "Ma'am, if I tell you, you wouldn't understand.
6 You would not."

7 She's like, "Well, try me."

8 I said, "Well, I tried to kill myself."

9 And she was like, "I don't want to hear no more."

10 Q. Okay.

11 A. So she's like, "So that's what you do when you try to kill
12 yourself?"

13 I said, "What are you talking about?"

14 And then she said, "Never mind."

15 And then later on, I was escorted to Medical. They came
16 and got (pseudonym inserted) Doe, they escorted him to Medical.
17 We got to Medical. They had him sitting in a chair over there,
18 me sitting in a chair over here. They begin to say, "Okay, now
19 which one do we need to check?"

20 And I was like, "Check?"

21 And he was like, "Didn't somebody get sexually assaulted?"

22 And we were like, "Huh?" We were like, "No!"

23 And then they were like -- no, they were like, "Offender
24 Diamond" -- Ms. Brown said, "Offender Diamond was, they said,
25 screwing him."

1 And I said, "Excuse me?" I said, "That's absolutely not
2 true." I said, "We can take DNA right now." I said, "Let's do
3 a SANE test," I said, "if you can get any of my DNA."

4 And even him, he said, "Let me do the test."

5 We both willingly -- we were asking them to do it.
6 Because of my experience with sexual assault in the past, I
7 know that they can do a SANE test, where they can just simply
8 do a -- first they can do a physical exam to see if anybody's
9 been penetrated. Secondly of all, they can collect evidence
10 that would be able to tell them if that had happened.

11 Q. And did you want that to happen?

12 A. I begged them to do it. We insisted that they do it. I
13 was like, "This can be cleared up right here if you do it now."

14 Q. And did they?

15 A. So they went to the head nurse, and the head nurse was
16 going to do it. And then they were like, "No, don't worry
17 about it because this is a consensual thing."

18 And I was like, "There is no sex. There is nothing
19 consensual. What are y'all talking about?"

20 And that was the first that I'd heard that I was caught
21 having sex with an offender.

22 When I got to the hall, the warden came to see me. He was
23 able to elaborate a little bit more. He went on to tell me
24 that there was dialogue, that they said it was a verbal
25 dialogue, that she walked in and caught me, and I said, "Oh,

1 shoot!"

2 Q. Did that happen?

3 A. No. No. If I'd have got caught doing something like
4 that, I think, "Oh, shoot," would have been the last words I
5 would have been saying.

6 Q. And you talked about being in Medical. Is there any
7 reason that you would -- you feel that you would be able to
8 prove that what you've been accused of doing is medically
9 impossible for you to do as a transwoman?

10 A. Absolutely.

11 Q. Tell us about that.

12 A. Absolutely. First of all, as a transgender woman, who has
13 been on feminizing hormones for over 25 years, what they didn't
14 know when they wrote this DR is that my genitalia is
15 non-functioning, that there would have been no way -- it would
16 have been impossible for me to even get an erection to
17 penetrate somebody.

18 Q. Okay. And you say you've been on hormones for --

19 A. 25 years.

20 Q. -- all of this time?

21 A. Um-hum.

22 Q. You also said that you had bound your genitals -- put a
23 tourniquet around your genitalia that night?

24 A. The tourniquet -- yes, ma'am. The tourniquet had to be
25 cut off by the nurse.

1 Q. Okay.

2 MS. LITTRELL: I would like my colleague to bring up
3 the declaration from Randi Ettner that was submitted with our
4 reply.

5 BY MS. LITTRELL:

6 Q. And this is what has been marked Plaintiff's Exhibit 224.
7 Do you -- can you see this on your screen?

8 A. I can.

9 Q. This document. What is this?

10 A. This is the second declaration of Dr. Ettner. Randi
11 Ettner.

12 Q. Can you take a moment -- there's only a few paragraphs --
13 to read it. Tell us when you get to the bottom of that page.

14 A. I'm at the bottom.

15 MS. LITTRELL: Can you get to the next page, Diego?

16 A. (Witness reviewing document.)

17 BY MS. LITTRELL:

18 Q. Does this support -- this declaration support what you
19 have just testified to with respect to how hormones affect the
20 ability to get and maintain an erection and have penetrative
21 sex?

22 A. Yes, ma'am.

23 Q. Thank you.

24 MS. LITTRELL: You can take that down now, and I
25 would like you to pull up the medical exam documents from the

1 DR that day. Do you know where that can be found? My handy-
2 dandy chart didn't make it into this package, so I apologize, I
3 don't have the number. Maybe we can go back to that.

4 BY MS. LITTRELL:

5 Q. We'll move on. But do you recall whether the medical
6 staff at GDC that morning that you were taken there, can you
7 testify as to whether they found that your genitals were bound
8 that day?

9 A. Yes, ma'am. The medical -- in fact, before you go to
10 lockdown, solitary, which is where I was sent, you have to be
11 completely medically examined. And when they began to
12 medically examine me, they noticed that there was a tourniquet,
13 and the nurse had to physically -- it took two nurses to
14 physically cut it off of me.

15 Q. Was that painful?

16 A. (No response.)

17 Q. I'm sorry?

18 A. Yeah, yeah, it's very painful.

19 Q. Did you get charged with any discipline violations for --

20 A. Yeah, I did.

21 Q. Do you recall how many?

22 A. I got hit with four. Four charges. One for --

23 Q. Let's just talk about for that incident, for the sexual
24 related one, and then we'll talk about --

25 A. Yeah. Yes. I was hit with "sexual behavior," "indecent

1 exposure," and for "soliciting sexual activity."

2 Q. Was there any indication -- of all of that that you've
3 just described -- which is the GDC officials, someone came in
4 and saw you having sex -- how do you think they arrived at
5 "soliciting sex" as a violation?

6 A. I have no idea.

7 Q. Okay. Did you have a hearing about those discipline
8 charges?

9 A. Somewhat of a hearing.

10 Q. Okay. Do you recall asking for witnesses to be present --

11 A. I did.

12 Q. -- to testify?

13 A. I do. I do recall asking for witnesses.

14 Q. And do you recall asking for the nurse who examined you to
15 be there?

16 A. I do. I do. Specifically.

17 Q. Do you recall also asking for medical personnel to be
18 there? And why did you want the general medical person to be
19 there?

20 A. First of all, because of their knowledge and history with
21 me, they would have been able to know and to help me refute
22 those details.

23 Q. That's with respect to whether or not hormones have an
24 impact on the ability to do what they have claimed that you had
25 done?

1 A. Um-hum, um-hum.

2 Q. Okay. And were they allowed to be present at that
3 hearing? Either the nurse --

4 A. No.

5 Q. -- or any medical --

6 A. No.

7 Q. -- personnel?

8 A. No, ma'am. In fact, nobody was at the hearing. And when
9 I asked to view the evidence or when I asked to submit other
10 evidence, I was told that that's not how this works. And that
11 they have a factual basis that they go by. And for now that I
12 am guilty.

13 I was marked guilty on the form before I ever even walked
14 in. Me and the advocate looked down, and they already signed
15 everything. I was already marked guilty. They had signed it,
16 it was ready to go.

17 And even my advocate and me were like, "Wait a minute, we
18 haven't even spoken yet." And they told me that in DRs like
19 this, just like -- well, anyway, they told me that DRs like
20 this, that they usually automatically just find you guilty just
21 on the basis of whatever, and that I could appeal it to the
22 warden if I had, you know, any qualms. And I did appeal it to
23 the warden.

24 Q. Okay. Did the correctional officer, who was the person
25 who made these explosive allegations, was she present in the

1 hearing?

2 A. No.

3 Q. Okay. So there was no actual testimony? You didn't hear
4 anything? You didn't see any videos?

5 A. I didn't speak to her till after I got out of the hole and
6 went back to the dorm and me and her had a conversation.

7 Q. Okay. You said you got another DR that day? Because
8 there was four. So zero until that point and then --

9 A. I got --

10 Q. -- on October 31st --

11 A. -- four charges on one DR and three other DRs yes.

12 Q. And the other charge, was that the one for blocking the
13 lock?

14 A. Yes, ma'am. Blocking the mechanism of the door. They
15 said that I took a rag or something and that I had placed it in
16 the door, and that's why the door wasn't secure. Is what they
17 were saying.

18 Q. Did you put --

19 A. No, no.

20 Q. -- a rag in the door?

21 A. No, no, why -- no, I did not.

22 Q. Earlier you said that your door was not working. That's
23 how men were able to get into your --

24 A. Um-hum.

25 Q. -- room at night. So there would be no reason to put a

1 rag there, I presume?

2 A. Absolutely.

3 Q. Did you ever see a rag in the corner? Or did you notice a
4 rag in the corner?

5 A. I never paid any of that any attention, to be honest with
6 you.

7 Q. And if -- should the video that's right outside your door
8 be able to capture putting --

9 A. It would capture anything that happened in that doorway.

10 Q. Okay.

11 A. The video camera would capture it. Just like it captured
12 the assault.

13 Q. So to -- just to get a visual, the door would have to be
14 open for you to put a rag in the corner; is that right?

15 A. Right.

16 Q. And that would have been captured on video. Because you
17 can't do it with the door closed.

18 A. Absolutely not.

19 Q. Do you think the video would show whether there was a rag
20 in the door the day before? Like, when the door opened,
21 should -- was the rag in a place that you would be able to see
22 it on video?

23 A. Looking back at it now and actually seeing the photograph
24 of where the rag is and everything, that the video would
25 certainly capture that. And it would certainly capture whoever

1 put it there.

2 Q. And did other COs come in to your room or did they -- was
3 your door open where they would have been able to see --

4 A. Yes.

5 Q. -- that?

6 A. Yes, they would have. During the count.

7 Q. So for this additional DR, did you have a hearing, do you
8 recall, on that? The blocking the lock?

9 A. I had another hearing, yep.

10 Q. You did have a hearing?

11 A. This was all the same hearing. What they did was they run
12 it all together. One hearing. I was found guilty on all
13 charges at one time.

14 Q. I see. Did you present witness statements from anyone, if
15 you can recall, about the door not locking or telling anyone
16 that the door didn't lock?

17 A. I do remember saying that there are multiple people
18 involved with this door situation, and that I wasn't the only
19 person that complained about it. I can remember pulling up on
20 several maintenance people about it. I can remember pulling up
21 on the warden, several people about it.

22 Q. So just to be clear, when you say, "pulling up," does that
23 mean asking or talking to?

24 A. Yes, I personally went to them. That is what I meant when
25 I said "pull up," yes.

1 Q. And at that -- at that hearing, do you believe that you
2 asked for Dr. Fass to be present --

3 A. I did.

4 Q. -- to provide a witness statement?

5 A. I did.

6 Q. And did you ask the maintenance man who would be familiar
7 with whether your door locked or was fixed or to -- to provide
8 a witness statement?

9 A. I did.

10 Q. And what is his name?

11 A. Mr. Miller.

12 Q. To your knowledge, did you ever get to see the information
13 that is submitted on which they make decisions?

14 A. No. And I am supposed to. But every hearing, they never
15 let me see it. And I requested -- these hearings also are
16 video recorded, because they were recorded on separate cameras.
17 And so there should be video footage of each one of these DR
18 hearings.

19 And you will see that in the hearings that I verbatim,
20 word for word, asked them, "Can I please see the evidence
21 against me?" "Can I please read the statements against me?"
22 "Can I please see the video that you're basing all of these
23 decisions?"

24 Every DR hearing that I have, I have never seen the
25 information against me. I have never been able to witness any

1 video. It's just guilty, guilty, guilty, appeal to the warden.

2 Q. Okay.

3 MS. LITRELL: Your Honor, can I ask that we take
4 just a very short break. I want to introduce a few pieces of
5 evidence, and there is a document that should be in my folder
6 that's not. So not to -- if I could just have five minutes to
7 talk with counsel and see if I can find that, it would make
8 this smoother, with your permission.

9 THE COURT: Let me ask a couple of questions first.

10 EXAMINATION

11 BY THE COURT:

12 Q. Ms. Diamond, this hearing that you say involved all four
13 of the disciplinary reports, first you say the hearing was
14 videotaped?

15 A. Yes, sir, they were.

16 Q. I mean, you say that because you saw somebody with a video
17 camera?

18 A. Yeah, they were in my face like this (indicating), with
19 the camera this far from my face. They were taping -- they
20 would turn to them when they talked, and then they would turn
21 to me.

22 Q. Talk into the mike.

23 A. I'm sorry, sir. They would turn the camera towards me.

24 Ms. Odom is actually the videographer, the custodian of those
25 videos. She would put the video on me when I would talk, then

1 she would put it on them when they would talk. So she said
2 that those hearings were --

3 Q. Do you know the name of the person holding the camera?

4 A. Yes, her name is Morgan Odom. She is the DR investigator.

5 Q. Now, you were asked about video in the dorm; and in
6 particular, the video camera that you say is pointed at the
7 door to your cell.

8 A. Yes, sir.

9 Q. Have you ever seen any video from that camera?

10 A. Yes, sir.

11 Q. When was that?

12 A. I saw the video when the maintenance -- when the
13 videographer people came, I was curious as to know what -- what
14 the camera could see and couldn't see. And the guy showed --
15 he pulled it up on the thing, and you could see. Very clearly
16 (indicating) --

17 Q. Again, talk into the microphone.

18 A. I'm sorry, sir. I'm sorry. You could see the video from
19 the screen, what I was shown.

20 Q. What was this person showing you?

21 A. Let's see. We were talking about the video, what the
22 camera could actually see. And the camera people that would
23 come in, the "tech people" is what I called them, I just talked
24 to them about, you know, the scope of the camera, you know,
25 what could be seen. And then he had a video thing when he was

1 up there doing it; he said, "Well, this is what you can see."

2 And you can see it.

3 Q. All right. Now, at that hearing, was there any video
4 shown during the hearing?

5 A. No, sir.

6 Q. Was there any mention of any video capturing any of the
7 events of October 31st or November 1st?

8 A. No, sir.

9 Q. All right. You say your suicide attempt was on the
10 evening of October 30th; is that correct?

11 A. Yes, sir.

12 Q. About what time?

13 A. I would say maybe 10:00, 11:00.

14 Q. And that attempt was made by trying to hang yourself?

15 A. And by prescription medicine, Your Honor.

16 Q. And what was the medication?

17 A. Um, it was a variety of Remeron and lithium and --

18 Q. Was that the only time in this time period that you
19 attempted to commit suicide?

20 A. No, sir. I tried after Jackson, sir. When -- after the
21 first, initial contact with Ms. Lucas and after the assaults at
22 Jackson -- I had attempted at Jackson, and it was a failed
23 attempt.

24 Q. I'm talking about on that day or on
25 October 31st/November 1st.

1 A. Oh, that was that my first time attempting? Yes, sir.

2 Q. And was that -- was there more than one suicide attempt in
3 that time frame?

4 A. Yes, sir.

5 Q. When was the other one?

6 A. The next day.

7 Q. What time was that?

8 A. When I was in the lockdown.

9 Q. Okay. You need to speak into the microphone.

10 A. I'm sorry, I was in lockdown.

11 Q. So you had been removed from your cell and put in
12 lockdown?

13 A. And I gave -- and the mental health unit manager came in
14 and caught me. And the doctor caught me with a sheet and --
15 trying to do the same thing again, and they took it from me.

16 Q. All right. When Officer Brown entered the cell that
17 morning, the person we've referred to as John Doe was in the
18 cell?

19 A. Yes, sir.

20 Q. What -- where was he in relation to you?

21 A. We were sitting.

22 Q. Okay. On what?

23 A. The bed, sir. I'm sorry. We were sitting on my bunk.

24 Q. And were you fully clothed?

25 A. Sir?

1 Q. "Were you fully clothed?"

2 A. Yes, sir.

3 Q. Was he fully clothed?

4 A. Yes, sir.

5 Q. Was there any physical contact between you that you can
6 remember when Officer Brown entered the cell?

7 A. I can't remember that, sir.

8 Q. Okay. All right.

9 MS. LITTRELL: Your Honor, I am prepared with these
10 documents and we can --

11 THE COURT: Pardon?

12 MS. LITTRELL: I am prepared with the documents I was
13 looking for to quickly and easily pull those up.

14 THE COURT: How much longer do you think you'll be
15 with Ms. Diamond?

16 MS. LITTRELL: I think we can be done in 15 minutes
17 at the very most.

18 THE COURT: All right. Proceed.

19 DIRECT EXAMINATION CONTINUED

20 BY MS. LITTRELL:

21 Q. If you can pull up -- we were just talking about the door
22 not locking. It's Exhibit 121-A. I am going to show you this.
23 I don't know if you have ever seen this before. Do you
24 recognize what this document purports to be?

25 A. (No response.)

1 Q. Read at the very top under, "State of Georgia."

2 A. All right. It says, "Disciplinary Investigation Summary."

3 Q. Right. And on the next page, see if you can turn to the
4 next page. Turn to the next page, please.

5 A. Okay. This is another Disciplinary Investigation Summary.

6 MS. LITTRELL: I apologize, I -- there -- in the
7 investigation of this, there are witness statements from
8 Dr. Fass supporting the testimony that Ms. Diamond gave that
9 she told him the door wasn't working beforehand, which we have
10 deposition testimony, and then we'll hear from Mr. Miller who
11 also submitted a, um, report or a witness statement in this
12 incident, supporting Ms. Diamond. And yet she was found
13 guilty.

14 That's the only point of this document. Which is
15 apparently not exactly what I thought it was going to be. But
16 we'll submit that evidence. It's in the record.

17 If you could pull up 122-C, please.

18 BY MS. LITTRELL:

19 Q. And that is -- again, what is this document at the top of
20 it?

21 A. This is a "State of Georgia Use of Witness(es) Hearing
22 Document."

23 Q. And do you see there where it lists people that you would
24 like to have called to the stand?

25 A. Um-hum.

1 Q. And does that include medical staff?

2 A. Um-hum.

3 Q. And does that include Nurse Gatewood? Is that the nurse
4 who helped --

5 A. Um-hum.

6 Q. Okay. You can take that down now. Um, we are just going
7 to run through a few of the DRs. I know that you've been sort
8 of hit with a barrage. We have counted 20 in all. And that
9 you didn't have any beforehand.

10 A. No.

11 Q. And there's a discipline record that Defendants have put
12 into evidence that will show that you only had two, maybe three
13 at the most, in the three years that you were incarcerated
14 before.

15 And now since threats of litigation began, on the eve of
16 litigation, you've gotten 20. We're not going to talk about
17 all of them. That is not what the Court is here to do.

18 But I will just ask you quickly, did you get a DR for
19 having a cell phone initially?

20 A. Yeah.

21 Q. And did you have a cell phone?

22 A. No.

23 Q. Was there any evidence that you had a cell phone?

24 A. None at all whatsoever.

25 Q. Have you gotten a DR for having your floor cleaned by

1 someone who is authorized to clean the floors of offenders'
2 cells?

3 A. I did get a DR for having a prison maintenance worker
4 clean the floors. As we were instructed.

5 Q. Okay. And to your knowledge, is it against any rule to
6 allow the maintenance person to clean a floor of your cell?

7 A. No, ma'am. In evidence-based, there are -- people have
8 certain jobs. And the person that was doing that, that is
9 their allotted job.

10 Q. Did you get a DR for having pencils in your cell?

11 A. I did.

12 Q. Are you allowed to have pencils in your cell that you --

13 A. You are.

14 Q. And then there came a time, which was fairly recently,
15 where you got a DR for having obscene materials on a tablet.
16 Do you recall that?

17 A. I do recall very -- I do recall that.

18 Q. Okay. And that -- were you watching obscene materials on
19 a tablet?

20 A. I was listening to Christian music.

21 Q. And how did you come in contact with that tablet? How did
22 you get that?

23 A. My tablet was -- it was not functioning. And my next door
24 neighbor had a tablet, and he doesn't go to store, and he
25 didn't have any money, so he said, "You can listen to my music

1 on here."

2 So we put music on there. We put *The Battle Is Not Yours*
3 by Yolanda Adams, and I put *Shackles* by Mary Mary, all gospel
4 songs. And I had them on repeat, over and over and over.

5 Q. And why did you want to listen to gospel music?

6 A. Because it's all I got.

7 Q. So you've testified you were not watching obscene
8 material?

9 A. Absolutely not. Even when they came to the cell and
10 got -- they retrieved it. They -- what they did was they came
11 to the cell door. The tablet was laying on my chest. They
12 said, "Step up, Diamond." And I stepped up. It was the
13 lieutenant and six officers.

14 They say, "Walk towards the door." I walked towards the
15 door.

16 They said, "Leave the tablet laying where it is." I left
17 the tablet laying on the bed.

18 They said, "Now back up. Hold your hands up. Back up."
19 They said, "Hand me the tablet." I hand the tablet.

20 They said, "Give me the tablet." I slid the tablet under
21 the door.

22 Two hours later I received a DR that said I was watching
23 porn.

24 Q. To your knowledge, is there a way to download porn on --

25 A. To my knowledge, those J-Pay tablets are only used to

1 communicate with the kiosk and on the institutional level.
2 They have no access to wifi or any access to any outside
3 material unless it can come through telecommunications through
4 J-Pay.

5 Q. Okay. This was a J-Pay tablet that was an authorized
6 tablet.

7 A. That was a J-Pay tablet.

8 Q. That was just a loaner to you so you could listen to
9 gospel music.

10 A. It was just to listen to those songs to get me through.

11 MS. LITTRELL: Can I ask my colleague to bring up
12 Number 223. Exhibit Number 223.

13 BY MS. LITTRELL:

14 Q. Um, what is this document?

15 A. I see the, "Declaration of Timothy Thomas."

16 Q. And who is Timothy Thomas?

17 A. Timothy Thomas was my cellmate next door.

18 Q. And what does he have to do with this tablet?

19 A. Excuse me? I'm sorry.

20 Q. What does he have to do with this tablet that we're
21 talking about?

22 A. He owns the tablet.

23 Q. Is he the person who loaned it to you?

24 A. Yes.

25 Q. And do you see in this declaration it's signed under

1 penalty of perjury that he supports what you just said, that
2 there's no pornography on the tablet?

3 MR. CHALMERS: Objection, Your Honor. This -- this
4 is hearsay. The declaration is in the record, but Ms. Diamond
5 can't offer anything more, other than what it actually shows on
6 its face.

7 THE COURT: I sustain that.

8 MS. LITTRELL: We'd like to at this time submit this
9 into the record.

10 THE COURT: Any objection?

11 MR. CHALMERS: No objection.

12 THE COURT: It is admitted.

13 (Plaintiff's Exhibit 223 admitted into evidence at
14 12:09 p.m.)

15 BY MS. LITTRELL:

16 Q. Do you understand that Mr. Thomas has been retaliated
17 against as a result of being friends with you or --

18 A. Absolutely.

19 Q. Tell me --

20 A. And a lot of others.

21 Q. Tell us what you mean by that.

22 A. Well, it became a thing. The facilitator said that they
23 were told by administration to watch me like a hawk and not let
24 anybody befriend me, that I am not to have any friends, that
25 I'm just supposed to set in my cell or come out to the day room

1 or to watch TV, and that is the extent of it.

2 That no one is to consort with me. No one is to make
3 packets with me or do anything that the other inmates do with
4 me. And that's what was told.

5 They come in and they move -- if someone says that
6 someone's abusing me, they will move that offender who is
7 co-signing that someone is abusing me. If other offenders --
8 like, there are times when there's people that will have been
9 after me, to physically hurt me and do things, and these people
10 have, like, shielded themselves around me to protect me.

11 And lots of innocent people who have done nothing have
12 been removed from that program, sent to dormitories where they
13 have been assaulted and violated and mistreated by staff
14 members.

15 Q. Is it your understanding that they are moved because they
16 befriend you?

17 A. Yes.

18 Q. How does that make you feel?

19 A. Horrible. Absolutely horrible. Because it is so hard in
20 a prison setting. Y'all don't -- to have -- there's no such
21 thing as friends in prison. But to have acquaintances and to
22 have people help you, and to not have that lifeline when they
23 take everyone -- the staff is not protecting me, and you take
24 every person around me away from me.

25 Listen, they don't just move one or two people. Not one

1 or two times. I'm talking about entire fleets. The whole
2 range. If everybody on this whole range says Diamond has been
3 mistreated, they move the entire range.

4 Q. So it's unclear if you're saying they are moving the
5 people who are mistreating you or if they are moving the people
6 who are protecting you from the inmates.

7 A. They are removing the people who are protecting me from
8 mistreatment and the people that are telling them that this
9 mistreatment is going on.

10 Q. Thank you. Is that different, from your observations,
11 from the way the other non-transgender inmates are treated?
12 Are you treated differently?

13 A. Absolutely. Absolutely. Even the other transgender
14 inmate that is across the hall from me in her dormitory.

15 Q. So I am just going to talk about one -- the final
16 disciplinary report, which is another explosive one that you
17 hotly contest. And that is a disciplinary report you got for
18 assaulting an officer just this past month, on April --

19 A. Yes, sir.

20 Q. -- the 26th. So, the first question, did you assault an
21 officer?

22 A. Absolutely not. I have never been disrespectful or
23 derelict or angry or aggressive to any staff member ever.

24 Q. Okay.

25 MS. LITTRELL: Can I ask my colleague to pull up what

1 has been marked 118-F.

2 BY MS. LITTRELL:

3 Q. Can you see that document on your screen?

4 A. I do.

5 Q. And what is this?

6 A. This is the disciplinary report that was issued from
7 Counselor Brandi Moore for assault of staff.

8 Q. And the date on that is April 26. Do you see that?

9 A. I do.

10 Q. And do you see -- in the statement that underlies and
11 supports that you assaulted her, do you see where the sum total
12 of the allegation on this page is that you brushed against her?

13 A. Yes, I see it.

14 Q. In the doorway?

15 A. Um-hum.

16 Q. Okay. Did you brush against her, to your knowledge?

17 A. No. Not to my knowledge. And if I did, it was -- I was
18 being escorted by camera. This is another detail. This is why
19 this was so upsetting to me. Because before I left -- I left
20 the dormitory in shambles because of what was happening,
21 because of the other inmates -- because people were crying, it
22 was terrible. And I needed to speak to the warden immediately.
23 And I asked to speak to him immediately.

24 So I was on my detail outside, waiting to speak to the
25 warden. Mental Health Fletcher came and got me. We wanted to

1 do it right. She made sure she cut on the camera to her phone.
2 She escorted me to Mental Health.

3 While we were in Mental Health, me, her and the captain
4 decided to come up with a protocol until I could get to
5 Mr. Benton that I would stay inside my cell, inside my room,
6 until I could talk to him so no more of this -- so nothing else
7 could escalate or go any further.

8 Q. This is before the alleged assault; right?

9 A. Um-hum.

10 Q. You're trying to find a way to get back to your cell
11 without any more DRs happening?

12 A. Um-hum, um-hum, um-hum. So I was escorted by the captain
13 back.

14 Q. Captain who?

15 A. Captain Judkins.

16 Q. Okay. Was he filming?

17 A. He was filming. And as he's walking me in, he walked me
18 into the dormitory, he stood at the door. He said, "Now go to
19 your cell."

20 When we got to the door, I couldn't -- the doorway is here
21 (indicating). And may I stand up to show -- I just need to
22 show you how she was standing in the door like this (standing,
23 indicating).

24 She didn't want me to come in. So I walked to the door, I
25 turned around and looked at the captain. He said, "Go on, go

1 to your cell, darling. Go on." So I went past her.

2 Q. You'll have to sit down so we can hear.

3 A. Oh, I'm sorry. And so I went past her. I went past her
4 to go to my cell.

5 She turns around and goes, "Did you hit me?"

6 I said, "No, ma'am." I said, "No, ma'am."

7 I said, "Captain?" I said --

8 I said, "Ms. Moore, no, I didn't hit you."

9 "Oh, well, it felt like you did."

10 So I was like, "But I didn't."

11 And then I was like, "Captain?"

12 And he said, "Diamond, go home to your cell." So he went
13 and put me in the cell. I locked -- he locked me inside of the
14 cell.

15 Five hours -- four and a half hours later, here comes the
16 lieutenant with the CERT Team and everybody. They told me to
17 pack up my things. They took me to Medical.

18 Everybody was being overly aggressive and talking to me.
19 And I was like, "What is going on?"

20 They said, "Well, you're being charged with assault on a
21 staff member."

22 I said, "I have never touched a staff member." I said,
23 "There's video. Why don't y'all look at it." And so they
24 didn't. I was sent to solitary under some pretty bad
25 conditions.

1 Q. Okay. So you understand that -- is it your testimony that
2 you were being filmed the entire way, from -- so it would have
3 been captured on camera?

4 A. Absolutely. Absolutely.

5 Q. Okay.

6 MS. LITTRELL: I would like to -- my colleague to
7 pull up for the Court 151, Exhibit 151, please.

8 (Video began to play at 12:17 p.m.)

9 MS. LITTRELL: I don't think that's the accurate
10 video. I'm sorry, Your Honor.

11 THE PLAINTIFF: This was my door. That was
12 everything.

13 MS. LITTRELL: Pull that up. That would be the last
14 video in the videos that they released to us, which would have
15 been on April 26th. It should be one video on April 26th.
16 Apologies. And we will correct the record in terms of the
17 exhibit number.

18 (Video began playing at 12:17 p.m.)

19 MS. LITTRELL: Does that have an exhibit number?

20 MR. McCOY: 153.

21 MS. LITTRELL: This is Exhibit 153. You can go
22 ahead.

23 (Video resumed at 12:17 p.m.)

24 MS. LITTRELL: Can you pause it, please.

25 ///

1 BY MS. LITTRELL:

2 Q. Do you recognize this person? It's just from the back.

3 A. That's me.

4 Q. And who is filming this?

5 A. Captain Judkins.

6 Q. And is this the event that you just described in which the
7 alleged assault landed you in solitary confinement where you've
8 been since April 26? Is that --

9 A. Um-hum.

10 Q. -- that's what happened here? So we're about to see the
11 video they released of that incident. Go ahead.

12 (Video resumed at 12:18 p.m.)

13 BY MS. LITTRELL:

14 Q. Is that Captain Judkins' voice?

15 A. It is.

16 Q. All right. Resume.

17 (Video resumed at 12:19 p.m.; played until 12:21 p.m.)

18 BY MS. LITTRELL:

19 Q. So the alleged rushing happened after this. And it was
20 still caught on tape. And you see the video just suddenly cut
21 off?

22 A. Yeah. Mysteriously it disappeared, the rest of it.

23 Q. But if there were additional video, you believe that would
24 show --

25 A. Well, there was additional video, because the warden told

1 me he saw it. And so did the DR investigator, told me he saw
2 it. And they said that it doesn't show me making contact with
3 her at all.

4 But they said because she is alleging that I made contact
5 with her, that I still have to go to the solitary confinement,
6 and that I'm lucky I ain't going to the tier program, because
7 that's where they send people who assault staff.

8 And I said, "Sir, there was no assault on this lady. I
9 did not -- even if I brushed her, if I even barely -- that was
10 a complete accident." I try to stay as far away -- and I am
11 always respectful. You could see on the camera I always tell
12 the staff "hello," "hello," no one has a problem with me.

13 Q. And you believe that if they had -- if we had been
14 provided the entire video, it would show what you're testifying
15 to?

16 A. It would definitely show there was no assault.

17 Q. And you have been in solitary confinement since that
18 happened?

19 A. Under some punitive conditions.

20 Q. We already looked at -- the allegations are rushing. But
21 now on your disciplinary record it says that you assaulted an
22 officer.

23 A. It does.

24 Q. And that seems like it's a violent --

25 A. It's bad.

1 Q. -- offense and --

2 A. It's really bad.

3 Q. -- it might be helpful to any justification that you can't
4 be placed in a women's facility. How does that make you feel?

5 A. I just -- I -- I don't know how to feel anymore. I don't
6 even feel human anymore.

7 Q. Do you feel this is a result of -- of either being a
8 transwoman in prison or asking for proper treatment?

9 A. I think it's a combination of both. I think -- I think
10 it's the fact that I am asking for treatment. I think that
11 we're living in this time where what -- like, this thing for
12 equality. I think that people are angry. And I think that
13 their personal views get in the way of what is right.

14 I think that people think that I'm trying to force
15 something on them. And all I'm trying to do is just live my
16 life and get through this. I am not trying to make anybody
17 listen.

18 I understand that it's difficult because of what I was
19 born as. But if that woman over there who gave birth to me 43
20 years ago can adjust, I don't see why anybody else can't. And
21 it's still wrong.

22 Q. Thank you. I'm sorry. I'm sorry to bring all of this up.
23 I know that you -- that you came here from solitary
24 confinement. Do you understand that that -- do you understand
25 that to be against the advice of your medical and mental

1 health --

2 A. Yes, they told me they didn't want me in there. They're
3 coming down there and checking every day because I do self-harm
4 in there. But I made myself a promise that I would let
5 Judge Treadwell deal with this and not take anything into my
6 hands.

7 Q. We're glad that you made that decision. Take just a
8 moment. I have only a few more questions and I'm really sorry.

9 I'm sorry, take a minute.

10 A. I'm sorry. Let's go ahead, I'm sorry.

11 Q. Do you understand that these recent DRs or for some other
12 reason that you have been reclassified as a sexual aggressor?
13 Is that your understanding?

14 A. (No response.)

15 Q. How have you come to understand that? Have you been shown
16 or told?

17 A. I've been told and shown. I was shown, and I was shocked.

18 Q. Okay. Does that put you at greater risk of being --

19 A. Oh, absolutely. Absolutely. It does. Because now I'm
20 known as a violent offender and an aggressor, and I am neither.

21 Q. Did you come to understand --

22 A. I'm sorry, what was the question?

23 Q. Did you come to understand that your classification had
24 changed with respect to being a security threat, gang
25 affiliate?

1 A. You know, the only way -- the way I found that out was
2 because I was asking, um, the warden about my PIC stuff because
3 he was -- I was hoping that him and Mr. Betterson were working
4 to help me get out earlier to ease this for all of us. So I
5 was always trying to work with them to do everything and
6 anything I can to get out of their facility and do what I need
7 to do to get out. And so I thought -- (pause).

8 I am so sorry, Your Honor. This is just a lot. This is
9 my life we're talking about right now.

10 I'm sorry, go ahead, ask the question. I'm sorry.

11 Q. You can take a moment and take a breath.

12 A. We don't have time. I want to get this going so the judge
13 can do what he needs to do.

14 Q. Okay. Are you in a gang?

15 A. No! I've never hit or hurt anybody ever.

16 Q. I believe that. Thank you. I'm sorry to have to ask
17 these questions. Do you know whether being classified as an
18 STG -- security threat, and I believe "G" stands for "gang" but
19 we'll find out from people who know later -- do you think that
20 makes you at risk?

21 A. I definitely do. I think that any time -- we all know
22 that prison security is number one always. That it overrides
23 everything. But with a classification such as an aggressor or
24 a violent status with somebody like me, it could send me to --
25 it's a death sentence.

1 Q. And will that classification follow you to --

2 A. It will follow me everywhere I go.

3 Q. -- future incarcerations and for any other housing
4 decisions?

5 A. Even parole.

6 Q. And how -- how has the combination of the sexual assaults
7 you've talked about, compounded with what feels to you and
8 appears to be targeted retaliation, all these DRs that have
9 reclassified you, how has that affected your mental health?

10 A. Oh, my God, it has sent me in a downward spiral that I am
11 so afraid that I am not going to bounce back from that I don't
12 know what to do.

13 Q. We need you to not do anything to hurt yourself, but I
14 understand that you're saying --

15 A. I'm hopeless.

16 Q. -- that you're afraid you might.

17 A. Completely hopeless. Completely. I have no faith in
18 anything. Not even in this hearing today.

19 Q. Well, we are here -- we are here to present the evidence.
20 Ashley. We need you to have a little bit of faith, okay.

21 A. Okay.

22 Q. But your testimony is your mental health is -- would you
23 say "decompensating" is accurate?

24 A. Yes. Understatement, but yes.

25 Q. And it sounds like you're expressing that you're suicidal?

1 You have suicidal thoughts?

2 A. Always.

3 Q. You've told the judge about a couple of suicide attempts.

4 A. I did.

5 Q. Have you ever been removed from Coastal for acute care or
6 classes?

7 A. Yes, I had to go to CSU and ACU several times.

8 Q. This is a result of your mental health and mental health
9 crises?

10 A. Yes, but unfortunately when they sent me to the CSU and
11 the ACU unit, they sent me to GDCP, and I was treated pretty
12 bad.

13 Q. That's --

14 A. It was back and forth between the two facilities. They
15 won't do anything else. They just keep sending me back and
16 forth between the same people that keep doing the same things.

17 Q. Does that make you afraid to --

18 A. Yes.

19 Q. -- to tell?

20 A. Yes, it makes me afraid to tell, to talk, to communicate
21 in any investigation, to trust anybody that works for the
22 Georgia Department of Corrections. I do not trust --

23 Q. Would you feel better if you -- if your lawyers were
24 willing to be on the line when you talked? If they were
25 willing to be on the line 24 hours a day just so you had that

1 witness and that assurance, would you feel better to talk to --
2 A. Of course, because then I got somebody on my side. Right
3 now it's not an even playing field. I am up against mountains
4 of people with just me and my little team.

5 Q. Okay. When you were taken to Jackson, where you had
6 testified that you were assaulted, you say that happened on
7 three different occasions as a result --

8 A. Yes, ma'am.

9 Q. -- of your mental health crises. Can you just describe
10 what happens when you are put into that -- I think it's ACU,
11 right? Acute care unit?

12 THE COURT: Now, Ms. Littrell, you have gone much,
13 much longer than 15 minutes.

14 MS. LITRELL: I apologize, Your Honor.

15 THE COURT: I think we've heard for now what we need
16 to hear. When we return, we will begin with cross examination.
17 If there's anything further you need to bring up back at
18 Jackson, you will have an opportunity to do that later. But we
19 will take our lunch break. We will be in recess for
20 approximately an hour.

21 COURT OFFICER: All rise. Court is in recess.

22 (Court in recess from 12:32 to 1:45 p.m.)

23 COURT OFFICER: All rise. This Honorable Court is
24 back in session. Be seated. Come to order.

25 THE COURT: Thank you.

1 MS. LITTRELL: Your Honor, I apologize we went long
2 this morning, but there's one document that I was hoping to
3 introduce to the Court and two questions that I think are
4 germane and then I'll sit down and --

5 THE COURT: Two questions.

6 MS. LITTRELL: Two questions.

7 DIRECT EXAMINATION CONTINUED

8 BY MS. LITTRELL:

9 Q. Ms. Diamond?

10 A. Yes.

11 Q. When we broke for lunch, you had just testified about
12 going to -- I -- ACU. Acute care at Jackson. And I just want
13 to ask you what happens there at -- in ACU that might affect
14 your willingness to talk about suicide ideation with your
15 medical providers.

16 A. They make you -- they strip you completely naked and
17 you're usually sitting on a piece of steel that's -- probably
18 be about 2 inches wide. And you're in some subtherapeutic
19 temperatures. It's really cold.

20 Q. Does that exacerbate your gender dysphoria to be -- to be
21 stripped and put into a room?

22 A. Yes, ma'am, it does.

23 Q. And you talked about receiving threatening letters, so I
24 want to ask my colleague to bring up Plaintiff's Exhibit 225.
25 Do you see what's on the screen in front of you?

1 A. Yes.

2 Q. Have you seen that before?

3 A. Yes, sir.

4 Q. Can you tell us what it is.

5 A. It was a letter, a note that I received telling me to kill
6 myself.

7 Q. And do you recall where you were when you received that
8 letter?

9 A. No.

10 Q. Okay. Was it at -- was it either at Jackson or Coastal;
11 right?

12 A. Coastal, yes.

13 Q. Have you received threatening letters at both?

14 A. I have.

15 Q. Okay. Can you turn to the next page, please. And then do
16 you see this? Do you recognize this?

17 A. Um-hum.

18 Q. Okay. And what is this?

19 A. Another letter that I received.

20 Q. Okay. Do you recall where you were when you received
21 that?

22 A. I think I was at Coastal, under the door.

23 Q. And could you turn to the next page. Do you recognize
24 this document?

25 A. Yep.

1 Q. You do?

2 A. (Nodding head in the affirmative.)

3 Q. Okay. And what is this?

4 A. This is another -- this is gang affiliation.

5 Q. Do you recall where you received this letter?

6 A. I am not for sure exactly when I received it. But I do
7 recall sending the letter home, uh-huh.

8 Q. Okay. And that was either at Jackson or at Coastal, this
9 most recent incarceration?

10 A. Um-hum.

11 Q. Okay. Can you turn to the next -- do you remember -- can
12 you tell me what this document is?

13 A. Yes. It's another one of the -- the letters I received at
14 Coastal.

15 Q. Okay. The next page, please. Do you recognize this
16 document?

17 A. That's a letter from Earl Thigpen.

18 Q. Okay. And does it contain some information in there
19 that's upsetting?

20 A. Very, yes.

21 Q. Can you turn to the second page of that. And that's
22 signed, "Sincerely, Earl"; do you see that?

23 A. Yes.

24 Q. And who is Earl?

25 A. Earl Thigpen is one of my assaulters.

1 Q. Okay. And did you -- or the letters that you may have
2 received from this stack that we just talked about, that you
3 received at Jackson, did you turn those over -- you talked
4 about giving something to Lachesha Smith and she gave them
5 back?

6 A. Yes.

7 Q. Are some of these letters amongst the letters that you
8 provided to her?

9 A. Yes.

10 Q. Okay. Thank you.

11 MS. LITTRELL: At this time I would like to move
12 Plaintiff's Exhibit 225 into evidence.

13 THE COURT: Any objection?

14 MR. CHALMERS: No, Your Honor.

15 THE COURT: Admitted without objection.

16 (Plaintiff's Exhibit 225 admitted into evidence at
17 1:50 p.m.)

18 MS. LITTRELL: Thank you.

19 BY MS. LITTRELL:

20 Q. And the last thing I wanted to ask you about was, you
21 know, whether your -- the number of sexual assaults and the
22 experience that you had, if those -- the sexual assaults
23 sometimes conflate just in terms of dates and times; is that
24 true? Is that fair to say?

25 A. Yes.

1 Q. Do you remember the assaults but sometimes the dates are a
2 little lost?

3 A. Yes, ma'am. I mean, if you've been through what I've been
4 through it's not -- you know, you don't really -- it's
5 difficult to remember exactly every time and date for every
6 single incident.

7 Q. Okay. And the castration attempts, you testified that you
8 had a number of them.

9 A. I did.

10 Q. And --

11 A. Even at Coastal, there were a couple where there were
12 culture exams did, and I still haven't received the culture
13 exams from those.

14 Q. Does that indicate maybe that there's more castration
15 attempts than you are recalling right now?

16 A. Yes, there was, yes, yes.

17 MS. LITTRELL: That's all I have, Your Honor. Thank
18 you.

19 THE COURT: Mr. Chalmers, are you conducting the
20 cross?

21 I'm sure that even by Ms. Littrell's method of
22 counting you have more than two questions. I encourage you to
23 focus on the critical events.

24 My plan at the moment is, when Ms. Diamond has
25 concluded her testimony, to put our John Doe witness up and

1 then Officer Brown and then Mr. Betterson. We can talk about
2 that if necessary, but, again, I want to focus where we're
3 going.

4 MR. CHALMERS: Yes, sir, that's fine.

5 CROSS EXAMINATION

6 BY MR. CHALMERS:

7 Q. Ms. Diamond, good afternoon.

8 A. Good afternoon, sir.

9 Q. My name is Roger Chalmers. We haven't met yet.

10 A. No, sir.

11 Q. Like your counsel earlier today, I am going to ask you
12 questions during this examination that are personal and that
13 you might find offensive. And so I want to tell you at the
14 outset, it is not my intention to offend, but I do want to know
15 what details and what information you have about your claims,
16 okay.

17 A. Yes, sir.

18 Q. So that's why I'm asking these questions. How old are
19 you?

20 A. I'm forty-three.

21 Q. And where are you from?

22 A. I'm from Rome, Georgia.

23 Q. And you are currently serving a conviction for what
24 offense?

25 A. Violation of parole.

1 Q. Okay. But that parole violation was itself related to
2 another criminal offense, and my question really is what
3 criminal offense is that?

4 A. Oh, what is my underlying offense? Burglary.

5 Q. Yes, ma'am.

6 A. Burglary.

7 Q. "Burglary"?

8 A. Yes, sir.

9 Q. And where did that crime occur?

10 A. Rome, Georgia.

11 Q. You talked a bit about your initial period of
12 incarceration and that began in 2012; is that correct?

13 A. Yes, sir.

14 Q. But then you were released in 2015?

15 A. Yes, sir.

16 Q. And then you reentered GDC custody in October of 2019;
17 correct?

18 A. Yes, sir.

19 Q. Okay. And what was the technical parole violation that
20 you said you had?

21 A. Um, for leaving the state -- or failure to report or
22 leaving the state without permission.

23 Q. Did you fail to report?

24 A. I did.

25 Q. Did you leave the state without permission?

1 A. I did.

2 Q. Did you understand that those two acts were a violation of
3 the terms of your parole?

4 A. At the time I didn't. I thought because it was a life and
5 death situation that it would be worked out.

6 Q. Have you filed any kind of lawsuit challenging your parole
7 revocation?

8 A. No.

9 Q. Okay. So when you reentered GDC custody, you came first
10 to Jackson, what you've referred to as "Jackson Prison";
11 correct?

12 A. Yes, sir.

13 Q. You understand that's Georgia Diagnostic and
14 Classification Prison?

15 A. Yes, sir.

16 Q. And you understand that that is a facility where
17 offenders, when they first come into custody, are classified?

18 A. Yes, sir. Some offenders, yes, sir.

19 Q. And, in fact, you went through a process of classification
20 at Jackson; didn't you?

21 A. I did.

22 Q. Part of that was meeting with Grace Atchison. Do you
23 remember that?

24 A. I do.

25 Q. And you mentioned earlier that you talked on the phone

1 with Ms. Atchison?

2 A. I did.

3 Q. And are you aware that that phone call was recorded?

4 A. I wasn't, but I am now.

5 Q. Okay. What did you understand to be the purpose of that
6 interaction or call with Ms. Atchison?

7 A. To evaluate my classification for a female facility.

8 Q. So you understood at the time that you got on the phone
9 with Ms. Atchison that she wanted to talk to you about your
10 transgender status and as part of the assessment of where you
11 should be placed?

12 A. No. That wasn't my understanding. My understanding was
13 that she was the PREA coordinator and that she wanted to check
14 in with me on my status about how I was doing.

15 Q. You didn't mention to Ms. Atchison in that call anything
16 about what you described earlier as word of mouth that you
17 would not be sent to a women's facility. Did you?

18 A. No.

19 Q. Okay. And in the interview, you first said that you
20 preferred a female facility; do you recall that?

21 A. Yes.

22 Q. But then as the interview progressed, you clarified that
23 you would actually be comfortable in a men's medium security
24 facility; didn't you?

25 A. I didn't say that I would be comfortable. I said as a --

1 if -- if a female facility was completely out of line, then,
2 yes, that was my understanding. Because I was told by several
3 officials there that Georgia was not there and that that was
4 not going to happen.

5 Q. I'm sorry, I didn't hear the last part of that.

6 A. I was told that Georgia was not there in terms of sending
7 transgender inmates to female facilities, and that that was
8 probably not going to happen.

9 Q. But you didn't mention that in your conversation with
10 Ms. Atchison; did you?

11 A. No, I didn't.

12 Q. And you did, in fact, say in the conversation that you
13 would be comfortable with placement in a men's facility as long
14 as it was a medium security facility?

15 A. As long as it was Rutledge.

16 MR. CHALMERS: Your Honor, if I could play -- I have
17 my co-counsel access what we have marked as Defendants'
18 Exhibit 1.

19 (Audio started playing at 1:58 p.m.)

20 BY MR. CHALMERS:

21 Q. Ms. Diamond, do you recognize Ms. Atchison in that
22 recording?

23 A. I do. Just because you're telling me that's who it is,
24 yes.

25 (Audio call resumed playing at 1:58 p.m.)

1 BY MR. CHALMERS:

2 Q. Ms. Diamond, do you recognize yourself as the other person
3 in the recording?

4 A. Yes, I was explaining to her that I didn't feel good, yes.

5 Q. You had a conversation with her about how you were just
6 getting going with mental health treatment or assessments and
7 medical assessments at that time; do you remember that?

8 A. I don't recall.

9 Q. Okay.

10 (Audio call resumed playing at 1:58, ending at 2:03 p.m.)

11 BY MR. CHALMERS:

12 Q. Ms. Diamond, there was more to the tape, but you recall
13 the conversation?

14 A. I do.

15 Q. And that is an accurate recording of the conversation that
16 you had with Ms. Atchison?

17 A. As I heard it.

18 MS. LITTRELL: We want to lodge an objection to
19 completeness of the tape.

20 THE PLAINTIFF: Because I am not the custodian to it,
21 so I don't know.

22 MR. CHALMERS: We moved to admit the entirety of
23 Exhibit 1, Your Honor, so the entire tape will be there.

24 THE COURT: Any objection --

25 MS. LITTRELL: I would like to hear what's in the

1 beginning of it before -- we can't do that?

2 THE COURT: You can review it, and if there's
3 something you want me to hear, fine. But I am not going to
4 listen to it just because you want the whole tape played
5 without having any idea what's on it.

6 MS. LITTRELL: Well, I've heard it. It does express
7 the preference for a female facility.

8 THE COURT: If you have something specific -- pardon
9 me?

10 MS. LITTRELL: It seems like it got started after she
11 said she preferred a female facility and then transitioned into
12 she would be willing to go to another one. So I think, at
13 least for completeness here, that part needs to either be
14 called to the Court's attention or played for the record.

15 MR. CHALMERS: Your Honor, counsel can play that on
16 redirect, it did not -- there is a -- this is a 30-minute
17 conversation. I tried to get to the point where she clarified
18 that she would be comfortable with a men's facility.

19 THE COURT: All right. Well, it's been tendered in
20 its entirety. It's admitted. And if you can on redirect or at
21 some other point, Ms. Littrell, point me to a specific part, I
22 will be happy to listen to it. But if it's 30 minutes long, we
23 are not going to listen to it right now.

24 MR. CHALMERS: Thank you.

25 ///

1 BY MR. CHALMERS:

2 Q. Ms. Diamond, you mentioned in the clip that we heard that
3 when you left you were a Level III. Did you mean by that that
4 when you left in 2015, at that time you were a Level III Mental
5 Health?

6 A. I did.

7 Q. Okay. You understand that when you came back in on this
8 period of incarceration in 2019 and then in 2020, you were
9 classified by the mental health folks as a Mental Health
10 Level II facility?

11 A. I understand that. But they never saw me, so I don't know
12 how they could have made that determination just -- by just
13 making that determination. But I understand that that was the
14 determination that was made.

15 Q. Okay. You understand you've been -- when you were
16 classified, it was determined when you came in for assessment
17 that you were a Mental Health Level II offender?

18 A. Yes, but I don't know how they came to that assessment
19 because my actual mental health assessment didn't come until
20 after the interview with Atchison.

21 Q. No, I understand that. And to be clear, I am not asking
22 you if you were a Mental Health Level II offender at the time
23 of the interview. I am just asking if it is accurate that once
24 you were assessed at Georgia Diagnostic that you were
25 identified or classified for mental health purposes as

1 Level II.

2 A. I would assume so. I guess that is what they did.

3 Q. And Rutledge is not a Level II facility. That is a
4 Level III facility; correct?

5 A. Yes.

6 Q. Okay. You mentioned, and I want to get through these very
7 briefly, that there were three -- I think there were four
8 incidents at Jackson that your counsel asked you about. One
9 occurred in November, 2019. You described that as a rape.

10 A. Um-hum.

11 Q. Another occurred in November of 2019, also. You described
12 an orderly pushed you into a closet?

13 A. Um-hum. He wasn't an orderly, but, yes, sir.

14 Q. He was not an orderly?

15 A. No, sir.

16 Q. It was another offender?

17 A. It was.

18 Q. You described that in March of 2020 a Nurse Lucas also
19 touched you in an offensive way. Right?

20 A. Yes, sir.

21 Q. And you mentioned as to the Nurse Lucas incident that you
22 told a counselor and then it was investigated; is that right?

23 A. That's correct.

24 Q. What counselor did you tell?

25 A. My GP counselor.

1 Q. Who was that?

2 A. Ms. Larkin.

3 Q. And did you tell Ms. Larkin about the November, 2019,
4 incident?

5 A. No. And it wasn't that I was actually telling her. I was
6 just asking her if that constituted abuse.

7 Q. So just to be clear, you did not tell Counselor Larkin
8 about what you have described as a November, 2019, rape and a
9 November, 2019, incident in the closet?

10 A. I only told Counselor Larkin about the incident with Nurse
11 Lucas.

12 Q. Okay. And that's the one that you said was investigated?

13 A. Yes.

14 Q. Let me get to when you arrived at Coastal State Prison.
15 That was in June of 2020?

16 A. It was.

17 Q. So almost a year ago today?

18 A. Yes, sir.

19 Q. You described that when you arrived you had an interaction
20 with a Unit Manager Jackson --

21 A. I did.

22 Q. -- that you found offensive?

23 A. I did.

24 Q. And then you also said that you had heard from others in
25 your dormitory that Unit Manager Jackson made what you believed

1 were offensive and inappropriate remarks about you.

2 A. Yes, sir.

3 Q. When did you -- of the first of those two, when did you
4 first -- when did you have that first interaction with the Unit
5 Manager Jackson?

6 A. I would say the first interaction with Unit Manager
7 Jackson was probably a day or two before I moved over in the
8 dormitory where the meeting began.

9 Q. So that would have been at a period of time when you were
10 on quarantine for COVID purposes?

11 A. Yes, sir.

12 Q. And that was for a short period of time of a couple weeks
13 or so when you first arrived?

14 A. Yes, sir.

15 Q. And then the second incident involving what you described
16 as others telling you that Unit Manager Jackson said offensive
17 things, when were you told about that?

18 A. Immediately. When I -- after I got down from the podium
19 in the middle of the meeting, all of the dorm people ran over
20 to me, and they were saying, "Well, you're nothing like what we
21 expected, you're nothing like the unit manager said that was
22 coming over here."

23 Q. So then your description of being told that Unit Manager
24 Jackson said those things, that also is an incident that
25 occurred very shortly after you arrived at Coastal State

1 Prison?

2 A. It is.

3 Q. Okay. After those two incidents that you described for
4 us, did you have any other interactions with Unit Manager
5 Jackson?

6 A. No.

7 Q. Okay. Do you recall having conversations with Warden
8 Benton where he informed you that in the N-Building or at
9 Coastal State Prison you are not to go into another offender's
10 cell?

11 A. No. Not until afterwards. After all of the allegations
12 were made.

13 Q. All of what allegations?

14 A. The allegations that I made.

15 Q. What allegations?

16 A. About assaults.

17 Q. When do you believe Warden Benton told you that you
18 shouldn't go in and you were prohibited from going into another
19 offender's --

20 A. He never verbally told me that.

21 Q. So your testimony is you were never given that
22 instruction?

23 A. Not from him. He gave a directive out loud, in the
24 interim, afterwards, that no offenders -- they came up with the
25 rule that no offender was to go into another offender's room.

1 Q. You understand that that is a rule at Coastal State
2 Prison, that an offender should not enter another offender's
3 room?

4 A. I do understand that.

5 Q. And you understand that it means that both you should not
6 go into another offender's room, but also you should not permit
7 or another offender should not be allowed by you into your
8 cell?

9 A. Um-hum.

10 Q. Is that a yes?

11 A. Yes.

12 Q. Have you had any instances at Coastal State Prison since
13 you arrived there in June, 2020, where you had to be -- this
14 goes to my earlier comment where I said I'm going to ask things
15 that are personal or possibly offensive, and I am not trying to
16 offend, I am trying to get to the answer.

17 A. That's fine. That's fine.

18 Q. Have you ever been catheterized because you were not able
19 to urinate?

20 A. No, sir.

21 Q. So from June of 2020 to this day, in all of your time at
22 Coastal State Prison, you -- functionally, you have been able
23 to urinate and relieve your bladder?

24 A. No, sir.

25 Q. "No, sir"? When have you not been able to do so?

1 A. Multiple times.

2 Q. Can you tell us when?

3 A. Just months in between, days and weeks in between my
4 attempts.

5 Q. Have you ever had any kind of medical procedure to assist
6 you in urinating?

7 A. Never in my life.

8 Q. Okay. So in all the period of your time at June -- at
9 Coastal State Prison, from June to the present, you have not
10 had or required medical assistance for that purpose?

11 MS. LITTRELL: Objection to form. It
12 mischaracterizes her testimony.

13 THE COURT: What?

14 MS. LITTRELL: Objection to form, that
15 mischaracterizes her testimony. She didn't need medical
16 assistance to urinate.

17 THE COURT: It was his question. He can characterize
18 it on cross as he wants. Overruled.

19 BY MR. CHALMERS:

20 Q. Ms. Diamond, do you recall my question?

21 A. Have I ever been catheterized? No, sir. Never at
22 Coastal. Or anywhere else for that matter.

23 Q. Do you understand why corrections officials might find it
24 convenient if they do an unannounced drug test screening and
25 you indicate that you're not able to urinate, since you, in all

1 of your time at Coastal --

2 A. Yes.

3 Q. -- have actually been able to urinate on your own?

4 A. Excuse me, I didn't understand the question.

5 Q. Do you understand why correctional officers or prison
6 officials might be a little skeptical when you tell them, when
7 they are there for a drug screen, that you cannot urinate?

8 A. Yes, if you knew you were going for a drug screen, yes,
9 sir.

10 Q. Is it your experience that drug screens are announced
11 ahead of time?

12 A. Well, usually -- I mean, I -- I don't know anything about
13 how the department runs drug screens. I do know that they can
14 randomly pop up and that you did have to submit to them, which
15 I had no problem doing. I just couldn't urinate. I offered
16 blood, I offered hair, I offered every other aspect. But I
17 just couldn't urinate.

18 Q. Okay. I've asked you about Unit Manager Jackson and that
19 interaction you had in June of 2020.

20 A. Yes, sir.

21 Q. And I want to get to the other -- what you described as
22 the other assaults. And you listed several. There was one in
23 July of 2020, one in September or what you described as a
24 series in September of 2020.

25 A. Um-hum.

1 Q. And then I believe -- did you also mention that there was
2 something that you described as an assault in October, 2020?

3 A. Um-hum.

4 Q. Okay. Did you describe assaults occurring at Coastal
5 State Prison after October, 2020?

6 A. After October, 2020, did I do what?

7 Q. Were there assaults on you at Coastal State Prison after
8 the ones that you described that occurred in July, September,
9 and October, 2020?

10 A. Yes.

11 Q. And when did those occur?

12 A. Let's see, one was recently, in December. Um, I would say
13 in December and January. I am not really -- like, my mind -- I
14 don't really know verbatim the exact dates and times.

15 Q. Did you already mention those that occurred in December
16 and January today?

17 A. Excuse me?

18 Q. Let me rephrase that. What happened in December, 2020?

19 A. In December of 2020? Okay. That was the masturbation,
20 um-hum.

21 Q. Explain what occurred, if you would, please.

22 A. I'm thinking that's the one with Thigpen. No, actually,
23 no, in December, that was the guy -- the black guy from the
24 kitchen that was jacking on me in the day room.

25 Q. And who did you report that to?

1 A. Um, actually, I reported it to my counsel, to my mother,
2 and to staff in the dorm.

3 Q. What staff in the dorm?

4 A. The facilitators.

5 Q. And who -- can you give us a name?

6 A. Yes, I can. One is Conway. One would be -- let's see,
7 what is the other one's name? Doc? The other one would be
8 Jones. One would be Bowers and Logan. Logan specifically,
9 too.

10 Q. And that was an incident, as you described it, of another
11 offender masturbating in your presence?

12 A. Yes.

13 Q. You have to say yes or no.

14 A. I said yes. "Yes."

15 Q. And then you mentioned something occurred in January. Did
16 you mean January of 2021?

17 A. Yes.

18 Q. And what was that?

19 A. More masturbation.

20 Q. Do you recall when in January, 2021?

21 A. Yeah. Not exactly, no, I can't recall.

22 Q. Did you report that incident?

23 A. To my family, yes.

24 Q. Ms. Diamond, I want to go back to the July, 2020, incident
25 that you talked about earlier today. You mentioned that a

1 person entered your cell, came up from behind you and grabbed
2 you. But at that point, when the offender came in and grabbed
3 you, two of your friends or other offenders came in and removed
4 him. Is that right?

5 A. Um-hum. Um-hum.

6 Q. Your papers that the lawyers have filed for you in this
7 case have said that that incident occurred on July 3rd, 2020.
8 Is that accurate, to the best that you recall?

9 A. To the best of my ability.

10 Q. Okay. Do you recall that Tamara Cantera came to speak
11 with you on several occasions about that incident?

12 A. I do remember speaking with Ms. Cantera.

13 Q. Okay. And my question was bad. I don't mean she came to
14 speak with you, but you were brought to her, probably, and you
15 spoke with her --

16 A. I went to her and told her about it. I made a complaint
17 to her.

18 Q. Okay. Are you aware that Ms. Cantera has told us in
19 testimony that she actually tried to get the details of that
20 incident from you on July 8th, July 17th, and July 24th, and
21 you said you wouldn't provide the details?

22 A. No, I never -- I don't remember saying I wouldn't provide
23 details. I do remember, however, stating that I would be more
24 than willing to cooperate with any investigation as long as
25 counsel was present.

1 Q. So you did not answer or provide information to
2 Ms. Cantera because your counsel was not present?

3 A. That's correct.

4 Q. And you'd agree with me, then, as Ms. Cantera has said,
5 that that was on July 8th, July 17th, and then again on --

6 A. I don't recall the dates, sir.

7 Q. Ms. Diamond, you will have to let me finish my question.

8 A. Oh, I'm sorry.

9 Q. Ms. Cantera has testified that she attempted to get
10 information from you about this alleged assault on July 8th,
11 July 17th, and July 24th, and on each of those occasions you
12 said you would not discuss it, you would like to have your
13 attorney present. Is that accurate?

14 A. Again, I can't recall exactly every single date. But I do
15 recall telling Ms. Cantera that I would prefer that I have
16 counsel.

17 Q. If Ms. Cantera documented each time that she tried to get
18 information from you, and each time that you said, "I'm sorry,
19 I don't want to talk about it," would you have any reason to
20 doubt her documentation?

21 A. What is the question again? Ask me again.

22 Q. Ms. Cantera has told us that she attempted to get details
23 from you about this July, 2020, incident. And we have seen
24 that she created a document each time she tried to meet with
25 you.

1 A. Um-hum.

2 Q. And she documented the fact that you would not talk about
3 it. We have those documents in the record.

4 A. Um-hum.

5 Q. Do you have any reason to dispute the accuracy of Miss
6 Cantera's documents?

7 A. Um, all I'm saying is I asked Ms. -- the only thing I told
8 Ms. Cantera was that I wanted counsel available. That's all I
9 can tell you, is in reference to that. That every time that I
10 spoke with her in reference to an assault, that I asked that
11 counsel be present. And she agreed to me that that was
12 probably the best idea. She told me that they just keep
13 calling her and insisting that she ask me, and she didn't want
14 to keep pressuring me.

15 Q. Ms. Cantera has said that she came to talk to you a fourth
16 time on July 31st.

17 A. I can't recall.

18 Q. She has said at that time you didn't give her the identity
19 of the person who you contend assaulted you. Do you have any
20 reason to dispute what Ms. Cantera has said?

21 A. No, sir.

22 Q. Let me ask you about one paragraph in your declaration.
23 You say in Paragraph 22 of your declaration that you have been
24 exposed to a "chilling set of rapes and attacks." What are the
25 rapes that you're referring to?

1 A. All of the attacks and rapes that have happened to me in
2 GDC custody. Every one. Every one.

3 Q. Which are the occasions --

4 A. Both occasions, my first incarceration and this
5 incarceration.

6 Q. Okay. So let me move to the September, 2020, assaults
7 that you described. You have, I believe, testified earlier
8 today that you attempted suicide on one or two occasions after
9 September, 2020; is that right?

10 A. Yes, sir.

11 Q. I'm sorry?

12 A. I said, "Yes, sir." Yes, sir.

13 Q. And you were asked by your counsel did you report the
14 September, 2020, assaults that you described. And you said you
15 authorized your lawyers to report those; is that right?

16 A. Yes.

17 Q. But you did not, yourself, report them?

18 A. No, sir.

19 Q. You understand that part of the PREA or the SART process
20 is to discuss the incident with persons at the prison who are
21 investigating the alleged incident. Do you understand that?

22 A. Yes, sir, that is my understanding.

23 Q. And you understand that just as she had for the July,
24 2020, alleged incident, that Ms. Cantera came to you in
25 September of 2020 and tried to talk to you again about what you

1 contended happened that constituted sexual assault?

2 A. Was the -- the question again is did I understand --

3 Q. The problem is my questions. Not you.

4 You understand that Ms. Cantera came back and you had
5 discussions with her in September of 2020 where she tried again
6 to get you to talk about what you contended were PREA
7 incidents?

8 A. Yes, sir.

9 Q. And, again, in September, 2020, just like you had in July
10 of 2020, you said, "No, I won't discuss them with you unless a
11 lawyer is present."

12 A. I always ask for counsel, yes. And she always obliged
13 with that and said that that is my right and she was never, you
14 know --

15 In fact, sir, she told me she understood that.

16 Q. Ms. Diamond, you've described these assaults that you say
17 occurred in July, 2020; September, 2020; and October of 2020.

18 A. Um-hum.

19 Q. And you said at various points you gave your lawyers
20 authority to report them; right?

21 A. Um-hum.

22 Q. Did you tell your lawyers about the details? Did you
23 share with your lawyers the details of these assaults before
24 your lawsuit was filed?

25 MS. LITTRELL: Objection, Your Honor, as to

1 attorney-client privilege.

2 THE COURT: Well, you elicited testimony that she was
3 authorized -- she had authorized her attorneys to report the
4 assaults. And I -- I guess the point is, how could you report
5 them if she didn't give you the details?

6 MS. LITTRELL: I would just like to ensure that the
7 questioning doesn't go beyond the details of the assaults that
8 we talked about.

9 MR. CHALMERS: I have no questions other than the one
10 that's pending.

11 THE COURT: All right. Overruled.

12 BY MR. CHALMERS:

13 Q. Ms. Diamond, did you share with your lawyers the details
14 of these alleged assaults from July, September, and October?
15 Did you share with your lawyers those details before your
16 lawsuit was filed?

17 A. Did I share those details before my lawsuit was filed?
18 Did I share the details of July, September, and October
19 assaults with my lawyers before the lawsuit was filed?

20 I can't recall that.

21 Q. Do you know?

22 A. I can't recall.

23 Q. You can't recall? Your suit was filed in October or
24 November of 2020.

25 A. Um-hum.

1 Q. You can't recall if you did?

2 A. No, I can't. I mean, yes, I gave them --

3 I am not sure of the question really, Your Honor. I am
4 not sure of the question.

5 Are you asking me if I told them about the facts of the
6 case before the lawsuit happened? Because I couldn't do that
7 if they hadn't happened. Or, I mean, I don't -- I am not quite
8 sure of the question. So if you could rephrase the question
9 and ask it to where I could understand it.

10 THE COURT: Here's the question as I understand it,
11 Ms. Diamond. First, you say that you authorized your lawyers
12 to report these incidents. And the follow-up question now is
13 did you tell your lawyers the details of those incidents when
14 you --

15 THE PLAINTIFF: Oh, yes, sir.

16 THE COURT: Let me finish. -- when you gave them
17 that authority?

18 THE PLAINTIFF: Did I give them the details?

19 THE COURT: Did you tell your lawyers the details of
20 the incidents when you gave them the authority to report the
21 incidents?

22 THE PLAINTIFF: Yes.

23 BY MR. CHALMERS:

24 Q. So your answer is yes, you did?

25 A. Yeah.

1 Q. Ms. Diamond, isn't it true that you were -- you were
2 encouraged not just by Ms. Cantera, but also by Tia Fletcher,
3 to give details of what was occurring in alleged PREA
4 incidents?

5 A. No.

6 Q. Ms. Fletcher never told you that?

7 A. No.

8 Q. Do you know who Tia Fletcher is?

9 A. I do. She's my mental health director.

10 Q. Did you meet with Tia Fletcher or Ms. Fletcher from time
11 to time in your time at Coastal?

12 A. I have.

13 Q. Would you say you had a good relationship with her?

14 A. Yes.

15 Q. If Ms. Fletcher has testified that she documented
16 discussing with you the importance of communicating important
17 events, like PREA events, would you have any reason to dispute
18 that?

19 A. Yes. I mean, because I've never -- me and her have never
20 had a discussion that I'm aware of or that I remember that was
21 geared towards me being vocal or verbalizing anything about
22 PREAs.

23 MR. CHALMERS: Your Honor, I am not sure how we would
24 do this or if we need to do it formally, but there are exhibits
25 from the Cantera and Fletcher deposition that we would move for

1 admission pertaining to what I'm going over now. They are the
2 Exhibit Number 10 on our exhibit list, identified as Cantera
3 exhibits. There are 12 of those all together, but they have
4 been scanned all as one Exhibit Number 10.

5 And then the other is something that we don't have on
6 our list but we would mark it as Defendants' Exhibit 12, and
7 that is previously marked as Defendants' Exhibit 1 to the
8 Fletcher deposition. So we'd move admission of those items.

9 THE COURT: Are you just trying to get them into the
10 record?

11 MR. CHALMERS: Yes, sir.

12 THE COURT: You are not going to use them?

13 MR. CHALMERS: I am not going to use them at this
14 time.

15 THE COURT: We will deal with that later. Just don't
16 forget.

17 BY MR. CHALMERS:

18 Q. Ms. Diamond, I am going to get to the last of the
19 incidents, which is the DR that you received in October of 2020
20 for sexual behavior. Do you recall that one?

21 A. I do.

22 Q. And that occurred on October 31st of 2020; right?

23 A. (Nodding head in the affirmative.)

24 Q. The incident was on October 31st, 2020?

25 A. Yes, sir.

1 Q. And the night before that, you say you were cut down by a
2 friend who entered your cell?

3 A. Um-hum.

4 Q. And what do you mean by that?

5 A. I mean -- what do you mean? Which part, sir? The cut
6 down part? Or --

7 Q. Describe what you mean. I wrote down -- and I am not sure
8 if it's accurate, so I apologize if I am misquoting what you
9 said. But I understood from your earlier testimony that you
10 said that on that evening you were cut down by a friend.

11 A. Um-hum.

12 Q. Did you say that?

13 A. Yes, I said that, yes.

14 Q. What do you mean by that?

15 A. I mean the nooses were taken loose.

16 Q. And what was this noose?

17 A. I am not quite sure if it was a -- I think it was a sheet
18 or a belt or something to that effect.

19 Q. And when did this happen?

20 A. Um, that Friday night.

21 Q. What time that Friday night?

22 A. I'm really not quite sure. I have no idea. I was not
23 myself then, so I don't know.

24 Q. Is there anything you can think of that will give you a
25 reference to when that might have occurred?

1 A. No, sir.

2 Q. Is there a period in the dormitory when the cells are to
3 be locked for the night?

4 A. There is now. There wasn't before.

5 Q. Was there one on October 31st, 2020?

6 A. No.

7 Q. Okay. And so you have no idea what time on October 30th
8 or the 31st you attempted hanging?

9 A. No, sir. I can't tell you.

10 Q. And who was it that came into your cell to assist you?

11 A. It was John Doe.

12 Q. Okay. When this John Doe came in to assist you, did that
13 person remain in your cell for the rest of the night until the
14 morning of October 31st?

15 A. It is my understanding, yes.

16 Q. What do you mean, it was your understanding?

17 A. I can't really remember, sir. I was -- in bad shape.

18 Q. The next morning Correctional Officer Courtney Brown has
19 written in a witness statement, and you got a DR, that she
20 pushed open your door and saw you in a sexual act with this
21 John Doe. You are aware of that?

22 A. Yes. I am aware that that was the accusation.

23 Q. What were you doing when Correctional Officer Brown pushed
24 open your door?

25 A. I was sitting on the bed.

1 Q. And John Doe was there?

2 A. Yes, sir, sitting beside me.

3 Q. And after Correctional Officer Brown pushed open the door,
4 she had you come out of the cell?

5 A. She did.

6 Q. Say it again.

7 A. "She did."

8 Q. And she had this other offender, John Doe, remain in the
9 cell?

10 A. Yes.

11 Q. She separated the two of you?

12 A. Yes.

13 Q. Why did she do that?

14 A. I have no idea.

15 Q. Had you had any interaction with Correctional Officer
16 Brown before October 31st, 2020?

17 A. Yes.

18 Q. Was she a regular officer in your N-Dormitory?

19 A. She was.

20 Q. And did you have any problems with her?

21 A. Um, we didn't get along, if that's what you mean. I don't
22 speak to a lot of officers. A lot of people have no care for
23 me, so I just don't speak to them. I didn't even know her name
24 was Ms. Brown until after.

25 Q. Okay. So you didn't even know her by name?

1 A. I just knew who she was and always -- yeah.

2 Q. Had you had any interaction with Correctional Officer
3 Brown or CO Brown like the ones you've described with Unit
4 Manager Jackson?

5 A. I think there was some times, like, the misgendering --
6 that she would misgender me, and just --

7 Q. By that, you mean refer to you as "he" rather than "she"?

8 A. Um-hum.

9 Q. Anything else?

10 A. I think there was some obvious distaste for me.

11 Q. Okay. Anything else?

12 A. That would be it.

13 MR. CHALMERS: Your Honor, we would move to admit
14 what is marked as Exhibit 11, although, again, formality, I am
15 just making note of it at this time. We can do so through
16 Warden Benton if it is better.

17 MR. McCOY: What is it?

18 MR. CHALMERS: I apologize --

19 MS. LITTRELL: Can we get an exhibit list?

20 MR. CHALMERS: Exhibit 11 is the October 31, 2020,
21 dorm footage. It is listed on our exhibit list.

22 MS. LITTRELL: Oh.

23 MR. McCOY: All of it?

24 MR. CHALMERS: By that, you mean what?

25 MR. McCOY: The videos are broken up into time

1 periods of roughly 2 hours. I'm asking if it is just one or
2 the entire thing.

3 MR. CHALMERS: All of it.

4 THE COURT: So, first, is there any objection to the
5 admission in evidence of these videos?

6 MS. LITTRELL: No, Your Honor.

7 MR. CHALMERS: Your Honor, for reference the video
8 will include times from October 30th and also into the day of
9 October 31st, 2020. Thank you.

10 THE COURT: What are those exhibit numbers again?

11 MR. CHALMERS: That was Exhibit 11.

12 THE COURT: Okay.

13 MR. McCOY: Your Honor, it is also on Plaintiff's
14 exhibit list, and we can get those for you. But for now, if
15 that Exhibit 11 for the defense is the entire set, then I don't
16 think we would need them.

17 THE COURT: With no objection, those videos are
18 admitted in their entirety.

19 (Defense Exhibit 11 admitted into evidence at 2:37 p.m.)

20 BY MR. CHALMERS:

21 Q. Ms. Diamond, you talked about a DR that you got for
22 assault on Brandi Moore; do you recall that?

23 A. Yes, sir.

24 Q. And that occurred very recently, April of this year?

25 A. Yes, sir, very recently.

1 Q. What did you say to Ms. Moore that led to that DR?

2 A. To which DR? To the assault? I didn't say anything that
3 led to the assault.

4 Q. Did you get another DR relating to Brandi Moore?

5 A. Yes, I did.

6 Q. What was that for?

7 A. I was written a DR for insubordination.

8 Q. What did you say to Brandi Moore leading up to that DR?

9 A. I told her that -- she asked me if I had a problem with
10 her. And she came outside and said that if I -- and I said,
11 "No, ma'am." I said, "I don't have any problems with you," I
12 said, "and I don't wish to talk to you."

13 And she told me that she had not talked to me, that she
14 never has anything to do with me.

15 And I said, "You know, and it's a shame," I said, "because
16 you never recognized all of those times I came to you for help
17 and told you that things were happening to me," I said, "so," I
18 said, "if any kind of woman, another woman -- any woman would
19 have --"

20 And that's when she turned to me and said, "Woman? Woman?
21 Let's talk about what you're not. We're not going to go there
22 about women."

23 And that's when I said, "I tell you what," I said, "that's
24 absolutely fine because," I said, "this just proves the way --
25 how you feel about me." And I told her that that's absolutely

1 fine.

2 She made another comment, and I called her Big Bootie
3 Judy. I said, "And that's fine with me."

4 Later on I received a DR stating that I called her a
5 bitch, a big bootie bitch, which never happened. Then,
6 mysteriously, two or three hours later, there's another DR for
7 assault.

8 Q. You understand that the officers who wrote the DR said
9 that in their presence you called Ms. Moore a big bootie bitch?

10 A. I do understand that that was the assumption. But that DR
11 was also, sir, dismissed because that officer at the time,
12 everything -- the information was incorrect.

13 Q. Okay.

14 A. So it was dismissed.

15 Q. So that was dismissed for a procedural reason, that the
16 information --

17 A. For a factual basis, too. Because that wasn't true.

18 Q. And you understand that the officer who wrote the DR said
19 that in her presence you called Brandi Moore a big bootie
20 bitch?

21 A. That wasn't the DR I was convicted of, sir. The DR I was
22 convicted of from Brandi Moore said that she said that I called
23 her that. That's what the DR says.

24 Q. Ms. Diamond, the problem may be my question. But I just
25 want to be sure I get an answer to my question.

1 A. Okay, sure.

2 Q. The question is this. You understand that the officer who
3 wrote the DR said that in her presence you called Brandi Moore
4 a big bootie bitch?

5 A. Which DR, sir?

6 Q. The one for --

7 A. There were several for the same thing. So I'm confused.

8 Q. You're making it hard.

9 A. There were several insubordinate -- see, I am not trying
10 to be disrespectful to you, sir.

11 Q. You saw earlier --

12 A. There were several DRs that had the same thing on them, so
13 I don't know when you're saying "the DR from Brandi Moore that
14 said this" or "the DR from the officer that said this," because
15 the officer -- the officer, if you're referring to Ms. Davis,
16 that officer's DR, that DR was thrown away.

17 Q. Okay. You understand --

18 A. So it's no good.

19 Q. And that's the DR --

20 A. So you are adjudicating something that was thrown away.

21 Q. Ms. Diamond, you and I have to talk at different times.

22 A. I understand, I'm sorry.

23 Q. I am going to try not to interrupt you.

24 A. And I will do the same.

25 Q. Thank you. You understand that Jamiah -- is that the

1 name -- Correctional Officer Jamiah Davis wrote a DR stating
2 that in her presence you called Brandi Moore a big bootie
3 bitch? You understand that?

4 A. I do understand that.

5 Q. Had you had any interactions -- any negative interactions
6 with Officer Davis before she wrote that DR?

7 A. Absolutely not. Officer Davis was instructed -- told me
8 that she was forced to write that DR, and that came out in the
9 hearing, and that is why the DR was thrown away.

10 She wasn't present.

11 Q. Did you have any issues before this set of DRs with
12 Counselor Moore?

13 A. Um, no, except for the fact that, you know, I was
14 ostracized and never included in anything in the dorm. I
15 always had questions about why was I never included in a
16 mentor -- like, the meals that they would have, I would be
17 excluded always.

18 My questions for her were always about why I was always on
19 the output of everything, everybody's space, instead of -- and
20 everybody's question is that I'm just housed there, that I'm
21 really not in the program.

22 Q. Any other problems with Brandi Moore before this incident?

23 A. Yes.

24 Q. Please tell us.

25 A. She was just always misgendering and always very

1 disrespectful to the gay and LGBT community in the dorm.
2 Always. But me and her had never had any verbal contact or
3 anything up until --

4 Q. Up until April of '21 when you got the DRs?

5 A. Yes, sir.

6 Q. Okay. So, I am going to switch to medical and mental
7 health treatment.

8 MR. CHALMERS: And, Your Honor, this will be quite
9 brief, but I do want to ask a few questions.

10 BY MR. CHALMERS:

11 Q. When you arrived at Coastal State Prison in June of 2020,
12 from that time until the present, you have received medical
13 treatment; correct?

14 A. That's vague, sir. I mean, I've received some.

15 Q. Let me get to what I'm really interested in.

16 A. Yes, sir.

17 Q. You are currently taking hormones; is that right?

18 A. Yes, sir.

19 Q. And when do you get them?

20 A. I'm supposed to get them every two weeks.

21 Q. Okay. And so you have a medical doctor who's provided or
22 prescribed hormones, those medications for you?

23 A. Um-hum.

24 Q. And the regimen that you are on is an every-two-week
25 receipt of the dosage?

1 A. Which rarely happens. And the doses are -- I am never
2 getting -- like, my spironolactone is always -- nothing is ever
3 the way it's supposed to be. Never.

4 Q. Ms. Diamond, you are aware that we have your medical
5 records and your mental health records?

6 A. That's fine. Yes, sir. I am aware.

7 Q. Okay. And so since June of 2020, when you arrived at
8 Coastal State Prison, have you been on a regimen of hormones
9 since that time?

10 A. I have been on a regimen, um-hum, but it hadn't been
11 followed.

12 Q. Yeah, I understand that's your position.

13 A. Um-hum.

14 Q. As far as mental health treatment, you have a team of
15 mental health providers that have cared for you at Coastal
16 State Prison; is that correct?

17 A. I speak with Dr. Fass and I speak with Ms. Pepin and
18 doctor -- yes.

19 Q. Who are the persons you just mentioned?

20 A. Dr. Fass is the psychologist and Ms. Pepin is my mental
21 health counselor.

22 Q. So you see a mental health counselor on a -- some kind of
23 recurring basis?

24 A. Yes, sir.

25 Q. That's Ms. Pepin?

1 A. Um-hum.

2 Q. How often do you see her?

3 A. I am supposed to see her twice a week, but that rarely
4 happens. Maybe once a week, if --

5 Q. You see a mental health counselor once a week?

6 A. Um-hum.

7 Q. And then you see Dr. Fass, who is a psychologist; is that
8 right?

9 A. Um-hum.

10 Q. Are you aware, also, of a Dr. Roth?

11 A. I am. I am.

12 Q. You've been seen by Dr. Roth as well?

13 A. Yes, sir.

14 Q. And then you have also on occasion talked or met or
15 discussed mental health issues with Ms. Cantera?

16 A. When she was there, I did. But she declined -- yeah, I've
17 talked to her, but she wasn't my counselor.

18 Q. Okay.

19 A. It was just because she was --

20 Q. In fact, you talked to Ms. Cantera because she was one of
21 the people involved in the PREA or the SART Team, right, the
22 investigations?

23 A. No, I talked to her because of just her openness and
24 willingness; not because of her in her capacity as a SART
25 leader, but just because of her empathy towards me being a

1 woman in a men's facility. She kind of just --

2 Q. So in addition to those times that Ms. Cantera went to
3 talk to you in a PREA or SART investigation, you're telling us
4 that you also talked to her from time to time about your mental
5 health issues?

6 A. I had until she stopped it and told me she would no longer
7 see me.

8 Q. What about Ms. Fletcher? Do you occasionally see her as
9 well?

10 A. I see Ms. Fletcher, but it was -- it's never on an
11 organized basis. There are just times when I'm really upset
12 and she has been a go-to for that.

13 Q. You mentioned earlier that you did not need or did not
14 really have gender dysphoria treatment outside of GDC custody?

15 A. No, I never said I didn't have the dysphoria treatment
16 outside. I said there was never a need for counseling because
17 I was living in my desired gender. I was living as my body.
18 The counseling is only needed when you can't do that. When you
19 can't have all of that. Because it creates such an emotional
20 distress.

21 Q. Ms. Diamond, I have one other set of questions. I think
22 that's all I will have. You were shown video earlier today of
23 an escort. Do you recall seeing that?

24 A. Yes, sir.

25 Q. We can pull it up if we need to, but I think I can

1 describe this. There was a part --

2 A. Can you hear me?

3 Q. Yes. There was a part in the video where you stopped at a
4 gate and a gentleman in a red shirt unlocked the gate.

5 A. Mr. Orr.

6 Q. That's Mr. Orr?

7 A. Um-hum.

8 Q. Who is he?

9 A. He is the evidence-based counselor for N-B/N-A.

10 Q. Okay. And when you walked through that gate in the video,
11 the building that was right in front of you, is that
12 N-Building?

13 A. The building beside me is N-Building.

14 Q. Beside you?

15 A. And this is T-Building, yes, sir.

16 Q. There were buildings on your right and left, but the one
17 on the right?

18 A. The one on the right is my building, yes, sir.

19 Q. And the one with the door closest to you, that's the
20 N-Building?

21 A. To the right. N-Building is right here, to the right.

22 Q. Understood. Were you being returned at that time to the
23 N-Building?

24 A. I was.

25 Q. And where were you coming from?

1 A. Mental Health.

2 Q. And that was an escort, then, from Mental Health back to
3 the N-Building?

4 A. Um-hum.

5 Q. And those escorts, you say, happen on a regular basis?
6 And they are -- as you say, they are videotaped on a regular
7 basis?

8 A. They are supposed to be, but, again, they are sporadic.

9 Q. And do the officers typically film you until you make your
10 way to your cell?

11 A. Absolutely. That way there's no chance of anything
12 happening from the time I enter the cell to the time I exit the
13 cell. So we run the video the entire time.

14 Q. You -- you have a detail in the N-Building or you have
15 had; right?

16 A. I have a detail that I get to go to sometimes.

17 Q. And what is that detail?

18 A. It's outside maintenance.

19 Q. It's a gardening detail; right?

20 A. So to speak.

21 Q. Okay. And your detail area is that area around the
22 N-Building?

23 A. Um-hum.

24 Q. When you were escorted from Mental Health back to the
25 N-Building, where you stopped, you were essentially right in

1 front of the building that you live in; is that correct?

2 A. (Nodding head in the affirmative.) Um-hum.

3 Q. Ms. Diamond just a few questions more. You have been
4 housed in the N-Building for all of your time at Coastal for
5 the most part; is that right?

6 A. Unfortunately, yes.

7 Q. Okay. And, in fact, you've occupied essentially the same
8 cell for most of your time at Coastal?

9 A. Give or take a few roommates, yes.

10 Q. Yeah. You say, "give or take a few roommates." You have
11 never had a cellmate assigned to your cell at Coastal; have
12 you?

13 A. Incorrect, sir. Yes, I have had several roommates in that
14 cell, and I wasn't supposed to. It was supposed to be just me
15 in that cell.

16 Q. Who are the cellmates that you contend were assigned to
17 you?

18 A. A young man, Nicholas Fulsom, and there was one before
19 Mr. Fulsom, and I can't remember his name. That was a day or
20 two, and then it was Mr. Fulsom.

21 Q. So that I have an understanding, you are saying that an
22 offender named Nicholas Fulsom was assigned to the same cell as
23 you?

24 A. Absolutely.

25 Q. And who were the others?

1 A. The other guy, I don't know his name, that was my first
2 cellmate. Nick Fulsom was the one who was assigned to go in
3 there with me. And the reason I remember that vividly is
4 because Mr. Toole had told me that I would be on a single-cell
5 status. And this didn't happen. And so later on, after I
6 went -- after, you know, a week or so, I went to Mental Health,
7 and they corrected the problem.

8 Q. And when did this occur?

9 A. At my arrival.

10 Q. I didn't hear that, sorry.

11 A. At my arrival at Coastal.

12 Q. So the -- I'm sorry, Ms. Diamond. I am having trouble
13 understanding.

14 A. June or July.

15 Q. And on your arrival, so either in June or July of 2020 --

16 A. Yes, sir.

17 Q. -- you contend that another offender was assigned to the
18 same cell as you?

19 A. I don't contend. There was another offender, Nicholas
20 Fulsom. He was assigned to that cell.

21 Q. Thank you. I have don't have any further questions.
22 Ms. Diamond.

23 A. Thank you, sir.

24 THE COURT: Ms. Littrell, before you do, let me ask
25 some questions.

EXAMINATION

1
2 BY THE COURT:

3 Q. Ms. Diamond, with regard to the video we saw of this
4 incident with Ms. Moore, when in relation to what we saw on the
5 video did that happen?

6 A. Okay. The assault on Ms. Moore? When did that happen?

7 Q. Well, whatever the incident, you described it as -- well,
8 let me be sure we're clear on this. Was there one incident
9 with Ms. Moore?

10 A. This was all one incident, yes, sir.

11 Q. Oh, whether it was an assault, or words, or whatever it
12 was, in relation to the video --

13 A. That was way after. The video was after. Things had
14 calmed down, I'd went to Mental Health. The Captain and I,
15 we'd all -- yes, that was way after.

16 Q. And the DRs that resulted from that incident, were there
17 hearings on each of the DRs?

18 A. Yes, they did one hearing and they did everything in one
19 hearing, sir.

20 Q. And in the end, which DRs were you convicted of?

21 A. They threw out the verbal, the insubordination, and the
22 failure to follow. In the very end I was found guilty of
23 assault on staff and insubordination.

24 Q. Can inmates move on their own between dorms?

25 A. Yes, sir. They can -- like, would they move, like, from

1 place to place? Or do you mean from room to room?

2 Q. No, from dorm to dorm.

3 A. Yes, sir, the inmates -- normally there's three times a
4 day we have movement. First session, second session, and third
5 session. During those times the inmates are allowed to go in
6 and out to their details, come back and forth from their
7 details, to go to the library if you have to go to the library
8 day. If it's gym day, you go to the gym day. If it's barber
9 day, you go to the barber day.

10 Q. For example, the inmate, Christopher Graham, could he move
11 from one dorm to another? I don't mean move into any new cell
12 but I mean walk.

13 A. Can he walk around? Yes, sir. Yes.

14 Q. In your affidavit at Page 47, you say,

15 "In addition to the sexual violence and
16 psychological torture I've experienced, there
17 are physical threats. I have been called a
18 snitch more and more because I decided to
19 take a stand against my sexual abuse. The
20 threats are also escalating. Recently, a
21 knife was slid under my door with a note that
22 said, 'Do everyone a favor and kill
23 yourself.'"

24 A. Yes, sir.

25 Q. Was this an actual knife?

1 A. Yes, sir. And we had it. And, sir, with all respect
2 to -- this is what happened to it. I was very afraid if I
3 turned the weapon in -- I discussed it with my attorneys. I
4 had had it. They slid it up under my door. It was still
5 wrapped up the way they sent it.

6 I didn't want to take it to administrators because I felt
7 like, with everything that was going on, they would have
8 switched it around. So I disposed of the knife.

9 But there is J-Pay messages where I was messaging my
10 attorneys and telling my family and letting them know. At one
11 point I had the weapon, and I was going to try to give it to
12 someone. We were going to try to have the Attorney General or
13 OIC come and pick it up. But I was so afraid of what was going
14 on that I got rid of it.

15 Q. How long did you keep it?

16 A. I kept it for about two days.

17 Q. How did you dispose of it?

18 A. I wrapped it in trash and me, being an orderly, I have
19 access to the dumpster outside. I wrapped it up really nicely,
20 I wrapped it in plastic, and I threw it in the trash so no one
21 could get it.

22 Q. Also in your affidavit in Paragraph 40 -- and you were
23 asked about this, but I wasn't quite clear -- you say that a
24 prison maintenance worker told you that Defendants Benton and
25 Toole had "ordered staff to keep my cell door exactly the way

1 it was."

2 First, and I think you answered this, do you know who that
3 maintenance worker was?

4 A. No. I don't. I don't know exactly who it was because
5 there's two maintenance head guys. One of them is the one you
6 have here as a witness, which is Mr. Miller; and the other one
7 is the other guy who is the maintenance man on the other team,
8 and that is the one, um, who I had discussions with.

9 Especially when they cut the power off. And I went to the
10 warden, and I had the warden go to them and tell them to hook
11 the power back up and to fix the door.

12 Q. What do you mean when you say in your affidavit that this
13 person told you that Benton and Toole had ordered staff to keep
14 the cell door exactly the way it was?

15 A. What that was, he told me the door -- the door only would
16 work one way. You couldn't open and close. And he told me
17 that the door was set on that specific protocol, based on what
18 they told him.

19 Q. So --

20 A. Even Mr. Miller had said that -- um, he came to repair my
21 door. In fact, he came to repair the door, and he said that he
22 left -- in all the cells in the dorm, they came and did work on
23 them. But on my door he left the bolt out because he said he
24 was sure that the warden were going to tell him to come back
25 and fix the door so that it would function. And that never

1 happened. And he said that it was set that way.

2 Q. Let me be sure. There are settings on the door that
3 control whether it locks?

4 A. They do have in the booth -- there is a protocol, yes,
5 sir, that they can set the door to where it can close and open.

6 Q. The first maintenance worker told you that the setting,
7 the protocol, whatever, had been set so that the door would --

8 A. Would not close.

9 Q. -- would not lock. And then what did Mr. Miller tell you?

10 A. Mr. Miller told me that they told him to fix it to where
11 it would only lock. Because it's a -- every door in the dorm
12 can open and close by a button. Except for my door. Every
13 other door in the dormitory.

14 Because at breakfast time -- see, we have to go in at
15 11:00, and we get up at 4:00 a.m. We are allowed to come out
16 at 4:00 a.m. So when everybody else gets to come out and start
17 their day, I don't. I'm left in the room until like 9:00,
18 10:00, 11:00 o'clock sometimes. It just depends. Or until
19 inspection comes through. And they don't buzz me out of the
20 door.

21 So the door locks. The way it's set, if someone were to
22 drag me in there or push me in there, they could lock it and
23 there's nothing I can do about it.

24 Q. You said Mr. Miller told you that somebody told him how to
25 set the door?

1 A. Yes, Mr. Miller told me that the door was set on that
2 protocol, for that particular --

3 Q. Did Mr. Miller tell you who told him what to do?

4 A. Yes, he said the warden and them told him to just fix the
5 door to where it locks.

6 Q. At Paragraph 97 of your affidavit you say that you had
7 learned that Benton and Betterson pressured the person we've
8 been referring to as John Doe to submit a false PREA report.
9 Did you learn that from John Doe?

10 A. (Nodding head in the affirmative.)

11 Q. Answer.

12 A. Yes, sir, I learned that from John Doe.

13 Q. Had you learned that from anybody else?

14 A. Um, Mental Health had discussed it with me. Because at
15 first, Your Honor, I was like -- okay, they were like -- they
16 didn't -- they were like -- they thought that I knew that they
17 were getting statements from the offender. But I thought it
18 was based on just what had happened.

19 And then Ms. Fletcher enlightened me, "No, no, no, no, no,
20 they're saying that this was an assault, that you assaulted --"

21 I said, "Wait a minute..."

22 And she said, yeah, that that's what was being said. That
23 they were asked -- that Betterson was going around saying --
24 trying to get this young man to say things that were not true.

25 Q. At any time, have you ever heard that there is any video

1 of what happened on October 30th and 31st, and I'll include
2 November 1st, 2020?

3 A. Of the incident with me and the offender? No.

4 THE COURT: All right. You may redirect.

5 MS. LITTRELL: Thank you Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. LITTRELL:

8 Q. It's been a long day. We're just going to clear up a few
9 things for the Court. The first thing is you testified that
10 you left the state, it was part of the technical parole
11 violation. Can you say why you left the state.

12 A. Yeah. I had a -- I had a nervous breakdown. The
13 pressure. There was a lot of pressure. And the Klan was
14 destroying my house and burning crosses in my yard. It was
15 just -- the pandemonium of what had happened in the first case
16 just really -- it was too much.

17 Q. Were you going to get some help for that, some mental --
18 were you going to a clinic of some sort?

19 A. Yes, it was an all exclusive mental/medical facility. It
20 was trans, all for transpeople. It was the only facility
21 that -- was capable to give me what I needed.

22 Q. Okay. And then we also heard half of this tape, in which
23 you're talking with Ms. Atchison. It starts at the point where
24 you are saying that you would -- that Rutledge -- you know,
25 focusing on Rutledge or Jackson, which are men's mental

1 health -- I mean, men's facilities. Why did you focus, um, so
2 much on Rutledge?

3 A. Only because of my experience with Rutledge. That was the
4 only reason that I -- I knew that it -- with something like
5 that, instead of gambling, I wanted to go with what I knew.
6 And I knew that while I was there, that I was safe.

7 That was THE only time that I can honestly say -- because
8 it's only, like, 600 offenders -- that I can only say that
9 there was never -- they were all very respectful about my space
10 and time and everything.

11 Q. Is it fair to say that you were focusing on that based on
12 the conversations that you had had, which were referenced
13 earlier with Toole and Ford and others, who said GDC is not
14 there yet?

15 A. Yes, that is the only reason that I even said that. I
16 said that as to try to make it easier for them. Because my
17 first, as always, is to be at a female facility. I am a woman.

18 Q. And when you say -- in that tape you talked about not
19 wanting to be a guinea pig. Is that -- can you tell us what
20 you were referring to in that?

21 A. I said that because I felt like the first time around I
22 was the guinea pig for them. And I felt like that they were
23 just trying things. And to give -- to play devil's advocate,
24 to be complete fairness to the Department, I mean, maybe they
25 didn't know what they were doing, and maybe they were trying to

1 figure it out. So I was thinking in that mind, okay, well,
2 maybe they were just trying to figure this out and we really
3 couldn't get it.

4 But as I went on, I realized that it was much, much more.
5 And then especially coming back this time I really realized
6 that, because -- when I spoke with Ms. Smith and all those
7 officials about a women's prison -- even though I knew -- you
8 know, I met the lady who wrote the PREA standards. I spoke at
9 the White House. I was up there. I was with these people in
10 Washington. I knew what guidelines were supposed to be set
11 down.

12 So when I came back into the system and I saw that nothing
13 had changed, it really opened my eyes to realize that, you know
14 what, you're probably going to die this time. Nothing has
15 changed.

16 Q. So is that why you really zeroed in on the one place that
17 you thought that you would be safe?

18 A. Yes, I felt like I could make it easier for them. If I
19 could just not be apain in their side. If I could just say,
20 "Listen, send me back to Rutledge, I will be good, give me
21 detail, send me back to Rutledge."

22 Q. You had also testified that you thought -- you were told
23 this was going to be very short time before parole.

24 A. Yes, we thought 90 days. Remember, in the conversation
25 with Ms. Atchison, because I was told -- I was relieved. And

1 it went from 90 days, then it went to 6 months, and then my
2 dates just keep changing and changing and changing, and then it
3 was March 1st, and then it was -- now it's 2022.

4 Q. Understood. But, in any event, even to the extent that
5 you focused on Rutledge as a safe -- potential safe place
6 because you didn't think that you could be put in a female
7 facility, you were still at a maximum security facility for
8 eight months; is that right?

9 A. Uh-huh, because the idea was -- yes, it was. But the idea
10 was to keep me there. I was going to just stay at GDCP.

11 Q. Okay. And then there was some testimony about your mental
12 health status. Are you aware that your doctors have
13 recommended that you be elevated to Mental Health III?

14 A. Yes, there was a big discussion when I came in because
15 that was one of the first things we did, we went through an
16 assessment to make sure.

17 Q. And even though there is some audio where you were
18 accepting as an alternative Rutledge, because that's where you
19 thought you could be safe, did you ever request a female
20 facility after that?

21 A. Uh-huh. Several times. Even through PREA, I filed a PREA
22 requesting it for my safety.

23 Q. Was that after -- did you file any of those and make any
24 of those requests after you were housed at Coastal?

25 A. Absolutely.

1 Q. Was that because you did not feel safe there?

2 A. It's because I do not feel safe in a men's facility.

3 Q. Okay. There was conversation or there were some questions
4 about this, you not being willing to be catheterized. Can you
5 help us understand why, for a woman with gender dysphoria,
6 being catheterized is a particular type of medical procedure
7 that's -- that's difficult.

8 A. Um, yes, I can. And to that note I also want to say --
9 first of all, I want to say that that's a part of my body that
10 I don't acknowledge. That I do not get along with at all.
11 It's not something that I would even want to see or have anyone
12 else look at or touch. I don't want it there.

13 Q. Okay.

14 A. And I've taken great measures to try to get myself right.
15 Um --

16 Q. So it's fair -- you don't have to go into details, but
17 it's fair to say, based on that, that the catheterization
18 process --

19 MR. CHALMERS: Your Honor? Your Honor, the questions
20 are leading. I know counsel is trying to --

21 THE COURT: Well, if it will move this along, I'll
22 let her lead.

23 MS. LITTRELL: I'll wrap it up for you.

24 THE PLAINTIFF: The reason I --

25 THE COURT: Ms. Diamond? Ms. Diamond?

1 We're getting far afield.

2 MS. LITTRELL: I'm trying to clear up why she --

3 THE COURT: Very far afield.

4 MS. LITTRELL: -- why she refuses --

5 THE COURT: I understand. I don't think that was
6 quite the point, just that she had never been catheterized, but
7 make the point and move on.

8 MS. LITTRELL: You got it, Your Honor. I apologize.

9 BY MS. LITTRELL:

10 Q. There was -- you testified about the latest or -- that
11 there had been some sexual assaults after October. But then it
12 seemed to me that you were describing what happened to you in
13 the TV room, where someone exposed themselves and masturbated.
14 Were you just confusing dates and were referencing in December
15 and January --

16 A. All of this jumbles. It's really hard to sit here and be
17 completely accurate about every date.

18 Q. Okay.

19 A. And time.

20 Q. There was also testimony that you understood, you know,
21 how PREA worked. And my question for you is, does knowing how
22 PREA works help you feel safe or comfortable reporting PREA and
23 talking about the details without your counsel or without some
24 advocate present?

25 A. Absolutely not. Especially when they don't follow the

1 PREA protocols as outlined.

2 Q. Okay. And there's testimony about you being filmed. And
3 I just want to make sure that we asked you earlier whether you
4 were filmed all the way to your -- to your cell door. That
5 day. Where the alleged assault happened. But we did not
6 receive a copy of that --

7 A. No, but the staff that --

8 Q. -- even thought we requested it.

9 A. -- told me about it. And I remember him stopping the
10 camera after I got to my cell, because that's always the way we
11 do it. So there's no ifs, ands, or buts. Because if you stop
12 camera footage, you can always edit it and do other things with
13 it.

14 So we generally just run it from the time they pick me up
15 until the time I go back into the cell. And I'll usually turn
16 around and signal, and then they will go, "We're turning the
17 camera off," and we'll turn the camera off.

18 Q. Okay. And then there was some conversation about whether
19 you gave your lawyers details about the incidents, and I know
20 that got confusing. And I just want to ask it this way. Do
21 you think your lawyers made up the details without having
22 spoken to you --

23 A. Absolutely not.

24 Q. -- in any letters?

25 A. No.

1 MS. LITTRELL: Your Honor, I don't want to -- there
2 are documents in the record that -- that would reflect the
3 details that were relayed to GDCP, that would reflect that they
4 knew dates and times and information that would have been
5 helpful. I don't want to bring them in now, but I just wanted
6 to clear that up.

7 MR. CHALMERS: Your Honor, I mean, that's -- to the
8 extent we need clarity, the point of that line of questioning
9 was these lawyers knew many, many months ago the details that
10 Ms. Diamond is testifying to now. That shows that there's no
11 urgency to the motion.

12 THE COURT: Ms. Littrell may be helping you make your
13 point.

14 MS. LITTRELL: Well, Your Honor, I know that we've
15 argued that in our Complaint as to timing, but we've also
16 talked about continuing sexual assaults and continuing
17 deterioration of her mental health as a result.

18 I think those were all the confusing parts that I
19 wanted to ensure that were cleared up. And with that, Your
20 Honor, I'll sit down.

21 THE COURT: Thank you.

22 All right. Let's take a 10-minute break and while we
23 bring our next witness down. The John Doe.

24 COURT OFFICER: All rise.

25 (Court in recess from 3:14 to 3:31 p.m.)

1 COURT OFFICER: All rise. This Honorable Court is
2 back in session. Be seated. Come to order.

3 THE COURT: As I understand, you all have had some
4 discussion about scheduling?

5 MR. CHALMERS: I did, Your Honor. And I'm sorry I
6 didn't raise it with counsel. The question is who we're likely
7 to get to today, and we have a lot of folks here, and should
8 some of them be allowed to leave early. We're not asking that
9 that happen. I just wanted to inquire so that if the Court
10 thinks it's unlikely we get to some folks --

11 THE COURT: Let's talk about what we're going to do.
12 We have the current witness and then Officer Brown and
13 Mr. Betterson. You're right, that will probably take us to
14 5:00 o'clock. And we don't have to stop then.

15 Ms. Littrell, what other witnesses do you have?

16 MS. LITTRELL: Mr. Duckworth is here in Macon to
17 testify. I believe that's all the live witnesses we have.

18 THE COURT: Then I think -- and who do you have,
19 Mr. Chalmers?

20 MR. CHALMERS: Well, we have several folks here on
21 our witness list, but we -- we may not need to or call every
22 one. But the ones who are here are Mr. Holt, Grace Atchison,
23 Lieutenant Reeves, and Sam Miller.

24 THE COURT: Yeah, I think they can be excused.

25 Ms. Littrell, I assume you would like to get

1 Mr. Duckworth up today, if you can.

2 MS. LITTRELL: Yes, Your Honor. That would be good.

3 MR. CHALMERS: I'm sorry, I neglected to mention
4 Warden Benton is also here. They may -- they may choose to
5 stay for part. I just wanted to, if they are permitted to
6 leave, let them do that if they need to.

7 THE COURT: Yes, they may.

8 And, Ms. Littrell, we will get Mr. Duckworth up today
9 unless something unusual happens.

10 MS. LITTRELL: Thank you, sir.

11 THE COURT: All right. You may swear this witness.

12 COURTROOM DEPUTY: Would you raise your right hand,
13 please. Do you solemnly swear that the testimony you are about
14 to give this Court will be the truth, the whole truth, and
15 nothing but the truth, so help you, God?

16 THE WITNESS: I do.

17 JOHN DOE (PSEUDONYM)
18 called by Plaintiff at 3:33 p.m., having first been duly sworn,
19 testified as follows:

20 THE COURT: Good afternoon, sir.

21 THE WITNESS: Good afternoon.

22 THE COURT: Let me mention a couple of things to you.
23 You probably know this, but the parties to the lawsuit have
24 agreed to refer to you as "John Doe." So that's what you will
25 be called during your testimony.

1 Q. And what -- when you say "D-A," what is D-A?

2 A. It is D-Building, Range A. It is a -- it's kind of like a
3 PC dorm in a sense.

4 Q. And in D-A, are you housed alone?

5 A. No, sir.

6 Q. At some point in time, when you were being housed there,
7 were you being housed in solitary confinement?

8 A. I was three months in the hole, in solitary confinement.
9 I just got out in January.

10 Q. All right. And for what period of time had you been in
11 solitary confinement?

12 A. Around three months.

13 Q. So prior to January, three months?

14 A. Um-hum.

15 Q. All right. And, um, why was it that you were being housed
16 in solitary confinement?

17 A. Because I was accused of having sexual intercourse with
18 Ashley Diamond.

19 Q. All right. I am going to ask you some questions about
20 that in just a moment. So, when did you -- well, first of all,
21 who do you know Ashley Diamond to be?

22 A. Ashley Diamond is, like, a transgender activist that I met
23 in N-Building. We became friends, and we did hang out, but it
24 was -- I mean, it was strictly a friendship. Like a --

25 Q. When did you first meet Ashley Diamond?

1 A. I guess a little, like, 4th of July. Like around July.
2 It was during the summer. I think. It was during the summer.

3 Q. Was there ever a time when you were living in N-Dorm prior
4 to when Ashley was -- arrived to live there, that there was a
5 dorm meeting about her?

6 A. Yes. A little before she arrived, there was a meeting
7 addressed and they mentioned that someone would be coming into
8 the dorm that had mental health issues and may look like a
9 woman, but the person said that he might have junk bigger than
10 yours.

11 Q. And when you say they had a meeting, who was the speaker
12 at that meeting?

13 A. It was a Mr. Jackson.

14 Q. And who was Mr. Jackson?

15 A. I don't know his exact rank, but he was -- he was someone
16 in charge at the time.

17 Q. And was that meeting with the entire N-Building?

18 A. Yes, it was with the whole N-Dorm.

19 Q. And you attended that meeting personally?

20 A. Yes.

21 Q. What else can you remember about what Mr. Jackson said
22 about Ms. Diamond?

23 A. Just that it was a mental health issue, that he thought
24 that she was a woman, and that was a mental health issue, and
25 that you should stay away, because she was a con man and she

1 was no good, in a sense.

2 Q. When you first met Ashley Diamond, what -- what was her
3 appearance to you?

4 A. When she first came to the dorm, she actually took it upon
5 herself to address the whole dorm about her situation, which to
6 me spoke volumes about her character. Well-spoken, educated,
7 and was willing to address the elephant in the room which I --
8 has been my --

9 Q. Prior to meeting Ashley Diamond, had you ever known any
10 transgender people before?

11 A. No, sir.

12 Q. And what was Ms. Diamond's physical appearance? Describe
13 her physical appearance for us when you first met her.

14 A. To me, it looked like a man, but definitely had a chest of
15 a woman. I mean, but you could tell there was a man in the
16 face, but -- I mean, that had, I guess, breasts, so kind of
17 resembled a woman.

18 Q. What was her skin like?

19 A. Black.

20 Q. What about the texture of her skin?

21 A. Smooth.

22 Q. How was Ashley treated while in the N-Dorm?

23 A. Almost like the black plague. People avoided her because
24 people didn't want to be seen talking to a transgender because
25 of what the stigma might come with it. And so people pretty

1 much avoided her. And then some people just didn't like her
2 period. And so negatively I guess.

3 Q. Were you ever privy to incidences in which Ms. Diamond was
4 harassed?

5 A. I've never witnessed personally Diamond being harassed,
6 but Diamond has confided in me many times about people sexually
7 harassing and I guess causing her grief and stuff, but I never
8 actually seen it happen, though.

9 Q. Was there ever a time when you interrupted someone who was
10 interacting with Ms. Diamond?

11 A. Yes. There was one time when I went -- it was late -- it
12 was, like, a little like 8:30, 9:00 o'clock. I was about to
13 turn in for the night, and I was going to say good-night to
14 Ashley.

15 And when I walked in, there was one guy sitting next to --
16 like, sitting next to her while she was asleep. And I
17 approached him, and I said, "Does she know that you're in here,
18 just sitting there?"

19 And he said, "No."

20 And so I woke her up and told her. That was the only time
21 I've seen anything weird or something like that.

22 Q. When you found someone sitting, you know, in Ashley's
23 room, what did you say to that individual?

24 A. I said, "So, what are you doing?"

25 He said, "I'm just bored."

1 So I told him, I said, "So, when you're bored, you just
2 watch somebody sleep?" And he didn't know what to say, so he
3 kind of got up and walked out.

4 Q. What challenges did Ashley face as a transgender person in
5 the N-Dorm?

6 A. A lot. I guess the lack of the hormone medicine had her
7 mental state out of whack, so definitely highs and lows in the
8 mental state.

9 People either avoiding her or, you know, I guess hitting
10 on her all the time. And then I guess she just kind of -- it
11 was a lot piled on top of it. It was a lot for her to deal
12 with.

13 Q. Now, in N-Dorm, where was Ashley's cell compared to yours?

14 A. When you first walked in, Diamond's is the first one on
15 the right. And mine is a good ways straight. You just keep
16 going straight, and mine's way over here. This is mine
17 (indicating), and hers is like right here (indicating), the
18 first room on the right.

19 Q. And have you ever had occasion, when you were both living
20 together on the N-Dorm, to know what the inside of Ashley's
21 cell looks like?

22 A. Yes. I hung out a lot in there.

23 Q. Can you describe for me the layout of Ms. Diamond's cell.

24 A. When you first walk in, there's a toilet. Right next to
25 the toilet is the bunk. On the wall. Then there's a little

1 space, a locker box, and a desk. And that's it.

2 Q. Now, what kind of a bed is it?

3 A. It's a bunk bed. I mean, it's a 2-man bed. Steel, I
4 guess. Typical GDC bed, I guess.

5 Q. Was there a time that you had occasion to see Ms. Diamond
6 on the evening of October 30th and into the 31st of 2020?

7 A. Yes.

8 Q. Why did you go see her at that time?

9 A. I was going to say good-night. I was -- I got done
10 watching a movie, I was about to head in for the night, and I
11 was going to say good-night.

12 And when I walked in, Diamond had a belt tied to her
13 throat, tied to the top of the bunk, and she was, like, leaning
14 forward, basically choking herself out, and she was
15 semi-unconscious.

16 Q. What did you do when you found her like that?

17 A. I rushed over there and pulled it off and shook her until
18 she kind of was a little more, you know, aware. So then I got
19 her some water and gave it to her. And when she kind of
20 came -- the more she came to, the more she kind of just started
21 to break down crying.

22 Q. What generally was her emotional state after that?

23 A. Just destroyed. I mean, just like -- I guess she was
24 acting tough for so long, it just all came down, so she just
25 let it all out.

1 Q. After you found her, did you try to find any officers on
2 the dorm to tell?

3 A. I did not.

4 Q. Why not?

5 A. Because I figured they would put her on suicide watch, and
6 she told me not to, so I just sat there and talked with her.

7 Q. All right. How long did you stay with her in the cell
8 after you found her?

9 A. Basically all night.

10 Q. Okay. Were there any guards on the dorm at that time?

11 A. There was a guard in the -- in the -- the office. She
12 would do count periodically. But, I mean, there was one in
13 the -- in the tower, yes.

14 Q. At some point during the evening, did an officer come by
15 the -- Ms. Diamond's cell?

16 A. Yes.

17 Q. And describe what happened with that.

18 A. Did count. Saw two people, you know, she pointed out both
19 of us, gave us the thumbs up and kept walking.

20 Q. Do you remember roughly what time that might have been?

21 A. Maybe around 1:00, 2:00, it was like every couple hours.

22 Q. Do you remember who that correctional officer was?

23 A. I do not remember the name, no.

24 THE COURT: Male or female?

25 THE WITNESS: It was a female.

1 BY MR. McCOY:

2 Q. Did Ashley explain to you why -- while you were comforting
3 her after her suicide attempt, why she had attempted suicide?

4 A. Yes. That's when she was telling me that all the sexual
5 harassment was going on. See, I had no idea that there was
6 sexual harassment. She basically just started telling me all
7 the stuff that she was going through with that, and then with
8 the court coming up, and then the hormones. She basically just
9 let it all out. And that's when I knew that all that was going
10 on. Because I had no idea.

11 Q. While you were in the cell with Ashley, where were you
12 positioned?

13 A. I was sitting at the foot of the bed.

14 Q. And where was Ashley?

15 A. Sitting more towards the middle of the bed.

16 Q. Okay. What clothes were you wearing?

17 A. I believe I was wearing gray shorts, a tee shirt, and
18 crocs.

19 Q. At any point in time during the time that evening of
20 October 30th to into the morning of October 31st, 2020, did you
21 have your clothes off?

22 A. No.

23 Q. Was there any point in time during that time when
24 Ms. Diamond had her clothes off?

25 A. No.

1 Q. Okay. So the next morning, on the October 31st, 2020, was
2 there a time when Correctional Officer Brown came to
3 Ms. Diamond's cell?

4 A. A little after 8:00 o'clock, yes.

5 Q. And tell me about what happened when Correctional Officer
6 Brown came to the cell.

7 A. I was leaned back, watching a movie and -- on a tablet I
8 am not supposed to have, and -- and she was, too. And when she
9 came in and saw us leaning back on the bed, I guess in her
10 opinion she assumed that we were doing something. Because we
11 were both leaning back on the bed. But nothing was occurring.

12 And so we did sit up. Because I was watching a movie on a
13 tablet, which I wasn't supposed to have. And that's when she
14 took Diamond out and told me to stay in the door. And then
15 closed the door on me. And that's where I stood until CERT
16 Team came and got me.

17 Q. When you say you were lying back on the bed, were you
18 laying horizontal on the bed?

19 A. No, more like to the side like this (indicating).

20 Q. All right. And how much space is there between the bottom
21 bunk and the top bunk?

22 A. From here to here (indicating).

23 Q. Right.

24 A. I mean, you have to kind of, like, crouch a little.

25 Q. Okay. So, um -- so I guess the most direct question is

1 when Officer Brown opened the door to Ms. Diamond's cell, were
2 you engaged in any kind of sexual activity whatsoever?

3 A. No, I was not.

4 Q. Do you remember -- well, let me rephrase that question.
5 What, if anything, did Corrections Officer Brown say to
6 you when she opened the door?

7 A. She didn't say nothing. Not much to me. She basically
8 just told Diamond to come on out, told me to stay. And when I
9 asked what was going on, she wouldn't even give me a direct
10 answer. Just told me to stay there and stay put until someone
11 came and got me.

12 Q. When -- were the lights in Ms. Diamond's cell on or off at
13 that time?

14 A. They were off.

15 Q. So what happened -- describe the illumination in the cell
16 when Officer Brown opened the door.

17 A. It was no light on, but there's a -- the sun was up, so
18 there's a natural light kind of coming in the window. So it
19 lit up a little bit, but there was no light.

20 Q. Once Officer Brown had come in and talked to the two of
21 you, where were you taken next?

22 A. I was taken straight to the hole.

23 Q. Did you ask to go to be examined in Medical after that?

24 A. Yes. I didn't know -- I should have immediately, when I
25 was addressed, that I should have. I decided not to take a

1 shower, so if there was any evidence that it would still be
2 there. And I requested a couple times to be seen and have a
3 rape kit done.

4 Q. And did that ever happen?

5 A. No, it did not.

6 Q. Was it explained to you why that was never done?

7 A. No, sir. I was told by the nurse that it should have
8 been, because there's no such thing as consensual sex in
9 prison.

10 Q. When -- when Officer Brown opened the door on that
11 morning, did she indicate to you anything about what you were
12 being accused of?

13 A. Not that morning, no. I didn't know until I got my DR.

14 Q. When did you get your DR associated with this event?

15 A. Two or three days after the incident.

16 Q. And who gave you that DR?

17 A. It was one of the officers that handed it to me. It could
18 have been the DR lady, it could have been a dorm officer. I am
19 not really sure.

20 Q. Describe what, if any, investigation was done regarding
21 the DR.

22 A. Um, really not much. I mean, I asked for evidence. I
23 mean, because they were saying that she penetrated me, and I --
24 I said, "If that's the case, I didn't shower, please do what
25 you've got to do, you know, to prove that, you know, that was

1 the case." No one ever did.

2 Q. Did you ever see any witness statements that were
3 associated with your DR that you were given for this?

4 A. "Any witness statements"? Huh-huh.

5 Q. Were you told or are you aware of whether or not there was
6 any video that showed you and Ms. Diamond engaging in anal
7 intercourse?

8 A. Huh-huh. No, Your Honor.

9 Q. At some point in time, after you had gotten your DR and
10 you were put in solitary confinement, did you have occasion to
11 have a meeting with Mr. Betterson?

12 A. After -- sometime that week, he called me out to his
13 office and asked me to do a PREA against Diamond.

14 Q. And when you say -- when you say that, what do you mean?

15 A. Um.

16 Q. What did he ask you?

17 A. Just asked if Diamond may have coerced me into having sex
18 or talked me into it or, you know, did it without my consent in
19 a way or -- basically just, you know, asked if she had kind of
20 forced it on me or just asked me those kind of typical
21 questions that PREA would be asked.

22 Q. Did he suggest any answers to you in that regard?

23 A. No, Your Honor.

24 Q. Thank you. I appreciate that -- this is (indicating) Your
25 Honor. But maybe someday, who knows. A girl can dream.

1 What did you say in response to Mr. Betterson's questions?

2 A. I said that -- I'm sorry.

3 Q. Go ahead.

4 A. I said I can't do a PREA because there wasn't any
5 intercourse that took place. That's all I said.

6 Q. Didn't tell him anything else, just denied intercourse?

7 A. There's nothing else I could have said.

8 Q. Have you ever had any -- received any disciplinary
9 write-ups for anything related to sexual behavior before?

10 A. No.

11 Q. And what did you understand the purpose of the first
12 meeting with Mr. Betterson to be?

13 A. I mean, I -- I figured it was, you know, to be expected
14 because of what the DR said. The DR did say that she had sex
15 with me. And if that's the case, then he was just following up
16 and doing his job, so, I mean, I understood, but it wasn't the
17 case.

18 Q. And did Mr. Betterson approach you at any other times
19 after that first meeting?

20 A. Yes. There was two other times he called me out.

21 Q. So I should have asked you this before, and I'm sorry I
22 didn't. Where was the first meeting with Mr. Betterson?

23 A. It all took place in the same place, his office.

24 Q. Mr. Betterson's office?

25 A. Yeah.

1 Q. All right. So, sorry. With that, now the second meeting
2 with Mr. Betterson, did that also take place in his office?

3 A. Yes.

4 Q. All right. Tell me about the second meeting. What did
5 Mr. Betterson ask you in that meeting?

6 A. He was a little nicer to me the second go-round.
7 Basically just kind of hinting that since Diamond has got to
8 stay in the honor dorm, that I had a chance to go back to the
9 honor dorm, because I had asked about it as well.

10 And basically just trying to get me to -- asked me again
11 if there was a PREA involved or did he need to put one against
12 Diamond. And I said the same thing: No. There wasn't any
13 intercourse.

14 Q. I think you just said that he might have mentioned that
15 Ms. Diamond was allowed to stay in the -- did you say "honor
16 dorm"?

17 A. He said it was only fair because Diamond got to stay back
18 in N-Dorm, that I could probably go back to another honor
19 dorm -- like, O-Building had an honor dorm now, like, an
20 evidence-based.

21 Q. Did Mr. Betterson offer you anything during that second
22 meeting?

23 A. No. He didn't offer me nothing.

24 Q. After that meeting, then, where did you return to? Did
25 you return back to solitary confinement?

1 A. Straight back to solitary, yes.

2 Q. About how much time had passed between that first meeting
3 with Mr. Betterson and the second meeting?

4 A. It was about a week each time. Roughly, I guess.

5 Q. And then was there a third occasion in which Mr. Betterson
6 called you in to talk?

7 A. Yes. There was one more time.

8 Q. All right. And tell me about that conversation.

9 A. I came in. He was on the computer. He was typing in a
10 witness statement and asked me the same question, which I had
11 the same response.

12 Q. How would you describe your relationship -- well, first of
13 all, let me round that out, were there any other meetings with
14 Mr. Betterson about this particular DR?

15 A. Huh-huh, just those three.

16 Q. Do you know what the ultimate outcome of the DR was?

17 A. Yes. I went to DR court. I pled not guilty. Which they
18 found me guilty on two of the counts, which I tried to appeal,
19 but I don't know if I did the appeal right or not, but I never
20 heard back from my appeal.

21 Q. What were the two counts that you were found guilty of?

22 A. It was a B-11 and being in an unauthorized presence.

23 Q. What's a B-11?

24 A. Basically exposing yourself.

25 Q. So were you found guilty of any kind of sexual behavior

1 DR?

2 A. Huh-huh.

3 Q. What evidence was presented at the DR hearing?

4 A. Basically hearsay. It was her word over mine.

5 Q. Were there any -- when you say "her," who is "her" you're
6 referring to?

7 A. The officer who wrote the DR.

8 Q. Were there any other -- do you know if there was any new
9 evidence that was considered during determination of your DR?

10 A. Betterson said there was a camera that showed me going in
11 and I was hanging out. But as far as actual video of us having
12 sex, I never heard of any.

13 Q. Did you participate in the DR hearing itself?

14 A. Yeah.

15 Q. Was any video showed at that hearing?

16 A. There was no video showed.

17 Q. No video shown of you going into Ms. Diamond's cell?

18 A. Huh-huh.

19 Q. No video of you engaging in anal intercourse with
20 Ms. Diamond?

21 A. Huh-huh.

22 Q. Or actually, sorry, the other way around.

23 A. No.

24 THE COURT: Excuse me, was your DR hearing
25 videotaped? Was there somebody with a video camera?

1 THE WITNESS: Not, it was in the hole. They pulled
2 me out, and there is a little office right there in the hole.
3 And it was pretty brief. It was me and two of -- the DR lady
4 and one other woman, and it was in and out. Like, it was very
5 quick.

6 THE COURT: But nobody was there with a video camera?

7 THE WITNESS: No. No video camera.

8 BY MR. McCOY:

9 Q. Have you experienced any ramifications from the charge
10 that -- the DR charge that you have gotten in relation to this
11 incident on October 31st, 2020?

12 A. Definitely.

13 Q. Tell me what those are.

14 A. I went to Q-Building shortly after getting out of the
15 hole. Some gang members tried to extort me because of someone
16 had told everybody in that dorm what I was in the hole for.
17 And basically they just called me -- you know, it was, like, a
18 gay thing. And so they were -- like, there's been a lot of
19 ramifications, really.

20 I was almost extorted. I had to go back to the hole
21 because of that. And I -- I didn't -- not by the staff but by
22 inmates, you know. I've been getting ramifications from --
23 hate crime basically. People think I'm gay now, so I'm getting
24 discrimination from that.

25 Q. Are you afraid for your safety?

1 A. Not in the dorm I'm currently in, but in some of them,
2 yes.

3 Q. What were the conditions like for you in your solitary
4 confinement?

5 A. I guess your typical hole experience, I guess. It was
6 cold. Not a lot of communication with the outside world. But
7 I guess that's to be expected I guess.

8 Q. On the evening and morning of October 30th and 31st that
9 we've been talking about, did you notice anything odd about the
10 door to Ms. Diamond's cell?

11 A. There was three -- I recall three occasions where
12 maintenance crew came in to try to fix it. Um, but I guess
13 every time shortly after it was either -- I really don't know.
14 They came in to try to fix it for three times so it would
15 automatically lock, but it would never actually lock.

16 I don't know if someone came in and tampered with it after
17 the maintenance crew came, but I did recall the maintenance
18 guys coming three times to try to lock it. Yes, they did do
19 that.

20 Q. Was there a button inside Ashley's cell that related to
21 the operation of the door?

22 A. Yes. The button was supposed to be wired so, like, she
23 can push it and it would open. When the Corona happened, we
24 were supposed to have all the doors locked and kind of rigged
25 that way.

1 Q. Describe for us, how do you characterize your relationship
2 with Ashley Diamond now?

3 A. I care about her a lot. I care as a good friend. When I
4 seen that all the people avoided her like they did, it kind of
5 made me want to step up and be her friend because I didn't like
6 seeing what I -- you know, what the other inmates acted towards
7 her. I thought it was immature, so -- it made me care about
8 that person. It did.

9 Q. Tell us why you came here to testify today.

10 A. Basically as a friend, comforting another friend. Someone
11 in her corner. That's all I'm trying to do. I am not trying
12 to say anything against the GDC or anything else. I am just
13 trying to help out a friend. And I seen what I saw.

14 Q. Thank you, Mr. Doe. I think that's all I have right now.

15 THE COURT: Cross examination?

16 CROSS EXAMINATION

17 BY MR. SHAPIRO:

18 Q. Good afternoon, Mr. Doe.

19 A. Good afternoon.

20 Q. My name is Robert Shapiro, and I just want to ask you a
21 few questions about the testimony that you just gave.

22 Mr. Doe, so we've established that you are an inmate in
23 State custody, currently housed at Coastal State Prison; is
24 that correct?

25 A. Yes, it is.

1 Q. How long have you been in the custody of the Georgia
2 Department of Corrections?

3 A. A little over a year now.

4 Q. Okay. And how much of that time have you been housed at
5 Coastal State Prison?

6 A. I've been at Coastal since last October.

7 Q. Since last October?

8 A. Yeah.

9 Q. Okay. I want to begin by taking you back to the details
10 you described about a dormitory-wide meeting involving
11 Mr. Jackson. Let me first ask, do you recall when that meeting
12 occurred?

13 A. I don't remember the exact month, but it was during the
14 summer, around that time.

15 Q. And I'm sorry, I know you just answered this question, but
16 how long had you been housed in the N-Dormitory at that time?

17 A. I was in N-Building since not this January but the January
18 before. So over -- about a year.

19 Q. And you stated that the entire building was present for
20 that meeting?

21 A. Yes. We had a regular meeting, yes.

22 Q. How many offenders would you estimate were there?

23 A. I'm sure there's a few that may have been on detail, but
24 pretty much the whole dorm.

25 Q. Now, after this dormitory-wide meeting, did Mr. Jackson

1 continue to work in N-Dormitory?

2 A. Shortly after that occasion, no. He had stopped coming --
3 I am assuming it had something to do with that issue, but soon
4 after that, Jackson stopped showing up.

5 Q. Do you recall how soon after that he stopped showing up?

6 A. Maybe about a month.

7 Q. Other than the dormitory-wide meeting you've described, do
8 you recall any other similar incident involving Mr. Jackson?

9 A. No, not really.

10 Q. Are you aware of Mr. Jackson having interaction with
11 Ashley Diamond?

12 A. Other than that one meeting, no.

13 Q. Okay. I want to ask you about the incident that you
14 described where you found another inmate -- I believe you said
15 sitting at the foot of Ashley's bed while she was sleeping; is
16 that correct?

17 A. Yes.

18 Q. And I believe you testified that that was the only time
19 you saw something weird; is that correct?

20 A. With my own eyes, yes, that's the only time.

21 Q. So by that I understand that was the only time that you
22 personally witnessed any harassing or potentially abusive
23 behavior towards Ms. Diamond; is that right?

24 A. Personally, yes.

25 Q. But you did say that Ashley has confided in you about

1 other instances where she's been harassed; is that right?

2 A. Yes.

3 Q. Now, do you know if Ms. Diamond ever informed anyone other
4 than yourself about these other incidents?

5 A. When Diamond was telling me about it, Diamond was getting
6 up the nerve to come clean. At first Diamond didn't want to
7 tell anyone that these people were harassing her. I guess to
8 not -- I guess not damage their name. Put their business out
9 there. But some of them just kept on harassing. And then she
10 had no choice but to come clean. But some -- she really didn't
11 want to come clean about it.

12 Q. I am trying to understand what you mean when you say that
13 she didn't want to come clean about it. Could you describe
14 that a little more.

15 A. There was one guy in particular that was harassing her for
16 a minute, constantly trying to seduce her. And I guess she
17 would just shrug it off a bunch of times, but it just kept
18 getting more aggressive, and she had no choice but to.

19 Q. Okay. Let me take you to the incident that occurred on
20 the night of October 30th. As you described, you and
21 Ms. Diamond have a pretty friendly relationship; is that right?

22 A. Yes.

23 Q. And on the evening of October 30th, you stated that you
24 went into her cell; is that correct?

25 A. Yes.

1 Q. Let me first ask you, why did you go into Ms. Diamond's
2 cell?

3 A. At first it was just to -- I was going to stop by and say
4 good-night and go back to my cell, but then when I saw that I
5 decided to step in, yes.

6 Q. Okay. And you said that when you went into her cell, you
7 discovered that she had attempted to hang herself; is that
8 right?

9 A. Yes.

10 Q. And I believe you said that it was a belt that she had
11 used; is that correct?

12 A. It was.

13 Q. Okay. How did you go about removing the belt?

14 A. I basically -- I tried to loosen it right here first
15 (indicating). It was a weird tie that she had used, but I was
16 basically trying to loosen it right here and get it over her
17 head.

18 Q. Okay. And let me also ask, this belt, is it something
19 that's typically issued to inmates? Or --

20 A. Yes. Everyone's got one.

21 Q. Okay. Now I believe you also said that around the time
22 that you discovered that Ms. Diamond had attempted to hang
23 herself, there was an officer nearby; is that right?

24 A. Yes, there was.

25 Q. And that they were occasionally doing count?

1 A. Yes.

2 Q. But you did not report to this officer that Ms. Diamond
3 had attempted to hang herself?

4 A. She had asked me not to, and I respected it.

5 Q. Now, at the time that this incident occurred, you had been
6 housed at Coastal for some time; correct?

7 A. Yes.

8 Q. And, in fact, you had been housed in N-Dormitory for some
9 time; correct?

10 A. That is true.

11 Q. Were you aware that you were not supposed to be in Ashley
12 Diamond's cell?

13 A. I was aware, yes.

14 Q. But despite that, you not only went into her cell, you
15 also remained there throughout the rest of the night. Is that
16 right?

17 A. I did.

18 Q. And you remained in her cell until an officer discovered
19 you and Ms. Diamond the next morning; is that correct?

20 A. This is true.

21 Q. Do you recall what time that was?

22 A. It was around 8:00. A little after 8:00.

23 Q. And I believe you said that at the time that Officer Brown
24 discovered you in Ms. Diamond's cell, you were watching a
25 movie; is that right?

1 A. Yes.

2 Q. And I had a little trouble understanding. You were
3 reclining in Ms. Diamond's bed; is that correct?

4 A. I was leaning back against it, yes.

5 Q. Okay. So at the time that Officer Brown came to the cell
6 in the morning, did she discover you and Ms. Diamond in the bed
7 together?

8 A. Yes. We were leaning back together on the bed, yes.

9 Q. Okay. Now, the next morning when Officer Brown came to
10 the cell, did you report to Officer Brown at that time that
11 Ms. Diamond had attempted suicide?

12 A. No. I did not.

13 Q. And then after that, you were separated from Ms. Diamond;
14 correct?

15 A. I was.

16 Q. And you stated that you were issued a disciplinary report
17 two to three days later; is that right?

18 A. Yes.

19 Q. I want to go back over the charges that were brought
20 against you. One of the ones you mentioned was a B-11. Is
21 that right?

22 A. Yes.

23 Q. And I'm sorry, I couldn't understand, but that has to do
24 with exposure?

25 A. It does.

1 Q. Okay. And then the second charge was I heard "being
2 unauthorized," but I didn't understand the rest of your
3 response.

4 A. Being in an unauthorized presence. I was not in my right
5 room.

6 Q. So that charge had to do with the fact that you were
7 present in Ms. Diamond's cell when you shouldn't have been?

8 A. Yes.

9 Q. And you stated that you received a DR hearing after you
10 were issued the disciplinary report; is that right?

11 A. Yes.

12 Q. And that ultimately you were found guilty of both charges;
13 is that correct?

14 A. Yes. That was correct.

15 Q. And at that time, you were removed from the N-Dormitory;
16 is that correct?

17 A. Yes, that is correct.

18 Q. So from the time that Ms. Diamond first arrived at
19 N-Dormitory until you were removed following this disciplinary
20 report, how long had you and Ms. Diamond lived in the same
21 dormitory together?

22 A. Probably five to six months.

23 Q. And have you been housed in the same dormitory as
24 Ms. Diamond since you were removed from N-Dormitory?

25 A. Huh-huh, no.

1 Q. And remind me again, what was the date that you were
2 removed?

3 A. It was around October. It was late October. It was right
4 before Halloween.

5 Q. Just a few last questions for you, having to do with the
6 lock on Ms. Diamond's cell. You testified that you were aware
7 that there were some issues with the lock on her cell. Is that
8 right?

9 A. Yes.

10 Q. And that maintenance workers had repeatedly come to the
11 cell, attempting to correct whatever the issue was; is that
12 right?

13 A. Yes, that is correct.

14 Q. And it was your understanding that the maintenance workers
15 were there to ensure that the cell locked properly; is that
16 right?

17 A. This is correct.

18 Q. How were you first made aware that there were issues with
19 Ms. Diamond's cell door locking?

20 A. Um, really, there is one of the meetings, and it was
21 addressed that -- that that door needed to remain locked. And
22 soon after, a maintenance crew came. And you could hear it. I
23 mean, they made a lot of noise when they were doing it, so
24 everyone knew. But, I mean, I think they tried to fix it three
25 different times. So.

1 Q. Okay.

2 MR. SHAPIRO: Thank you very much, Mr. Doe. I have
3 no further questions.

4 THE COURT: Any redirect?

5 MR. McCOY: No redirect, Your Honor.

6 THE COURT: I've got some questions.

7 EXAMINATION

8 BY THE COURT:

9 Q. The three meetings you had with Mr. Betterson, I know
10 you've told us you couldn't put a date on them, but can you
11 relate them to any events or even a time of year? The first
12 meeting, for example, do you know about how long after
13 October 31st that took place?

14 A. I was -- I was in the hole for about a week, maybe a week
15 and a half when I got the first one.

16 Q. And the second -- was that meeting in his office or in the
17 hole?

18 A. All three meetings were in his office.

19 Q. All right. And that first meeting, was anybody present
20 other than the two of you?

21 A. There might have been one other officer present. I think
22 that CERT guy that had to walk me to Betterson's from the hole,
23 I think, was there.

24 Q. The second meeting with Betterson, about how long after
25 the first did that happen?

1 A. About a week.

2 Q. All right. Also in his office. Was anybody else present?

3 A. I don't think so. I don't think so.

4 Q. And the third meeting, can you give us any idea about when
5 that happened?

6 A. About the same thing, about a week or so.

7 THE COURT: Okay. All right. I believe Exhibit 92-M
8 is the witness' first statement. Is that right?

9 MR. McCOY: Plaintiff's or Defendants'? I'm sorry.

10 THE COURT: Plaintiff's.

11 MR. McCOY: 92-M is -- yes, sorry. I am just looking
12 at the list. Yes, I believe so. Yeah.

13 THE COURT: Can you bring that up.

14 MR. McCOY: Sure.

15 THE COURT: Kim, can you turn off the gallery.

16 MR. McCOY: Thank you. That exhibit did identify
17 Mr. Doe.

18 COURTROOM DEPUTY: Well, other ones have as well.

19 THE COURT: What?

20 COURTROOM DEPUTY: They say that exhibit identifies
21 Mr. Doe.

22 (Discussion was held off the record at 4:17 p.m.)

23 THE COURT: All right. Now, bring it up.

24 BY THE COURT:

25 Q. This is Exhibit 92-M. Do you recognize that, sir?

1 A. Yes, Your Honor.

2 Q. And is this a statement that you gave about October -- on
3 October 31st at 10:00 o'clock a.m.?

4 A. Yes, Your Honor.

5 Q. Is this your handwriting?

6 A. Yes, it is.

7 Q. Read through it to yourself and tell me if that statement
8 is accurate.

9 A. You want me to read it out loud?

10 Q. No, just read it to yourself.

11 A. (Witness reviewing document.) Yes, Your Honor.

12 Q. It is accurate. You say in the statement that by this
13 point you were assuming -- or that "the officer came in." Of
14 course, that would be Brown; is that correct?

15 A. (No response.)

16 Q. And "she assumed we were having sex, which isn't true."
17 At that point, what led you to believe that Brown assumed you
18 were having sex?

19 A. I can see we were both leaning back on the bed. She's a
20 transexual and I'm a dude. I get it. But it wasn't what it
21 looked like.

22 Q. But when Brown came into the cell that morning, she didn't
23 say anything to either of you -- or to you about sex?

24 A. No, she just told Diamond to get out -- or to come out,
25 wait by the office, and told me to stay in the room.

1 Q. All right.

2 THE COURT: There's another statement dated
3 November 3rd. I haven't been able to find that yet on your
4 exhibit list. Can you help me with that.

5 MR. McCOY: Sorry, Your Honor, which one?

6 THE COURT: November 3rd. Yes, it is Exhibit 234-E.
7 There you go.

8 BY THE COURT:

9 Q. Do you recognize this, sir?

10 A. Yes, I do.

11 Q. Is that another statement that you gave?

12 A. Yes.

13 Q. And this one is dated November 3rd, 2020, and timed
14 9:00 a.m.; is that correct?

15 A. Yes, Your Honor.

16 Q. Read that to yourself and tell us if what you have said
17 there is accurate and true.

18 A. (Witness reviewing document.) Yes, it's true.

19 Q. All right. Now, the next thing I want you to look at, it
20 may be marked as Exhibit 92-W.

21 A. Yes, that's true.

22 Q. That is another statement you gave?

23 A. Yes.

24 Q. December 6, 2020, at 6:11 p.m.?

25 A. Yes, Your Honor.

1 Q. And is that statement accurate?

2 A. Yes.

3 Q. All right. Now, I want you to look at something that is
4 not your statement.

5 THE COURT: It's a statement from Carl Betterson
6 dated December 6. Do you have that? It may be 92-X. I'm also
7 interested in Mr. Betterson's memo of the same date. Yes,
8 let's start with that. If you could, blow that up.

9 BY THE COURT:

10 Q. Have you seen this before?

11 A. I haven't seen it before, no.

12 Q. Now, you just told us about a statement you gave on
13 December 6 in which you denied any foul play, as you put it,
14 with Ms. Diamond; is that right?

15 A. Yes, Your Honor.

16 Q. Do you recall the circumstances under which you gave that
17 statement? Who was there, where were you, that sort of thing.
18 Not this one, I am talking about the one we just looked at.

19 A. The one we just looked at, yes.

20 Q. Do you need me to say it again?

21 A. No, I remember.

22 Q. Where were you when that statement was given? Who was
23 present?

24 A. When that statement was given? I was in the hole.

25 Q. On December 6?

1 A. Um-hum.

2 Q. And how is it that you came to give that December 6
3 statement?

4 A. I was basically -- I was given some witness statements
5 from the officer, and I sent them out through the mail. There
6 was witness statements in the hole, and I asked for a couple
7 copies which I had made and I sent out through the mail.

8 Q. Do you remember which officer that was?

9 A. No, sir.

10 Q. All right. And that statement, as we said, was timed at
11 what appears to be 6:11 p.m.

12 Now, I want you to look -- let's pull back up
13 Mr. Betterson's statement. And I believe you told us that you
14 have not seen this before.

15 A. Yes.

16 Q. And it has some quotes in there which, according to
17 Mr. Betterson, you made. And I wanted to ask you first about
18 the statement that, "The offender stated that Diamond was
19 helping him with legal paperwork." Was there also another
20 incident involving you and Ms. Diamond involving some
21 paperwork?

22 A. Oh, that was that same night. After she had come down,
23 she started helping me on a *habeas corpus* for my case that
24 night.

25 Q. Midway down, a little over midway down, there is this

1 sentence in Betterson's statement, "Doe stated that he did
2 not" -- pardon me, "The offender stated that he did not have
3 any other sexual contact with Offender Diamond prior to that
4 day." Did you make that statement to Betterson?

5 A. Yes, Your Honor.

6 Q. And then it goes on to say that, "The offender," you, in
7 response to a question -- and the question was whether Offender
8 Diamond had expressed interest in him prior to October 31,
9 2020. Do you remember Betterson asking you a question of that
10 nature?

11 A. Yes. He said that he saw -- he said he played camera
12 footage that we were close. And I did tell him that Diamond
13 had flirted with me in the past, yes. But it was just a
14 friendship.

15 Q. It was what?

16 A. It was just a friendship.

17 Q. Well, he said your response was, "Yes, casual flirting."
18 Did you say that?

19 A. Yes. I mean, I -- I was flirting back, but it was not
20 like -- she knew that it was a friendship. She knew.

21 Q. The statement goes on to say, "The offender," that is you,
22 "was advised there was video evidence to contradict his
23 statement." Is that the video you were talking about?

24 A. Yes, sir.

25 Q. And what did Betterson say this video showed?

1 A. He just said that we were always close. Whenever he
2 pulled the camera footage.

3 Q. The other document I want you to look at is
4 Mr. Betterson's December 6, 2020, memorandum to Brooks Benton.

5 THE COURT: Can we bring that up.

6 BY THE COURT:

7 Q. This also says -- if you will, look at the second
8 paragraph. Maybe we can blow that up a bit. That states that
9 it is an investigation conducted at the same time as the
10 witness statement from Mr. Betterson earlier. And there's this
11 quote that Betterson attributes to you. That he says you said.
12 "I promise you we were laying in the bed together. It may have
13 looked like we were doing something, but there was no
14 penetration."

15 Did you make that statement to Betterson?

16 A. Yes. I said we were laying there, watching a movie, but
17 nothing else transpired.

18 Q. The statement goes on to say that you said, "We were just
19 messing around." Did you make that statement?

20 A. No, I did not.

21 Q. It goes on to say that you told Betterson, in response to
22 a question if you were in a relationship, and you said, "No, we
23 were not." Did you tell Betterson that?

24 A. (No response.)

25 Q. Do you see where I am?

1 A. Yes.

2 Q. Did you say that?

3 A. Yes, I said we were not.

4 Q. And then down a couple of lines, there's a statement that
5 is not in a quote, like the others, but it says you stated that
6 you and Diamond flirted often. Did you tell Betterson that?

7 A. Yes. Diamond flirted with everybody, though. That is who
8 Diamond is.

9 Q. Moving on down, Betterson states that he asked if Diamond
10 expressed interest in him prior to October 31, 2020, and
11 Betterson wrote, in quotes again this time, "Yes, casual
12 flirting." Did you tell him that?

13 A. Yes. I don't deny that.

14 Q. Pardon?

15 A. I said yes.

16 Q. Then Betterson writes that he asked you if Diamond ever
17 touched him physically prior to October 31, 2020. And he says
18 you responded no.

19 And then, as in the earlier memo, he says he advised you
20 there was video evidence to contradict his statement. Did you
21 understand that to be the same video evidence you talked about
22 earlier?

23 A. Yes.

24 Q. Did he show you the video?

25 A. He didn't show me nothing, no.

1 Q. And after he advised you of the video, he says you made
2 this quote: "I misunderstood your question. Yes, some
3 touching, but nothing much, no real public display of
4 affection." Did you make that statement?

5 A. Yes, like hugging and stuff like that, yes.

6 Q. And he asked for examples of what you meant, and he put in
7 quotes "touching on the shoulders and things like that." Did
8 you make that statement?

9 A. Yes, I did.

10 Q. And then he says that he asked you if at any time were you
11 forced into the sexual contact incident that took place between
12 you and Diamond on October 31. And he says your response was,
13 "I was never forced." Is that an accurate quote from you?

14 A. Yes. I said that I would never force her, no.

15 Q. Was there any sexual contact between you and Diamond on
16 October 31st?

17 A. No, Your Honor.

18 Q. Did you say anything to Betterson to the effect --

19 THE COURT: No, that's all I have.

20 Does the plaintiff have any questions based on my
21 examination of the witness?

22 MR. McCOY: Just briefly.

23 We can take that exhibit down.

24 ///

25 ///

REDIRECT EXAMINATION

1
2 BY MR. McCOY:

3 Q. Mr. Doe, the statements that the judge just went through
4 in the Betterson documents with you were all in the context of
5 the DR in which you were alleged to have been the victim of a
6 sexual advance from Ms. Diamond; is that right?

7 A. Yes.

8 Q. So your relationship with Ms. Diamond, outside of that
9 context in the dorm, living together, is what is being
10 described in the answers to those questions about your
11 relationship with Ms. Diamond; right?

12 A. Yes.

13 Q. With respect to the 31st incident, did you have any sexual
14 contact or any sexual activity at all with Ms. Diamond on that
15 day?

16 A. No, sir.

17 Q. How would you describe your -- well, where -- what was
18 Ms. Diamond's relationship like with other people that lived on
19 N-Dorm, in your circle of friends?

20 A. Really, if you -- Diamond is flirtatious with everybody.
21 That's just who Diamond is. Until you give reason -- I mean,
22 to make Diamond not like you. I mean, that's just who Diamond
23 is. You know what I mean.

24 Q. When you say "flirtatious," what do you mean?

25 A. I mean, she -- Diamond is kind of flirtatious, I will

1 admit that.

2 Q. Give me an example of flirtatious.

3 A. Likes to hug a lot. Always comes and touches shoulders,
4 stuff like that, a touchy-feely kind of person. I mean, so --

5 Q. Did you ever -- did you ever interpret any of that as
6 sexual in nature?

7 A. Huh-huh.

8 Q. Did anyone on the dorm ever express to you that you
9 thought that Ash- -- or that they thought that Ashley's
10 flirtatiousness was sexual in nature?

11 A. Of course. People say stuff all the time like, "You
12 shouldn't be hanging out with her."

13 I said, "I'm comfortable with who I am. I don't have a
14 problem with Diamond."

15 Q. Did they say that because they were afraid that they might
16 be interpreted as being gay or transgender, involved with a
17 transgender person?

18 A. Yes.

19 MR. SHAPIRO: Objection, Your Honor, calls for
20 speculation.

21 MR. McCOY: I was asking what they said to him.

22 BY MR. McCOY:

23 Q. If you know, that's fine.

24 THE COURT: I thought the objection was going to be
25 leading.

1 MR. McCOY: Yes, Your Honor.

2 MR. SHAPIRO: Or that one, Your Honor.

3 MR. McCOY: There's been a lot of leading all day so
4 I apologize.

5 That's all. No further questions, Your Honor.

6 THE COURT: Mr. Shapiro?

7 MR. SHAPIRO: Nothing from Defendants, Your Honor.

8 THE COURT: All right. Thank you, sir. You may step
9 down.

10 (Witness excused at 4:37 p.m.)

11 THE COURT: Who will be calling Officer Brown?

12 MR. SHAPIRO: I will, Your Honor.

13 COURTROOM DEPUTY: Officer Brown, can you please
14 raise your right hand. Do you solemnly swear that your
15 testimony in this case shall be the truth, the whole truth, and
16 nothing but the truth, so help you, God?

17 THE WITNESS: I do.

18 COURTROOM DEPUTY: Thank you. Can state your name
19 for the record.

20 THE WITNESS: My first name is Courtney, last name is
21 Brown.

22 THE COURT: Officer Brown, before the questions
23 begin, I advise you that of course you are now under oath, and
24 if you testify falsely, you could be prosecuted for perjury.
25 Do you understand that?

1 THE WITNESS: Yes, sir.

2 MR. McCOY: Your Honor, would you mind also
3 admonishing about John Doe?

4 THE COURT: About...?

5 MR. McCOY: John Doe.

6 THE COURT: Yes. The person who you found in the
7 cell with Ashley Diamond is being referred to as "John Doe" in
8 these proceedings.

9 THE WITNESS: Okay.

10 CORRECTIONAL OFFICER COURTNEY BROWN
11 called by Defendants at 4:39 p.m., having first been duly sworn,
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SHAPIRO:

15 Q. All right. Good afternoon, Officer Brown.

16 A. Good afternoon.

17 Q. As you know, my name is Robert Shapiro. I am with the
18 State Law Department. And I want to ask you a few questions
19 this afternoon.

20 Before we begin, I want to briefly let you know that it is
21 my understanding that if you would like to remove your mask, if
22 you're more comfortable, you may do so.

23 Okay. Officer Brown, who is your employer?

24 A. Coastal State Prison.

25 Q. How long have you been at Coastal State Prison, Ms. Brown?

1 A. Almost a year. Well, it will be two years in October.

2 Q. And Coastal State Prison, is that a Georgia Department of
3 Corrections facility?

4 A. Yes, sir.

5 Q. And is the Georgia Department of Corrections your
6 employer?

7 A. Yes, sir.

8 Q. What is your rank at Coastal State Prison?

9 A. I am a CO-II.

10 Q. As a CO-II, could you describe some of your duties and
11 responsibilities for me.

12 A. Some of my duties are to run different posts through
13 buildings. I basically conduct count, conduct checks
14 throughout the day, things like that.

15 Q. When did you first begin work within the Department of
16 Corrections?

17 A. I became employed in October of 2019.

18 Q. And have you been in any other facility other than Coastal
19 State Prison?

20 A. No, sir.

21 Q. And, Officer Brown, was your rank CO-II in October of
22 2020?

23 A. I was a CO-I.

24 Q. Okay. Are there any different responsibilities other than
25 those you just described for us?

1 A. No, sir. The only difference is the amount of time I've
2 been employed.

3 Q. Okay. Officer Brown, I want to ask you about a specific
4 date, which is October 31st, 2020. Do you recall if you were
5 working at Coastal State Prison on the morning of October 31st,
6 2020?

7 A. Yes, sir, I was.

8 Q. Do you remember where you were assigned?

9 A. I was assigned to N-Building.

10 Q. And do you recall any incident involving Ashley Diamond
11 occurring on October 31st, 2020?

12 A. Yes, sir.

13 Q. Would you tell me just generally what you recall about
14 that incident.

15 A. About that incident, it was about 8:15, 8:20. Right
16 before they actually call the census count, they call a
17 lockdown first. So I entered into the B-range inside of
18 N-Building to conduct count. And, um, I approached Offender
19 Diamond's room and opened up the cell door and noticed Offender
20 Diamond on top of John Doe inside of the room.

21 Q. Okay. I want to ask you a couple of specifics about what
22 occurred after that. But first just to go back a little bit,
23 what's involved in conducting a count?

24 A. In conducting count, everyone is to stand for each count
25 throughout the day. And so when lockdown normally occurs, what

1 I do is let everybody know that there is lockdown for count.
2 That way when count does come, they are already up and alert
3 for me to go ahead and count.

4 Q. Okay. The inmates, when you conducting count, are they
5 typically outside of their cells?

6 A. Yeah, they stand outside of their door.

7 Q. And you said that on the morning of October 31st, 2020,
8 you were conducting count in the N-Building around 8:15 or
9 8:20?

10 A. Yes, sir.

11 Q. When you were conducting count, did you notice that
12 Ms. Diamond was absent?

13 A. No.

14 Q. Okay. You said you arrived at her cell -- let me ask you,
15 how did you know which cell was Ms. Diamond's?

16 A. It is on the roster.

17 Q. Okay. And when you entered her cell, you encountered
18 Ms. Diamond and another inmate you said; correct?

19 A. Yes, sir.

20 Q. Would you tell me what you observed the inmates doing in
21 the cell.

22 A. I observed Offender Diamond on top of John Doe, with both
23 of their pants below their buttocks area, and Offender Diamond
24 was in a back-and-forth motion, with her penis inserted into
25 John Doe's anus.

1 Q. Okay. When you entered the cell and you saw that
2 occurring, what did you do after?

3 A. I yelled and told them that they had to be separated.

4 Q. And by "separated," where did each of the inmates go?

5 A. I pulled Offender Diamond out of the cell and the dorm,
6 into the lobby area of N-Building, and I instructed John Doe to
7 remain inside of the cell.

8 Q. I believe you stated that when you entered the cell, the
9 inmates were at least partially unclothed. Is that right?

10 A. Yes, sir.

11 Q. Did it take some time for them to put their clothes back
12 on?

13 A. Yes.

14 Q. About how long would you estimate that that took before
15 they were separated?

16 A. I think it probably took about five minutes.

17 Q. All right. Did you notify any other officers at Coastal
18 State Prison what had occurred?

19 A. I notified my supervisor.

20 Q. Who was your supervisor at that time?

21 A. Lieutenant Reeves.

22 Q. And what did you relate to Lieutenant Reeves when you
23 spoke with her?

24 A. I just explained to her exactly what I found before I
25 conducted count.

1 Q. And is that exactly what you've just described to us here
2 today?

3 A. Yes, sir.

4 Q. Do you recall speaking with the duty officer that morning?

5 A. I spoke with her after I contacted my direct supervisor.

6 Q. And do you recall what you discussed with the duty
7 officer?

8 A. I discussed with her the same thing that I discussed with
9 Lieutenant Reeves about the situation.

10 Q. Now, other than Lieutenant Reeves and the duty officer,
11 did you have any discussions with any other Coastal State
12 Prison personnel about the incident?

13 A. Later on that day, I did speak with Deputy Warden
14 Betterson.

15 Q. And was that, again, just relating what had occurred?

16 A. Yes, sir.

17 Q. Now, did you write a disciplinary report for either of the
18 inmates that you encountered in Ms. Diamond's cell?

19 A. Yes, sir.

20 Q. Do you recall what -- well, let me first begin with
21 Ms. Diamond. Do you recall what Ms. Diamond was charged with?

22 A. I believe it was a B-11. I am not sure what the other
23 charge was.

24 Q. And what is a B-11 charge? What does that indicate?

25 A. Basically exposure of your genital area.

1 Q. And do you recall what the other inmate that you found
2 in -- who you found in Ms. Diamond's cell, do you recall what
3 that inmate was charged with?

4 A. John Doe was charged with a B-11, as well, and
5 unauthorized person.

6 Q. And, I'm sorry, just to be clear, those were the charges
7 that were issued to Ms. Diamond or to the other offender?

8 A. John Doe.

9 Q. Did you write a witness statement as part of the
10 disciplinary report?

11 A. Yes, sir.

12 Q. Do you recall the specifics about what you said in your
13 witness statement?

14 A. I'm sorry?

15 Q. Do you recall the specific details about what was said in
16 your witness statement?

17 A. Yes, sir.

18 Q. Okay. What did you report in the witness statement as
19 best as you remember?

20 A. In my witness statement, I basically wrote down what I
21 witnessed while conducting count.

22 Q. Including the -- what you witnessed when you went into
23 Ms. Diamond's cell?

24 A. Yes, sir.

25 Q. Now, does that witness statement accurately reflect

1 everything that you saw?

2 A. Yes, sir.

3 Q. And other than writing that witness statement that was
4 included with the disciplinary report, did you ever write any
5 other statement?

6 A. Just the disciplinary report and my witness statement.

7 Q. I'm sorry?

8 A. Just those two.

9 Q. As you sit here today, do you believe that that witness
10 statement accurately reflects what you witnessed on the morning
11 of October 31st, 2020?

12 A. Yes, sir.

13 Q. And the testimony that you have just given, to the best of
14 your recollection, is that accurate of what you witnessed on
15 October 31st, 2020?

16 A. Yes, sir.

17 Q. Do you recall the first time you ever encountered
18 Ms. Diamond at Coastal State Prison?

19 A. It would be working at N-Building.

20 Q. Do you regularly work in the N-Building?

21 A. Yes.

22 Q. Officer Brown, did you go on leave at any time in the year
23 2020?

24 A. I went out on maternity leave in June, and I returned
25 about -- I would say September 16th.

1 Q. And you were -- I'm sorry, you said you were on maternity
2 leave at that time?

3 A. Yes, sir.

4 Q. So your -- your first time encountering Ms. Diamond was
5 then presumably sometime around mid-September of 2020; is that
6 right?

7 A. Yes, sir.

8 Q. And so at the time of this incident, you had only known
9 Ashley Diamond for a matter of weeks; is that correct?

10 A. Yes, sir.

11 Q. All right. Officer Brown, just two final questions. Have
12 you ever been a part of any discussions about targeting
13 Ms. Diamond?

14 A. No, sir.

15 Q. Have you ever been a part of any discussions about
16 retaliating against Ms. Diamond?

17 A. No, sir.

18 Q. Are you aware of any campaign at Coastal State Prison to
19 target Ms. Diamond?

20 A. No, sir, I'm not.

21 Q. Thank you very much, Officer Brown.

22 THE COURT: Cross examination?

23 CROSS EXAMINATION

24 BY MR. McCOY:

25 Q. Good afternoon, Officer Brown. My name is Scott McCoy. I

1 am counsel for Plaintiff Ashley Diamond in this matter.

2 You provided a declaration in this case dated May 2nd;
3 correct?

4 A. Yes, sir.

5 MR. McCOY: Could we pull up Plaintiff's Exhibit 216,
6 please.

7 BY MR. McCOY:

8 Q. Officer Brown, could you take a look at that document and
9 tell me if you recognize it.

10 A. Yes, sir.

11 MR. McCOY: I'm sorry, could you just blow it up just
12 a tad more.

13 VIDEO TECH: Does it include Doe's name?

14 MR. McCOY: Doe's name is marked out. That's why I'm
15 using this version.

16 BY MR. McCOY:

17 Q. So, scroll down to the end of it, if you would. Take a
18 look at it. I'm sorry, after that I'm going to ask you again,
19 do you recognize what this document is?

20 A. Yes, sir, I do.

21 Q. What is it?

22 A. That is my declaration.

23 Q. And did you write this declaration?

24 A. Did I write the declaration?

25 Q. Yes, ma'am.

1 A. No, sir, I didn't write the declaration.

2 Q. Who wrote the declaration?

3 A. I spoke with the lawyers over the phone about the
4 declaration.

5 Q. But this declaration, in it you say -- it's in the first
6 person as you, right? It says, "I was..." and it recounts what
7 you did; is that not correct?

8 A. This is based off of a conversation I had.

9 Q. A conversation with who?

10 A. With the lawyers.

11 Q. Okay. I am not -- I don't want to -- I am not asking you
12 about what your conversation with your lawyers was about. What
13 I'm trying to find out is if you scroll down to the bottom of
14 this document, you signed this document; correct?

15 A. Yes.

16 Q. And you signed below a line that says, "I declare under
17 penalty of perjury that the foregoing is true and correct";
18 correct?

19 A. Yes.

20 Q. And you signed this on May 2nd, 2020?

21 A. Yes.

22 Q. Right.

23 MR. McCOY: So, if you would, scroll up a little bit,
24 Diego.

25 ///

1 BY MR. McCOY:

2 Q. In this document, in this declaration, you recount again
3 what you say that you saw on October -- the morning of
4 October 31st; correct? 2020?

5 A. I am not sure what you're asking.

6 Q. I tell you what, let's just walk through the document real
7 quick. So go up to the very top. All right. This says, "I,
8 Courtney Brown, declare as follows:" That's you; correct?

9 A. Correct.

10 Q. If you scroll down -- some of this is introductory. But
11 if you scroll down to -- keep going down a little bit --
12 Paragraph 8. Here you're swearing under penalty of perjury
13 that what happened on the morning of the 31st was,

14 "When I opened the door to Offender Ashley
15 Diamond's cell I saw Offender Diamond and
16 Offender John Doe on the bed. They were
17 moving in a back and forth motion. Both of
18 them had their pants pulled down and their
19 buttocks were both exposed. Offender Diamond
20 was on top. They did not hear me at first so
21 I made a noise and when I did that Offender
22 Diamond jumped up and said 'Shoot' and
23 started to put her private parts back into
24 her pants. Both offenders then sat on the
25 side of the bed. I separated them by

1 directing Diamond to come out of the cell and
2 Offender John Doe to remain in the cell."

3 So sitting in here today -- first of all, did I read that
4 correctly?

5 A. Yes.

6 Q. And you swore when you signed this affidavit that that was
7 what happened on October 31st; correct?

8 A. Yes.

9 Q. There is no mention there that Ms. Diamond's penis was in
10 the -- that you saw Ms. Diamond's penis in the anus of Mr. Doe;
11 is there?

12 A. Not in this paragraph.

13 Q. All right.

14 MR. McCOY: Scroll down for me, Diego.

15 BY MR. McCOY:

16 Q. So Paragraph 12, "Attachment 1 hereto is a true and
17 correct copy of the witness statement that I completed about
18 this incident on October 31st, 2020."

19 So Attachment 1 -- scroll down, here we go -- that is the
20 statement that you filled out the day of the incident,
21 October 31st, 2020; correct?

22 A. Yes.

23 Q. So this statement -- and in this -- it says, "Sworn
24 Statement"; correct?

25 A. Uh-huh.

1 Q. What does it mean to be a sworn statement?

2 A. Say that again.

3 Q. What does it mean when you say "sworn statement"?

4 A. That it's a statement that I swear that it's the truth.

5 Q. That you're swearing is the truth; correct?

6 A. Um-hum.

7 Q. All right. Now, in this attachment, you recount that
8 Offender Diamond's penis was inside of Offender Doe's anus;
9 correct?

10 A. I am not sure what you mean.

11 Q. All right. Well, let me just get direct to you. Go back
12 up to the top. So just right at that last paragraph, end of
13 Paragraph 12, in this declaration on May 12, which you signed
14 under penalty of perjury, you again state,

15 "The details in the statement," Attachment 1
16 below, "are accurate, except that as I review
17 the statement today, I cannot say that I saw
18 Offender Diamond's penis inside the other
19 offender's anus, but I wrote that because
20 that is what I believed was occurring based
21 on what I saw."

22 So here you're swearing that, in fact, you didn't see Offender
23 Diamond's -- I'm sorry, Ms. Diamond's penis in John Doe's anus;
24 correct?

25 A. In here, what I'm saying is what I wrote down on the

1 statement is what I saw on that day.

2 THE COURT: In where? In where?

3 THE WITNESS: Where it says I have wrote that because
4 that is what I believed was occurring --

5 THE COURT: Speak up. You're mumbling a bit. Speak
6 up.

7 THE WITNESS: But I wrote that because that is what I
8 believed was occurring based on what I saw.

9 BY MR. McCOY:

10 Q. But in this declaration, which you swore under penalty of
11 perjury to be true, you say, "I cannot say that I saw Offender
12 Diamond's penis inside the other offender's anus"; correct?
13 That's what you say in this sworn declaration?

14 A. But I wrote that because that is what I believed what was
15 occurring, what I saw.

16 Q. Right. I am talking about what you say you saw and then
17 apart from what you believe you saw. I'm just trying to make
18 this -- so you testified here today that when you opened the
19 door, you saw Ms. Diamond's penis inside Mr. Doe's anus;
20 correct?

21 A. Yes.

22 Q. Your testimony here today is that you saw that. You saw a
23 penis in an anus. And I'm sorry to be graphic, but it is what
24 it is. Your testimony here today is that that's what you saw;
25 correct?

1 A. That is what I saw on that day.

2 Q. Okay. And, similarly, if you scroll down to Attachment 1,
3 what do you recognize Attachment 1 to be?

4 A. What do I what?

5 Q. What is Attachment 1?

6 A. Attachment 1 is a witness statement.

7 Q. By who?

8 A. Myself.

9 Q. Filled out when?

10 A. On October 31st, 2020.

11 Q. What -- and that was the day that you walked in on
12 Ms. Diamond and John Doe; correct?

13 A. Correct.

14 Q. And in this attachment, you also say that you saw the
15 penis of Ms. Diamond inside of the anus of Mr. Doe; correct?

16 A. Correct.

17 Q. So we have three sets of versions of accounts. You have
18 the one from the day; right? Here in Attachment 1, that was
19 filled out on the day; correct?

20 A. Uh-huh.

21 Q. You have an affidavit sworn under penalty of perjury on
22 May 2nd, where you say you didn't see the penis in the anus;
23 correct?

24 A. That's not what I said.

25 Q. Okay. Let's go back up to the -- what is it -- I'm trying

1 to figure out what it means when on -- in Paragraph 12 you say,
2 "I cannot say that I saw Offender Diamond's penis inside the
3 other offender's anus." Is that true?

4 A. That's what that says, yes.

5 Q. Is it true?

6 A. If I wrote it on the statement, then that's what I saw
7 that day.

8 Q. So on this day, you thought that you could not say that
9 you saw the penis in the anus?

10 A. Say that again.

11 Q. On May 2nd, when you signed this statement, your statement
12 is that "I cannot say that I saw Offender Diamond's penis
13 inside the other offender's anus"; correct?

14 A. Yes.

15 Q. And that's different than what you said here today and on
16 the day that you made the statement because in those statements
17 what you said was, "I saw Ms. Diamond's penis in Mr. Doe's
18 anus." Correct?

19 A. Correct.

20 Q. All right. Now, go back, go to the Attachment 1 again,
21 please. So this witness statement, sworn, was filled out
22 before the end of your shift on October 31st, 2020; correct?

23 A. Uh-huh.

24 Q. All right. And in this statement, you say,
25 "On October 31, 2020, at approximately

1 08:40 hours, I, Officer Courtney Brown,
2 entered N-Building B-range to count. When I
3 approached Room 136 I observed Offender
4 Diamond on top of Offender Doe on the bottom
5 bunk. Both offenders had their pants down.
6 Offender Diamond's penis was inside of
7 Offender Doe's anus and they were moving in a
8 back and forth motion."

9 Is that correct? Did I read that correctly?

10 A. Um-hum.

11 Q. And then you say -- you swear -- "I opened the door to
12 Room 136. Neither offender moved." Is that correct?

13 A. Um-hum.

14 Q. All right. Now, go back up into the declaration of
15 May 2nd. To Paragraph 8. 7 and 8. You recount here about the
16 day, October 31st, that you were doing count in Paragraph 7.
17 You started opening the doors to offenders' cells, make sure
18 they were up for a count.

19 But here in Paragraph 8 you say,

20 "When I opened the door to Offender Ashley
21 Diamond's cell I saw Offender Diamond and
22 Offender John Doe on the bed."

23 Right?

24 A. Uh-huh.

25 Q. Is that correct?

1 A. Yes.

2 Q. Now, but in your prior attachment, didn't you say that you
3 observed them before you opened the door?

4 A. Where is the prior attachment on here?

5 Q. Sure.

6 MR. McCOY: Let her please look at -- let the witness
7 look at Attachment 1.

8 BY MR. McCOY:

9 Q. Here you say you observed them and then opened the door;
10 isn't that correct?

11 A. "I observed Offender Diamond on top of
12 Offender John Doe on the bottom bunk."

13 Q. Correct. I know that it says that. But when? Before or
14 after you opened the door?

15 A. After.

16 Q. But what does this statement say? This statement doesn't
17 say that you observed them before. It says you observed
18 them...

19 A. It doesn't specify.

20 Q. Well, let's look at it and read it.

21 A. Um-hum.

22 Q. "When I approached Room 136, I observed
23 Offender Diamond on top of Offender Doe on
24 the bottom bunk. Both offenders had their
25 pants down. Offender Diamond's penis was

1 inside of Offender Doe's anus, and they were
2 moving in a back-and-forth motion."

3 You say in this statement you have observed all of that. And
4 then you write,

5 "I opened the door to Room 136. Neither
6 offender moved."

7 That's what this says; correct?

8 A. Yes.

9 Q. The prior statement in the declaration, though, is
10 different and says -- and what you testified to here today was
11 different in that now you're claiming you opened the door first
12 and saw everything happening; isn't that right?

13 A. That's correct. I opened the door first.

14 Q. So then the statement you wrote on the day of is
15 incorrect? Because it says you witnessed -- observed first and
16 opened the door second.

17 A. It's not incorrect. It's just out of order. It's not
18 incorrect at all.

19 Q. Well, why would you have written it incorrectly in order
20 the day that the events took place?

21 A. Well, when the events took place, everything was already
22 in a haywire. So as I was writing the witness statement, I was
23 just writing the witness statement.

24 Q. But you admit that this witness statement is incorrect,
25 because it says that you observed before you opened the door?

1 A. I'm saying that the witness statement is out of order.

2 Q. And if something is out of order, it's not truthful and
3 correct; is it?

4 A. No.

5 Q. Because it's a sequence of things. If one comes before
6 two, right, if they are out of order, two could -- right?

7 A. No, sir.

8 Q. Okay. Well, all right. Now, you wrote this statement.
9 Were there any other statements that you wrote other than this
10 one and the May 2nd affidavit -- or May 2nd declaration that
11 we've been talking about?

12 A. No, sir.

13 Q. Okay. And you recounted what is in these statements and
14 what happened to others, but there wasn't anyone else with you
15 when you either observed and opened the door or opened the door
16 and observed; correct?

17 A. I was the only officer in the building, yes, sir.

18 Q. So Lieutenant Reeves didn't witness what was happening
19 inside Ms. Diamond's cell; correct?

20 A. No, sir.

21 Q. Nor did the unit manager; correct?

22 A. No.

23 Q. So the only way that they know about what happened is from
24 what you told them and what's written in this witness
25 statement; correct?

1 A. That is correct.

2 Q. Now, when you opened the door --

3 A. Um-hum.

4 Q. -- you didn't think that you were interrupting a rape;
5 right?

6 A. That I -- I'm sorry?

7 Q. When you opened the door, you didn't think that you were
8 interrupting a rape; did you?

9 A. No.

10 Q. And, in fact, you didn't give a DR for sexual intercourse;
11 correct?

12 A. I did not serve a DR for sexual intercourse, no.

13 Q. Even though in the statement you claim that that's what
14 you saw, at least in the statement on 10/31?

15 A. Yes.

16 Q. Now, when you opened the door to Ms. Diamond's cell, you
17 didn't notice a rag stuffed in the door; did you?

18 A. "A rag"?

19 Q. Yeah, "a rag."

20 A. Oh, no, sir.

21 Q. I'm sorry?

22 A. No, I did not.

23 Q. And if you had noticed a rag, you would have noted it to
24 someone; correct?

25 A. Correct.

1 Q. When you opened Ms. Diamond's cell, did you have to unlock
2 it?

3 A. No, sir, I did not.

4 Q. At any point in time during the encounter did you try to
5 lock Ms. Diamond's cell?

6 A. I personally did not try to lock the cell.

7 Q. Why do you say you personally did not lock the cell -- try
8 to lock the cell?

9 A. Because I don't have the tools to lock the cell.

10 Q. So someone else might have those tools, but at that time
11 you didn't?

12 A. Yes, sir.

13 Q. When you on this morning saw -- or, I should say claimed
14 to have seen Ms. Diamond's genitalia, did you notice that they
15 were bound in any way?

16 A. No, sir.

17 Q. And you can't sit here today and say whether or not you
18 saw Ms. Diamond's penis was erect; can you?

19 A. No, I cannot.

20 Q. And you can't sit here today and tell us that you saw
21 Mr. Doe's genitals at all; did you?

22 A. No.

23 Q. And you didn't write that you had seen his genitals in
24 your witness statement on October 31st; correct?

25 A. No, I did not.

1 Q. And you didn't recount that you had seen his genitals in
2 the May 2nd affidavit or declaration that you signed either;
3 correct?

4 A. Correct.

5 Q. Now, I think you testified that your rank was CO-II now;
6 correct?

7 A. Um-hum.

8 Q. What was your rank at the time of this event on
9 October 31st, 2020?

10 A. I was a CO-II.

11 Q. CO-II as well?

12 A. Um-hum.

13 Q. And how long had you been back from maternity leave when
14 this incident had happened?

15 A. A little over a month.

16 Q. Now, you never saw any video of Mr. Doe going into
17 Ms. Diamond's cell; correct?

18 A. No, sir, I did not.

19 Q. And you have never seen any video that captures
20 Ms. Diamond having anal intercourse with Mr. Doe; correct?

21 A. I have never seen any video.

22 Q. And you are not aware that any video even exists; correct?

23 A. No, sir.

24 Q. And the camera that sits outside and looks down on --
25 well, first of all, there is a camera that -- in N-Dorm that is

1 focused, that looks at Ms. Diamond's door; correct?

2 A. I am not sure exactly what it focuses on.

3 Q. Okay. Were you asked to participate or testify in the
4 disciplinary report hearings for Ms. Diamond associated with
5 these DRs?

6 A. No, sir.

7 Q. You didn't attend them?

8 A. No.

9 Q. You've never seen the recordings of them?

10 A. No, sir.

11 Q. And same questions for Mr. -- the DRs that Mr. Doe
12 received. Did you participate in the disciplinary hearings for
13 those DRs?

14 A. No, sir.

15 Q. On the morning that this incident took place, Ms. Diamond
16 asked to be taken to Medical; didn't she?

17 A. I'm sorry.

18 Q. On the morning that this happened, Ms. Diamond asked to be
19 taken to Medical; didn't she?

20 A. Did Offender Diamond ask me to escort to Medical?

21 Q. Or anyone.

22 A. No.

23 Q. To your knowledge or do you know?

24 A. Not to my knowledge.

25 Q. Now, are you aware that Ms. Diamond got a DR for

1 supposedly blocking the access of her door?

2 A. No, sir.

3 Q. So you didn't provide any kind of a witness statement with
4 respect to that DR; correct?

5 A. No, sir, I did not.

6 Q. On that morning -- in fact, Mr. Doe was eventually taken
7 into custody and put in handcuffs; correct?

8 A. Yes.

9 Q. And you did that; correct?

10 A. Incorrect, I did not.

11 Q. Who did?

12 A. I can't recall.

13 Q. Well, you were in the cell when he was handcuffed;
14 correct?

15 A. No, sir.

16 Q. Okay. Well, I -- all right. There's video of it -- you
17 are not aware of any video evidence that would contradict that
18 that to show you walking into the cell with another officer and
19 walking out with Mr. Doe being handcuffed?

20 A. Not that I can recall.

21 Q. Okay. Ms. Diamond was never handcuffed or taken into
22 custody based on this incident; correct?

23 A. Not to my knowledge.

24 Q. And once Mr. Doe was taken away, Ms. Diamond remained in
25 N-Dorm; correct?

1 A. Yes. I was instructed for Offender Diamond to return to
2 the cell.

3 Q. Did you secure Ms. Diamond in her cell afterwards?

4 A. I attempted to close the door, but it wouldn't lock.

5 Q. Um, I think previous you testified you didn't have the
6 tools to make the door lock; isn't that correct?

7 A. Correct. Which is why I said it didn't lock.

8 THE COURT: It took a tool to lock the door?

9 THE WITNESS: Maintenance has the tools to actually
10 do that.

11 BY MR. McCOY:

12 Q. So you don't have a key that can lock or unlock any cell
13 door?

14 A. I didn't have the key on my key ring.

15 Q. You were assigned to do rounds on N-Dorm that day, but you
16 didn't have the N-Dorm keys?

17 A. I had N-Building's keys.

18 Q. But just not the key to Ms. Diamond's door -- cell?

19 A. I didn't have the key to any cell to properly lock the
20 door.

21 Q. So Ms. Diamond was not, then, secured in her cell that
22 morning; correct?

23 A. Locked in? No.

24 Q. What's the difference between "locked in" and "secured
25 in"?

1 A. "Secured" would be the door being closed all the way.
2 "Locked in" would be actually locked inside. You need somebody
3 to get you out of the room.

4 Q. If someone is secured in their cell, can they exit the
5 cell?

6 A. Yes.

7 Q. Do you know whether or not Ms. Diamond was allowed to exit
8 her cell after Mr. Doe (pseudonym inserted) was taken away?

9 A. No, sir.

10 Q. I'm sorry, Mr. Doe?

11 A. No, sir.

12 MR. McCOY: I think that's all I have. Thank you.

13 THE COURT: All right. Hold just a second.

14 Darlene, can you get the screen back.

15 THE COURT: All right, Mr. Shapiro?

16 MR. SHAPIRO: All right.

17 REDIRECT EXAMINATION

18 BY MR. SHAPIRO:

19 Q. Officer Brown, I have just a few follow-up questions for
20 you. Now, you've just discussed with counsel for Ms. Diamond,
21 two different statements that you have made regarding this
22 incident; is that right?

23 A. That's correct.

24 Q. Both the witness statement that you completed on
25 October 31st, 2020, and the declaration that you reviewed and

1 signed on May 2nd, 2021. Do you recall both of those
2 statements?

3 A. Yes, sir.

4 Q. Let me be clear. When you completed your witness
5 statement on October 31st, 2020, were you attempting to give a
6 truthful, honest, and accurate recounting of what you had
7 observed to the best of your recollection?

8 A. Yes, sir.

9 Q. And when you reviewed and signed your declaration on
10 May 2nd, 2021, were you trying to give a truthful, honest, and
11 accurate summary of what you had witnessed to the best of your
12 recollection?

13 A. Yes, sir.

14 Q. Did you lie in either one of those statements?

15 A. No, sir.

16 Q. Either in the witness statement that you completed on
17 October 31st, 2020, or in the declaration that you reviewed and
18 signed on May 2nd, 2021?

19 A. No, sir.

20 Q. Did anyone tell you what to write in your witness
21 statement on October 31st, 2020?

22 A. No, sir.

23 Q. Now, you had testified today that when you went into
24 Ms. Diamond's cell, you observed Ms. Diamond and another
25 offender lying in bed together; is that correct?

1 A. That is correct.

2 Q. You also have testified that you observed that both the
3 inmates were partially clothed; is that correct?

4 A. Yes, sir.

5 Q. And that is accurately reflected both in the witness
6 statement that you completed on October 31st, 2020, and in the
7 declaration that you signed on May 2nd, 2021; is that correct?

8 A. Yes, sir.

9 Q. Now, based on what you saw occurring, was it your belief
10 that the inmates were engaged in sexual activity?

11 A. Yes, sir.

12 Q. And to be clear, sexual activity between inmates is not
13 allowed at Coastal State Prison; correct?

14 A. Yes, sir, that is correct.

15 Q. And that's regardless of whether it's consensual or
16 non-consensual; is that right?

17 A. Correct.

18 Q. But, again, it was your belief, based on what you had
19 observed, that these two inmates were engaged in sexual
20 activity; correct?

21 A. Yes, sir.

22 Q. And was that the basis for the disciplinary reports that
23 you wrote?

24 A. Yes, sir.

25 Q. All right. Thank you very much, Officer Brown.

EXAMINATION

1
2 BY THE COURT:

3 Q. Officer Brown, I want to be very clear. You testified
4 under oath today that you saw Ms. Diamond's penis in John Doe's
5 anus. A disciplinary report was issued based upon a statement
6 in which you said the exact same thing. Both the offenders
7 were convicted, as far as I can tell, based only on your
8 testimony.

9 Then, on May 2nd, you gave a statement under oath in which
10 you said you did not see Diamond's penis in John Doe's anus.
11 Your testimony is -- as far as I can see, your various
12 statements are irreconcilable.

13 Here's what I want to ask you. I want you to go backwards
14 in time, from this moment. Who have you had a discussion with
15 about whether or not you saw Ms. Diamond's penis in John Doe's
16 anus?

17 A. I only reported to --

18 Q. No, go backwards in time from this moment. Speak into the
19 microphone.

20 A. Oh, I only spoke with Lieutenant Reeves; Ms. Mack, who was
21 the unit manager; Deputy Warden Betterson; and the PREA
22 investigator.

23 Q. When did those conversations take place?

24 A. They were all the same day.

25 Q. Are you telling me that you have had no conversations

1 about this incident with anyone since the day it took place?

2 A. Except for the lawyers, yes.

3 Q. You mean from October 31st, 2020, until May 2nd, or
4 thereabouts, you had no discussion with anybody about this
5 incident?

6 A. No, sir. It is not something that I will want to discuss.

7 Q. And then since May 2nd, you have had no discussion with
8 anybody about this incident?

9 A. Just about reporting to court.

10 Q. Pardon?

11 A. Just about reporting to court and when I had to be here.

12 Q. Did you tell Mr. Betterson, back in the time when you did
13 talk with him, that you saw Ms. Diamond's penis in John Doe's
14 anus?

15 A. Yes, sir.

16 Q. And did you tell Lieutenant Reeves that same thing?

17 A. Yes, sir.

18 Q. But yet you were not called to testify or give a statement
19 at either of the DR hearings; is that correct?

20 A. That's correct. I wasn't there.

21 Q. Is that -- given, in your experience, that the DRs were
22 based entirely on -- in terms of evidence, were based entirely
23 on what you say you saw, is it the usual practice that an
24 officer is not there to verify what he or she saw?

25 A. Not to my knowledge.

1 Q. Okay. I -- my question might not -- is it normal or
2 un-normal that an officer wouldn't be called to verify what
3 happened?

4 A. From my experience, I have never been there when I've
5 wroten a DR.

6 THE COURT: Anything further for Officer Brown?

7 MR. McCOY: No, Your Honor.

8 MR. SHAPIRO: (Shaking head in the negative.)

9 THE COURT: You may step down. May she be excused?

10 (No response.)

11 THE COURT: You are excused, Officer Brown.

12 (Witness excused at 5:28 p.m.)

13 THE COURT: All right, counsel. It took a bit longer
14 than anticipated, so I don't see that we will get to
15 Mr. Betterson this afternoon. Anything from the plaintiff to
16 discuss before we adjourn for the day?

17 MR. McCOY: Your Honor, just what time would you like
18 to start in the morning and what order? We still have
19 Mr. Duckworth.

20 THE COURT: How long is he going to be on the stand?

21 MR. McCOY: 30 to 40 minutes for the direct.

22 THE COURT: Where did he come from?

23 MS. RAJARATNAM: Augusta.

24 THE COURT: All right. Let's bring in Mr. Duckworth
25 but let's get to the point, which hasn't always been the case

1 in examinations today.

2 Mr. Duckworth, you can take the stand.

3 COURTROOM DEPUTY: Would you raise your right hand.
4 Do you solemnly swear that your testimony in this case shall be
5 the truth, the whole truth, and nothing but the truth, so help
6 you, God?

7 THE WITNESS: I do.

8 COURTROOM DEPUTY: You can be seated. Can you state
9 your name for the record.

10 THE WITNESS: My name is Jamie Blake Duckworth.

11 COURTROOM DEPUTY: Jammi is your first name.

12 THE WITNESS: Jammi Blake Duckworth.

13 COURTROOM DEPUTY: Can you spell Jammi.

14 THE WITNESS: My name is J-a-m-m-i.

15 COURTROOM DEPUTY: Okay, thank you.

16 THE WITNESS: You're welcome.

17 THE COURT: Mr. Duckworth, let me advise you that you
18 have now been placed under oath. And if you testify falsely,
19 you can be prosecuted for perjury. Do you understand that?

20 THE WITNESS: I understand that.

21 MR. McCOY: Your Honor, the Doe.

22 THE COURT: We are referring to an offender by the
23 name of John Doe. This is the gentleman who was in the cell
24 with Ashley Diamond. Are you aware of that incident?

25 THE WITNESS: No.

1 MR. McCOY: Okay. Just wanted to -- I didn't know.

2 THE COURT: Is his name going to come up?

3 MS. RAJARATNAM: (No response.)

4 (Judge conferred with witness off the record at 5:31 p.m.)

5 THE COURT: All right, you may continue.

6 JAMMI BLAKE DUCKWORTH

7 called by Plaintiff at 5:31 p.m., having first been duly sworn,
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MS. RAJARATNAM:

11 Q. Good afternoon, Mr. Duckworth.

12 A. Good afternoon.

13 Q. At some point, were you in GDC custody?

14 A. Yes, I was.

15 Q. When were you in GDC custody?

16 A. I got sentenced -- I did two and a half on that, and some
17 of it was in jail. I think I was in GDC custody for about a
18 year and a half.

19 Q. Can you give the date range.

20 A. I was released on September 10th of 2020. 9th or 10th.
21 And about a year and a half before that, I am not sure of the
22 exact date.

23 Q. Where were you housed?

24 A. I was taken from jail to Coastal State Prison. And I was
25 in multiple housing units within Coastal State Prison, but

1 towards the last part of my sentence I was in N-Building.

2 Q. What is the N-Building?

3 A. N-Building is a housing unit that is designated for people
4 that are in a program called "faith and character based." And
5 it's for people that act differently than the normal general
6 population, like show initiative or try to prevent recidivism,
7 things of that nature. And about half of that population was
8 those people. The other half were people that were in, like,
9 protective custody situations, sexual predators that couldn't
10 make it in general population.

11 Q. How long were you at the faith and character dorm?

12 A. I don't know for a fact, but it was the beginning of 2020
13 to September 9th or 10th of 2020.

14 THE COURT: Lean forward a bit so the microphone will
15 pick you up a little better.

16 BY MS. RAJARATNAM:

17 Q. Can you describe the purpose of the faith and character
18 dorm.

19 A. It was advertised to house a population of people that
20 wanted to improve themselves. So it was a different
21 atmosphere. But it was for that and, like I said, for PC, for
22 people that wouldn't make it in general population because of
23 the nature of their crimes.

24 Q. Can you elaborate more on people who wouldn't make it in
25 general population.

1 A. Sexual predators, people that commit crimes against the
2 elderly and children. The general prison population doesn't do
3 well with that, so they will get -- there's a -- they are in
4 danger a lot to getting beat up, stabbed, whatever it may be.

5 Q. How many people are in that dorm?

6 A. N-Building had an A and a B-side. I think it was, like,
7 92 people on each side, so around 180 in the whole building.

8 Q. And just as an estimate, about how many of the people in
9 that dorm are what you said, people who you said would not make
10 it in general population?

11 A. About half.

12 Q. Are other incarcerated people able to come into the dorm?

13 A. Again, not by design, but yes, absolutely. They came in
14 regularly.

15 Q. What do you mean by that?

16 A. Well, the building is supposed to be secured and locked
17 down by an officer, and there's supposed to be multiple
18 officers tending the building. But the majority of the time
19 there was one officer. And if it wasn't count time or
20 something special that they are required to be there for, the
21 door was left unattended. And people that were, like, trusted,
22 I guess you would say, depending on their detail, came in and
23 out as they wanted to.

24 Q. So did you personally observe people unauthorized to be in
25 the dorm enter the dorm you're in?

1 A. Almost every day.

2 Q. Can you describe the set-up of the dorm.

3 A. Yes. So, when you walk into the building, there's a main
4 door that opens up on hinges. And there's a little lobby area
5 with a box area for the correctional officer who's supposed to
6 be able to look in A and B-Side.

7 From there, you can take a right or a left, and there's
8 another hinged opening door that will allow you to get into
9 either A-Building -- or I'm sorry, in A or in B.

10 Q. Is there an officer booth?

11 A. There is, yes. So when you walk into that main area,
12 that's what I'm referring to, the booth is for the officer,
13 again for the purpose of being able to see in both sides of the
14 building.

15 Q. How many officers are stationed in the officer booth?

16 A. I am not sure how many are supposed to be. Usually one or
17 none.

18 Q. How often were there no people -- no officers in the
19 officer booth?

20 A. It happened right away, throughout the day, but there's
21 never a set time. Was it five minutes? An hour? 30 seconds?
22 It really depended on what they might hear on the radio or if
23 they're helping one of the inmates get ice or, you know, it
24 just depends on the situation. But intermittently it was left
25 unattended.

1 Q. What is, you know, the longest amount of time that you
2 have seen an officer not -- seen the officer booth unoccupied?

3 A. Um, I really don't know a time limit on that. I don't
4 know if I could answer that confidently.

5 Q. Can you describe how the cells in the dorm are set up.

6 A. Yes. So, when you walk in, it's, like, cell houses. You
7 have a bottom row and a top row. And just think of a square or
8 rectangle with one side missing. A bunch of 2-man cells on
9 three sides and then, you know, an identical top row.

10 Q. And what is in each cell?

11 A. In each cell? So, you -- there's a sliding -- big sliding
12 door when you open it up. Immediately when you walk in there
13 is a toilet with a mirror and a sink above it. There is a bunk
14 bed, a rack, and there's a locker box, all, you know, very
15 tight. You have enough room to do some push-ups. That's about
16 it. If you weren't, you know, touching the locker box or the
17 bunk bed or the toilet.

18 Q. Is there a shower in the cell?

19 A. No, there are no private showers.

20 Q. How do you get in and out of the cell?

21 A. There's a sliding door. There's only one entrance and
22 exit.

23 Q. Is there a window on the door?

24 A. Yes.

25 Q. How big is the window?

1 A. Big enough for the purpose of the officers to be able to
2 come in and check on the wellbeing of inmates. I would say --
3 I don't know precise measurements, but a couple feet by
4 6 inches or maybe a little smaller than that.

5 Q. Is it long enough to -- for someone standing outside to
6 see what's happening inside the cell?

7 A. Not only is it long enough, I would assume that's the
8 purpose of the design. So, yes, definitely.

9 Q. Were there any people you knew to be transgender in the
10 dorm you were placed in?

11 A. Yeah, in N-B, Ashley Diamond.

12 Q. Who was Ashley Diamond?

13 A. Ashley Diamond is a transgender woman I met at Coastal
14 State Prison in N-B-Building about June of 2020 and one of my
15 best friends.

16 Q. Can you tell me about the circumstances around how you
17 heard of Ashley Diamond.

18 A. The first time I heard of Ashley Diamond was actually
19 through a senior staff member who left before I actually left
20 Coastal. His name was Jackson, I believe first name Rodney,
21 but Mr. Jackson.

22 He came in and held a dorm meeting where everybody was
23 supposed to stand by their cells and focus on the center of the
24 room where he was. And he told us that someone that was
25 transgender would be coming in.

1 Q. Did he say anything else?

2 A. Oh, yeah. He wasn't very tactful about it. He -- he
3 basically said that there was a freak about to come in, and
4 that, you know, if we wanted to get frisky, we might get hit
5 with a tree branch, and just, you know, really crude and cruel
6 about it.

7 Q. How many people were at this dorm meeting?

8 A. Everyone.

9 Q. How did people in the dorm react to that announcement by
10 Mr. Jackson?

11 A. Mostly just a bunch of laughs and stuff. Just kind of
12 played along with the jokes.

13 Q. How soon after that dorm meeting did Ms. Diamond enter the
14 dorm?

15 A. I don't know exactly, but it wasn't too long after that in
16 June of 2020. Just shortly after that. The cameras were
17 installed in the dorm, and then Ashley showed up.

18 Q. Can you describe what it was like when Ms. Diamond first
19 entered the dorm.

20 A. Yeah. I remember that day vividly. We were having a dorm
21 meeting, which in Faith and Character it's led by a mix.
22 You're supposed to have buy-in from us, and we're supposed to
23 take initiative to better ourselves. So we have these dorm
24 meetings where we have open communication.

25 And the person that was, like, facilitating or leading it

1 was talking. Ashley walked in with her mat. And he kind of
2 stopped, said, "Oh, I guess this is the person that we were
3 expecting." He made everything really awkward and
4 uncomfortable, the way he tried to introduce her. I don't know
5 if it was by -- you know, if it was on purpose, but that's the
6 way it went down.

7 And then after the meeting -- and this is about my meeting
8 with Ashley; right? Like, my experience?

9 Q. Right now just what it was like when Ms. Diamond first
10 entered the dorm. Did she say anything?

11 A. Oh, yeah, yeah. So, um, I mean, it was awkward because it
12 had been -- there was an already awkward atmosphere created by
13 Mr. Jackson and then, intentionally or not, by the other inmate
14 that was hosting the meeting.

15 But Ashley was able to somehow step forward pretty
16 confidently and put on a big smile and tell everybody -- she
17 introduced herself and told us that she liked Whitney Houston
18 and a couple other things. And, like I say, put on a big smile
19 and told everybody that if they wanted to be friends with her,
20 she was good with that. If not...she's cool with that, too.

21 Q. When did you first personally meet Ms. Diamond?

22 A. Well, I knew I liked her immediately whenever she did
23 that. So, I knew I was going to introduce myself. But just
24 trying to follow social, you know, formalities, I just didn't
25 want to just rush up to her. So I went back to my cell and I

1 was going to let her get settled in and meet everybody.

2 But I noticed that no one was actually approaching her or
3 talking to her, and she was pretty much in the same position as
4 when I left her. So I went up and introduced myself to her.
5 Which was a weird experience, too, because in prison I'm -- I'm
6 bald-headed, big red beard, big guy, and when you walk up to a
7 black transgender person--which I didn't know this at the
8 time--that can be a little intimidating because they might
9 think that I'm part of a gang or something that would be
10 hateful towards her. So she seemed kind of horrified at first,
11 but after I introduced myself and everything. We became
12 instant friends.

13 Q. How did Ms. Diamond present when you first met her?

14 A. How did she present?

15 Q. Did she look like a woman?

16 A. Oh, yeah, very much so. A very pretty, attractive woman,
17 yeah.

18 Q. How could you tell?

19 A. It's easy to -- I don't know if -- if you look at her,
20 it's pretty easy to tell she's obviously been on estrogen for a
21 while, and she's got soft, womanly skin, and her voice is a
22 woman, that she's got breasts and -- you name it, she's very
23 much a woman, yeah.

24 Q. Did you see others in the dorm start to talk to
25 Ms. Diamond?

1 A. Not really. That came much later. Unfortunately, she was
2 kind of ostracized.

3 Q. Did you see staff and how they treated Ms. Diamond when
4 she entered the dorm?

5 A. Um, yes, I did. And you know, from my perception it
6 seemed like staff was pretty much over her the day she walked
7 in.

8 Q. Why do you say that?

9 A. I guess she came with a reputation of some sort. I am not
10 really sure. But just to be clear, I mean, from day one, from
11 the time I met Ashley, she was never really treated fairly by
12 anyone, whether it be GDC staff or inmates.

13 Q. Did the staff refer to Ms. Diamond with female pronouns?

14 A. No.

15 Q. How do they refer to her?

16 A. "Him," "it," you know, whatever. Anything but "she/her."

17 Q. Did any members of GDC staff speak to you about
18 Ms. Diamond in a negative way?

19 A. Absolutely. One in particular is another senior member,
20 Officer Mitchell I believe is his name. I know he's part of,
21 like, a gang task force or something there. He made a bunch of
22 really negative and bad remarks to me about Ashley.

23 Q. What types of remarks?

24 A. He was saying that she was a cancer to the program,
25 couldn't wait until he left. You know, making comments

1 about -- you know, not just saying "gay," but inappropriately
2 using terminology for that. Yeah, it was very disrespectful.

3 Q. Did you ever have any concerns about your relationship
4 with Ms. Diamond?

5 A. Um, no, I didn't. At first. I became aware of concerns
6 because Ashley -- actually, she sat me down one day and started
7 apologizing to me, and I was really confused. And I basically
8 said, you know, "Cut to the chase, what are you trying to say?"

9 She's like, "I'm sorry for how your interacting with me is
10 going to change your situation in here." And I didn't really
11 believe her at first, but then it became really clear that it
12 did change things.

13 I also was ostracized sometimes, and, you know, some
14 people quit talking to me or -- I guess people started talking
15 behind my back, calling me a bunch of names and stuff. But,
16 yeah, it did change things.

17 Q. Did you ever observe any sexual harassment directed
18 towards Ms. Diamond?

19 A. Yes.

20 Q. What did you see?

21 A. Um, just -- almost daily -- again, this can be very simple
22 and subtle interactions to physical contact, right. So I've
23 seen words, I've seen gestures from across the room, I've seen
24 people brush up against her, or I've read notes that were given
25 to her that talked about the different things they were going

1 to do to her. And then, of course, I've actually walked in on
2 a sexual assault, as well.

3 Q. So let's start with the words and the gestures. How often
4 did you observe what you believe to be sexual harassment
5 directed towards Ms. Diamond?

6 A. Well, this is by my definition of sexual harassment of
7 course, so regularly. Like I said, almost daily. It could be
8 in a flirty, laughing manner. It can be with, you know,
9 vulgar, crude words about what they were going to do to her.
10 It just happened all the time.

11 Q. Can you give examples of the types of comments that you
12 heard directed towards Ms. Diamond.

13 A. I can, but, like, you want to hear the actual -- the exact
14 words?

15 Q. Yes, with apologies for language if -- but yes.

16 A. Um, yes, so they would, you know, just -- they would just
17 come out and say it, and tell her how they wanted to -- they
18 would say they wanted to fuck her or talk about getting their
19 dick sucked or, like, literally they would use those terms. It
20 was never very nice. It was always very crude.

21 And also in writing I've seen the exact same things. And
22 specifically one time I remember an inmate telling her that she
23 needed to quit bullshitting, at playing coy. This is what he
24 said: You need to back your -- put your ass on my face and
25 I'll fuck you, and stuff like that. It happened regularly.

1 Q. And these comments were coming from other incarcerated
2 people in Ms. Diamond's dorm?

3 A. That is correct.

4 Q. What about outside the dorm? Did you hear these comments?

5 A. Yes. So, I had a unique situation with Ashley because I
6 required -- I was required to go to the -- like, the mental
7 health doctors and stuff when she also was, so there was a lot
8 of times we were on the walk together. Because we would get
9 these call-outs which tell you, you know, which session you are
10 allowed to move around the campus. And, yeah, it was a
11 regular -- very regular occurrence that when we were out there
12 together, people would be cat-calling or saying derogatory
13 things to her, as well. Yes.

14 Q. How did Ms. Diamond react?

15 A. Um, that really depended on the situation. Because prison
16 is a weird place. You can't just tell someone to get lost
17 because you want to. It can get you injured or killed or
18 targeted. But, um, yeah, again, it would depend on the
19 situation. Sometimes she would kind of, "Haa...", you know,
20 little gentle, subtle dismissal. All the way up until I've
21 heard her yelling at people, "Leave me alone! Go away from
22 me!" All different types.

23 Q. Did she voice any fear of repercussions for speaking up
24 about sexual harassment?

25 A. Yes.

1 Q. What were those fears?

2 A. What I was just telling you. Becoming even more
3 ostracized or, worse, targeted by a specific gang. Because
4 there were circumstances -- I remember this, too -- where gang
5 members that would be punished by their own group were trying
6 to sleep with her. And if that got out, you know, it doesn't
7 matter what her intentions were, she would get targeted for
8 that. It was dangerous for her to do that sometimes.

9 Q. Would being a target include being subjected to physical
10 violence?

11 A. That's what I'm referring to is the number one concern.
12 Among others. But, yeah, that's what I'm referring to mostly.

13 Q. Do you consider the faith and character dorm to be a safe
14 place for a transwoman like Ms. Diamond?

15 A. Absolutely not.

16 Q. When did you determine that the dorm wasn't a safe place
17 for Ms. Diamond?

18 A. The same time I determined there's nowhere in a prison, a
19 men's prison, anywhere, that she could possibly be safe. But
20 that was then, you know, exacerbated by the fact that, like I
21 was telling you, half these people are in there for more, like,
22 PC reasons, so some of their stuff is sexual by nature anyway.

23 You know, so I would say for me, it was probably the
24 safest place on the prison to be. For her, absolutely not.

25 Q. Did you observe any physical touching of Ms. Diamond while

1 she was placed in that dorm?

2 A. Yeah. Starting with the one I'm telling you, when people
3 walk up and do, like, flirty, subtle touching, all the way up
4 to a man ripping at her clothes and trying to rape her, yeah.

5 Q. So let's talk about that. Did you observe any attempted
6 rapes?

7 A. Yes. I walked in on that in progress, actually. And
8 stopped it really.

9 Q. When did that happen?

10 A. I think that was around -- July of 2020? Yeah.

11 Q. What happened?

12 A. Um, I'd hang out with Ashley all the time after we met.
13 And this particular time, I'd left to go read, and I think I
14 was, like, taking a nap in my cell. And one of our mutual
15 friends came up to me and said, "Hey, that creepy guy from the
16 walk is in here and he's in Ashley's room. I don't know how
17 you feel about that." He was basically trying to give me a
18 warning, I guess, to check on her.

19 And I did. I immediately shot down there. And when I
20 walked in, he had her pinned up against, like, where the bunk
21 beds and the wall meet that forms a little corner. And he was
22 ripping at her clothes.

23 And it was -- he was being vocal about it. He was saying
24 what he was going to do, you know: "I'm going to fuck you,"
25 and trying to rip her clothes off. And gritting his teeth and

1 stuff. Pretty -- pretty carnal stuff.

2 Q. What -- what was Ms. Diamond doing at that time?

3 A. She was just doing -- saying, "No! Get away from me!
4 Stop!" You know, trying to stop the attack. But she couldn't.

5 Q. Did she look scared?

6 A. I've never seen her more horrified looking than that. She
7 was absolutely horrified, yeah.

8 Q. What did you do?

9 A. Well, it took me a quick second to process it. I was
10 actually in shock. And she was, too, because the way she
11 looked at me went from horror to shock to embarrassment, just
12 trying to figure out-- it was crazy. I just never had walked
13 in on something like that. But what I did was told the guy to
14 leave, in so many words, and made sure physically that he got
15 out of that cell.

16 Q. Did he leave?

17 A. He did. He didn't have an option.

18 Q. When you walked in on this attempted rape, was the
19 attacker undressed in any way?

20 A. He wasn't undressed. Like, his shirt was untucked, which
21 isn't our normal, you know, uniform protocol, but that's
22 because of the nature of his detail. He was able to move
23 around a lot. She was -- her shirt, you know, was, like, half
24 pulled out, and her -- I guess they call it a gigline or
25 whatever was mismatched. And, you know, he was trying to --

1 her pants were down a little bit, because he was in the process
2 of pulling her clothes off to rape her.

3 Q. After the man ran away, did you talk about it with
4 Ms. Diamond?

5 A. Yes. I did. And it's another one of those unfortunate
6 situations. She was a little worried about coming out about it
7 and what to do with it, because even though she's the victim,
8 she becomes even more of a victim for doing that, for
9 communicating that with them.

10 So, my interaction was kind of limited with her. I told
11 her I wouldn't -- I would respect her wishes not do anything
12 formally, but I did go talk to the officer that was manning
13 that building that day. And told him that he's got to start
14 locking the door and not let that happen again, or I was going
15 to do something about it personally. And we got into an
16 argument about that.

17 Q. How did the officer react to you saying that?

18 A. Um, he was really taken aback. I think he was scared for
19 his job and his physical wellbeing at that time, because I was
20 being -- at that moment I was being very aggressive, loud, and
21 vulgar whenever I was talking to him. And he told me he would
22 take care of that, I didn't have to worry about it.

23 Q. Do you know if Ms. Diamond reported that attempted rape in
24 July of 2020?

25 A. I was under the impression that she did in the form of a

1 PREA suit, which I'm -- I hope that's how it went down.
2 Because that's what I was wanting her to do. Like I said, I
3 wouldn't -- I told her I would let her handle it.

4 Q. Did anything change after -- was Ms. Diamond moved?

5 A. No. Just to be clear, anything that has ever happened
6 there, nothing ever changed.

7 Q. Did you see the attacker around the prison after that?

8 A. Yeah, I sure did.

9 Q. How often?

10 A. Regularly. He still had his sweet detail and everything.

11 Q. Was he in the dorm afterwards?

12 A. No, he was not in the dorm after that. That did change,
13 but that was because, you know, he was also scared for his
14 personal safety if he came in there.

15 Q. Were you aware of any other sexual attacks on Ms. Diamond
16 before?

17 THE COURT: Before you leave that, who was the
18 officer you spoke with?

19 THE WITNESS: I think it was Brian or Byron --
20 officer. He's a black gentleman, short, kind of heavy-set,
21 black gentleman that wears glasses. If I could see him, I
22 could show him to you.

23 THE PLAINTIFF: Officer Brooks.

24 THE WITNESS: "Brooks"? Okay, Brooks.

25 THE COURT: Who was the offender in the cell with

1 Ms. Diamond?

2 THE WITNESS: I honestly don't know his legal name.
3 You really don't know that in prison much. You don't go by
4 names -- your formal names in prison.

5 THE COURT: Okay. Thank you.
6 Go ahead.

7 THE WITNESS: Yes, sir. But I can identify him if I
8 need to, by the way, with a picture.

9 BY MS. RAJARATNAM:

10 Q. The attacker for that July 3rd attempted rape, did you --
11 did you know if he was placed in the dorm with you and
12 Ms. Diamond?

13 A. Are you asking me if GDC staff intentionally placed him in
14 there?

15 Q. Was he placed in the dorm with you and Ms. Diamond at the
16 time of the attempted rape?

17 A. No, he was in a different housing unit. He was just able
18 to walk in there willy-nilly because, you know, standard
19 operating procedure wasn't being followed or whatever the
20 reason. He's not in that housing unit, though.

21 Q. So he's not allowed to be in that dorm?

22 A. Absolutely not. And his detail didn't require him to be
23 in there, as well.

24 Q. Did you become aware of any other physical attacks on
25 Ms. Diamond?

1 A. Um, not while I was there. I did leave on September 9th
2 or 10th, it was, and I understand that it did happen again.
3 But no, me personally, that was the -- only attempted rape that
4 happened while I was there. That I know about.

5 Q. Did you take any steps to try and protect Ms. Diamond
6 after witnessing that attack?

7 A. Yeah. I mean, I was taking those steps before then, too.
8 I just was present. That's really all it required, was someone
9 to be present, and then to understand that she was -- she had
10 company that was willing to stick up for her.

11 Q. Would you check in on her?

12 A. Yes.

13 Q. How often?

14 A. Um, I usually saw Ashley the second we woke up, and she
15 was the last person I saw before we went to bed for the night,
16 and every opportunity in the middle to just hang out. You
17 know, in prison there's a lack of stimuli, there's not much to
18 do, so you do a lot of walking and talking in a circle.

19 Q. Were you aware of any GDC officers intervening with sexual
20 abuse directed towards Ms. Diamond?

21 A. Are you referring to that event specifically?

22 Q. That event specifically? First, yeah.

23 A. No, I've never seen a GDC officer help her out with
24 anything, if that's what you're referring to. To get involved
25 or investigate or make sure it doesn't happen again, if that's

1 where you're going with that, no, I haven't seen that.

2 Q. So, in general, you also have not been aware of any GDC
3 officer getting involved?

4 A. No. That's correct.

5 Q. Did Ms. Diamond ever move cells during the time that you
6 were at Coastal State Prison?

7 A. Did she ever lose what? I'm sorry?

8 Q. Did she ever move cells?

9 A. Oh, "move cells," no. I am assuming she had to be in a
10 cell before she came into the housing unit I was in in B. But
11 from that moment that she walked in, no, she was always in that
12 same cell.

13 Q. What do you know about the lock to the door to her cell?

14 A. The same thing I know about all the locks in that
15 building: They are ineffective because all the maintenance
16 staff works -- or lives in that housing unit, and they aren't
17 maintained properly.

18 There's a little lid, actually, that allows you to get to
19 the mechanical device, and it's -- it just uses gravity to sit
20 on it. So you can just raise it up. You can jam it
21 mechanically with a blue bar of soap that they give us or you
22 can cut a wire or -- there's a lot of different ways. And
23 those are always utilized, so the doors were never in good
24 condition.

25 Q. Can you provide more specific details about the cell doors

1 being ineffective.

2 A. Yeah, they weren't -- I think by design, of course,
3 there's supposed to be a master lock from the control room, but
4 that wasn't functional.

5 During the pandemic I remember them trying to keep us in
6 our cells by locking them, but they couldn't because they
7 didn't have all the spare parts, the expertise, the resources,
8 the time. And then if -- even if they did get a good jump on
9 it, the inmates would disable it immediately.

10 So there's actually a little electric push button inside
11 the cell, too, that should open it. And some of them work;
12 others don't, there's just a box where a receptacle should be,
13 you know.

14 Q. So for Ms. Diamond's cell specifically, do you know if her
15 cell locked?

16 A. While I was there, Ashley's cell, it never worked properly
17 like it should.

18 Q. When you say it didn't work properly, did it lock?

19 A. Correct. It did not lock. And that's why I'm saying it
20 didn't work correctly.

21 Q. Do you know if Ms. Diamond ever filed a complaint about
22 the lock issue?

23 A. Now that I do know, that she did formally, because
24 Maintenance would show up for the purpose of fixing it.

25 Q. Till your release, are you aware if the lock was ever

1 fixed?

2 A. I do think it was, like, worked on -- well, I know it was
3 worked on. They looked at it. But no, to my knowledge it was
4 never fixed properly while I was there. That's for sure.

5 Q. How much privacy did Ms. Diamond have in the dorm?

6 A. In the dorm or her room or the housing unit in general?

7 Q. In her cell. In the dorm.

8 A. Well, again, there's a viewing window, like, for the
9 purpose of being able to view the whole cell. And it's -- it's
10 like this. Like, you can see through it, so no privacy.

11 Occasionally she would put up papers or a piece of
12 cardboard or anything to block it for privacy, but that
13 wouldn't last long because she would be told to take it out.

14 And then -- you know, we were threatened of being kicked
15 out of the program if we did stuff like that.

16 Q. Did you ever see people looking in her cell?

17 A. Yeah, of course.

18 Q. When were they looking in her cell?

19 A. "When"?

20 Q. Was she changing?

21 A. I mean, who knows. At any time she could be changing,
22 sleeping, on her tablet, whatever. It's common for people to
23 look in the cell, not because they are nosy, curious, or
24 perverted. I mean, if you're looking for someone, you know,
25 you go there and pop your head around, too. You never have

1 true privacy in prison anyway.

2 Q. What was the shower situation like in the dorm?

3 A. We had community showers. Everyone used.

4 Q. How are those set up?

5 A. Um, there is a curtain, but it doesn't -- it just hides
6 your midsection, like, where your genitals are. But, you know,
7 you can still see from mid-body down and, you know, lower back
8 and up.

9 Q. Did Ms. Diamond have to shower using those communal
10 showers?

11 A. She would use -- it's still a community shower, but it's
12 the one for -- that was, like, handicap accessible. That just
13 means that it's a few feet away from the other one. And that
14 the shower curtain, instead of being -- you know, it's, like,
15 twice as big, but you could still see the bottom of her legs or
16 whatever if you were over there. Which people were over there.
17 There's a water fountain and a hot water station over there,
18 and they were over there all the time, whenever she was
19 showering, trying to get a peek and -- you know.

20 Q. When you say "they," are you referring to other male
21 incarcerated people?

22 A. That's right. You know, it's a men's prison, and it's
23 nothing but men. And, yes, they were always over there trying
24 to get a peek of this person.

25 Q. Now, you said that you and Ms. Diamond were together a lot

1 while you were at Coastal; right?

2 A. That's correct.

3 Q. What was your impression of Ms. Diamond's mental health
4 state while you were there?

5 A. Um, I mean, surprisingly good at first. I don't know how,
6 in fact, she ever maintained that level of mental health. And
7 I mean that in a good way. But it definitely went downhill.
8 Regularly. And that digression never stopped, right. It just
9 got worse and worse. And then after I left, it got much worse
10 until -- until here we are now. And I don't -- you know, I am
11 actually really, really, really scared for her.

12 Q. Do you think she struggled with her mental health?

13 A. I know she did for a fact.

14 Q. How do you know?

15 A. Because we talked all the time about everything like that.
16 And furthermore, I was in mental health situations with her,
17 right. We have, like, the same doctors, same counselors.
18 Like, for instance, they would send this person -- the GDC
19 staff would come and get us, the mental health people. And
20 there would only be a few of us, like three, and we would go
21 into a room and color, for instance, for an hour. And that was
22 supposed to be, like, a more -- treatment, like, time, you
23 know. So, yeah, I would hear a lot about what was going on.
24 Because, obviously, coloring doesn't do anything for your
25 mental health.

1 Q. Did that seem to help?

2 A. No. Those -- actually, those were pretty devastating
3 because it's a -- it's a slap in the face to someone that's
4 struggling. I mean, I'm thinking -- even me, personally --
5 like, if you're struggling, and you want help, and that's what
6 you're given, it's just better not to do anything if you're
7 going to do that.

8 Q. Did you observe any changes to Ms. Diamond's physical
9 appearance?

10 A. Yes, I did.

11 Q. What were those changes?

12 A. Her skin seemed to become more, like, less soft, if you
13 will. And look more, like, male characteristics, including
14 facial hair. She started growing a beard.

15 Q. Are you aware of any medical issues that she experienced?

16 A. Yes, I am aware of some medical issues.

17 Q. What were those issues?

18 A. Well, one time in particular, she was -- she was hurting
19 herself, and it caused her not to be able to urinate. And so
20 we had gotten to days, even. And I remember her telling me
21 that she didn't want to get a catheter. And I don't blame her,
22 you know, putting that type of medical trust in a system that's
23 failed you so many times. But I was really genuinely concerned
24 that, you know, she could die from that, her kidneys would
25 fail, so I was begging her to do that.

1 Q. When you say she was hurting herself, are you referring to
2 castration attempts?

3 A. Yes.

4 Q. So you said you left Coastal in September of 2020?

5 A. That's correct.

6 Q. And you said earlier that after you left Coastal things
7 got worse?

8 A. Yeah, things got much worse and pretty quickly. Which we
9 joked around that it would happen that way.

10 A little context about that is when I told you me being
11 around helped her situation, people would try to be funny and
12 say -- like, people that were again sexually harassing her and
13 wanting to have sex with her and things like this would say,
14 "Well, I can't ever come see you when your boyfriend's around,"
15 and make jokes about that.

16 I am not her boyfriend. I am just a good friend. But
17 I -- we let everybody -- I told her to let them believe that.
18 If that keeps people off your back, yes, let's roll with that.
19 So that's what we did, and it did help.

20 Q. But after you left Coastal --

21 A. Right.

22 Q. -- did you stay in contact with Ms. Diamond?

23 A. Yes. But when I left, you know, her -- that protection
24 went away. And so things changed immediately.

25 Q. How often did you communicate with Ms. Diamond?

1 A. I did and do until just a couple weeks ago when she got
2 put in solitary confinement. I talked to her every single day
3 of my life, multiple times a day.

4 Q. And, you know, when you say things got worse, like what
5 events -- what did you become aware of after you left in
6 September, 2020?

7 A. When I say things got worse, I mean not necessarily in
8 severity, right, because that's about as severe as it can get:
9 someone physically raping you. But the frequency in which
10 people tried her up and these things happened increased.

11 Q. Was there an issue with your former roommate?

12 A. Yes. I don't know his name, but "Tennessee" was what I
13 knew him as. Which I thought, he was, like, a team actually
14 kind of dude and would be helpful. But apparently after I
15 left, shortly thereafter, he attempted to rape her as well.

16 Q. Did you ever become aware of a suicide attempt by
17 Ms. Diamond?

18 A. Yes. You know, she had told me things about her life, and
19 I know that there were suicide attempts in her life. But as it
20 relates to GDC specifically, I remember -- yes, she apparently
21 tried to hang herself. And one of our mutual friends, the way
22 I understand it, basically saved her life and then was there to
23 talk to her and help her through it.

24 THE COURT: I am not getting an objection. I am not
25 sure why. But why are we having him recount --

1 MR. SHAPIRO: Yeah, I -- I was just getting ready to
2 make that objection, Your Honor. We're trying to give some
3 leeway because we understand that the rules are relaxed during
4 this type of hearing --

5 THE COURT: I sustain.

6 MR. SHAPIRO: -- but this is hearsay. Anything
7 occurring after the time he's left Coastal is going to be
8 hearsay.

9 THE COURT: That's sustained.

10 BY MS. RAJARATNAM:

11 Q. Mr. Duckworth, did you -- can we pull up Exhibit 229. Do
12 you recognize this?

13 A. Yes, this is the message that Ashley sent me on the same
14 day that she called me and hysterically told me about the event
15 that happened.

16 Q. What is the date of it?

17 A. It's October 31st, 2020.

18 Q. In reviewing this -- you said it was a J-Pay message?

19 A. That's correct.

20 Q. What is she telling you in this message?

21 THE COURT: Well --

22 MR. SHAPIRO: Your Honor --

23 THE COURT: -- no. I can see the relevance of the
24 document and the communication. His interpretation and the
25 meaning to him I don't see. The fact this document is what it

1 is and was sent when it was sent, I understand the reason for
2 it. I don't think he needs to elaborate on it because I don't
3 know what he could say.

4 Does he have any firsthand knowledge about what
5 happened? On October 31st? Can he say anything other than he
6 received this message?

7 MS. RAJARATNAM: No, Your Honor, he's just speaking
8 to what he would learn from Ms. Diamond.

9 THE COURT: Well, what he learns, what's the
10 relevance of that?

11 MS. RAJARATNAM: It shows that, you know,
12 Ms. Diamond, shortly after attempting to take her life --

13 THE COURT: Right, the document does that.

14 MS. RAJARATNAM: -- informed him --

15 THE COURT: I understand that. But, you know --

16 MS. RAJARATNAM: We can move on.

17 THE COURT: -- he is not the victim. I am not
18 interested in the impact that it had on him or the
19 interpretation he placed on it. I understand, again, why the
20 document you want. But let's move on.

21 MS. RAJARATNAM: We'd like to move this into
22 evidence.

23 THE COURT: Any objection?

24 MR. CHALMERS: No objection, Your Honor.

25 THE COURT: It is admitted without objection.

1 (Plaintiff's Exhibit 229 admitted into evidence at 6:12
2 p.m.)

3 MS. RAJARATNAM: We can take down this exhibit.

4 BY MS. RAJARATNAM:

5 Q. So, Mr. Duckworth, based on your phone conversations, how
6 is Ms. Diamond doing now? How does she sound?

7 A. Um, worse than ever. Like I told you, when I met her, I
8 was really blown away at how she was able to do pretty well,
9 maintain a level of hope. Lately, that's kind of going away.
10 She doesn't seem like herself, and I really don't hear much
11 spark of hope in her voice, and it's all negative talk these
12 days.

13 Q. When you say "lately," what time frame are you talking
14 about?

15 A. Well, the past couple months. But even more specifically
16 the past month.

17 Q. What do you know about Ms. Diamond's release date?

18 A. I didn't hear you, I'm sorry.

19 Q. What do you know about Ms. Diamond's release date?

20 A. Oh, well, I actually check the GDC's website all the time,
21 right. The inmate TPM. I know it's been moved out to April,
22 and she was actually supposed to have gotten out, like, last
23 month with her PIC points.

24 Q. When did you notice that change?

25 A. Well, again, I check it regularly. And I noticed it --

1 well, it was right about the time she was supposed to be
2 getting out with her PIC points granted to her, right about
3 that time is when it hit and it changed.

4 Q. And, you know, when you said earlier that she sound --
5 Ms. Diamond sounds worse from your phone conversations, how
6 does that correspond to the change in her TPM?

7 A. It isn't just my interpretation, this is what she's
8 telling me. Like, you know, in prison you really don't have
9 anything to look forward to except for your release date,
10 right. It's the light at the end of the tunnel. It's one of
11 the only things that gives you hope.

12 And so when that's changed, especially in a situation like
13 hers, it can -- it's pretty devastating. And she made that
14 clear. Not just with the actual, like, words. It's very
15 obvious her tone, everything has changed since that change.

16 Q. Why are you testifying today?

17 A. I am not sure what you mean. I'm sorry? Why am I
18 testifying today?

19 Q. Why -- why have you agreed to testify today?

20 A. Because I've watched a dear friend of mine, somebody I
21 love and care about, being mistreated in ways that I didn't
22 even know existed. I didn't know people were treated like
23 that. I mean, you watch TV or -- you know, it became real, and
24 I want to -- I feel like this is what I need to do.

25 Q. Thank you.

1 A. You're welcome.

2 THE COURT: Cross examination?

3 MR. SHAPIRO: I'm sorry, Your Honor?

4 THE COURT: You may cross.

5 CROSS EXAMINATION

6 BY MR. SHAPIRO:

7 Q. Good afternoon, Mr. Duckworth.

8 A. Good afternoon.

9 Q. My name is Robert Shapiro, and I have just a few follow-up
10 questions for you. I'll try to keep it very brief.

11 A. Yes, sir.

12 Q. Beginning with the dormitory meeting that you described
13 involving Mr. Jackson, I believe you testified that
14 Mr. Jackson, after this meeting occurred, left Coastal before
15 you did. Is that what you said?

16 A. Yeah. Meaning I didn't see him any longer after that.

17 Q. Okay. How long after that meeting occurred did you stop
18 seeing Mr. Jackson?

19 A. In the dorm almost immediately. At Coastal State Prison,
20 a little while after that meeting. And this kind of is
21 speculation, my best guess is a couple months after that I
22 don't remember seeing him much on the campus at all.

23 Q. Okay. But as far as when you noticed that he was not
24 present in the dormitory, that was almost immediately after the
25 meeting you said?

1 A. That's correct.

2 Q. All right. Other than the meeting that you've described,
3 do you recall any other similar incident involving Mr. Jackson?

4 A. With him specifically, in relation to Ashley I assume?
5 Yeah, I don't recall another that I was present for, no, sir.

6 Q. Okay. Thank you. I want to ask you about the July, 2020,
7 incident where you have testified that you intervened on
8 Ms. Diamond's behalf. Now, you said that this was the only
9 incident in which you personally witnessed someone attempting
10 to sexually assault Ms. Diamond; is that correct?

11 A. Sexually assault, yes. Sexually harass, no. That's
12 correct.

13 Q. And that in your discussions with Ms. Diamond in the
14 aftermath, she expressed to you that -- I believe the words you
15 used were she was worried about coming out about it. Is that
16 right?

17 A. Yeah, in so many words. She was basically telling me --
18 not "basically" -- she said, "Let this be...," -- like, she was
19 going to handle it and I didn't need to get involved anymore.

20 Q. Okay. Did you understand that to mean that she was
21 concerned about reporting the incident?

22 A. That was my interpretation, that was part of it, yes.
23 That's correct.

24 Q. Okay. However, you did report the incident to the
25 F-Building officer, who I know you said that his last name is

1 Byron or Brooks or Brian, something to that effect?

2 A. I think it's Brooks, and it's N-Building. And I did not
3 report the incident to him. I reported the fact that someone
4 that wasn't supposed to be in there was, and if he ever came in
5 there again, that I would take care of it myself, and he needed
6 to do something about it.

7 Q. So what you reported to the officer was not the specific
8 details of the incident. What you reported was that someone
9 who was not authorized to be present in the dormitory was
10 there; is that right?

11 A. That's correct.

12 Q. Okay. Were you familiar with the inmate?

13 A. Yeah, I mean, again, I could -- if I have a photo, I could
14 easily identify him. I saw him on his detail all the time.
15 And from what I understand, he was a GD, which is a gang
16 member.

17 Q. Okay. But you do not know his name?

18 A. No.

19 Q. Okay. And I assume that because you do not know his name,
20 you did not identify him specifically to the officer when you
21 said that someone who is unauthorized to be in the dorm was in
22 the dorm; is that right?

23 A. Right. But he then knew who it was because I described it
24 to him. I said the guy that's on detail in T-Building with the
25 bald head. You know, I did describe it to him.

1 Q. Okay.

2 A. But, no, there's no names used. Again, in prison you
3 don't really know each other's names like that.

4 Q. I understand. So you attempted to give some kind of
5 description to the officer?

6 A. Yes.

7 Q. And then you also testified that after you reported that
8 he had been in the dorm and he wasn't authorized to be there,
9 you no longer saw him in the dormitory after that point;
10 correct?

11 A. In that dormitory, that is correct.

12 Q. Okay. And then just lastly, Mr. Duckworth, you stated
13 that you were released from GDC custody in September of 2020;
14 correct?

15 A. That is correct.

16 Q. So the entirety of the time that you were housed with
17 Ms. Diamond was from June of 2020 until you were released in
18 September of 2020; correct?

19 A. That is correct.

20 Q. So that would be a period of about four months; yes?

21 A. Yeah, do the math, yeah.

22 Q. Not my strong suit, either, sir. And to be clear, you
23 have no personal knowledge of anything occurring to Ms. Diamond
24 after your release from Coastal in September of 2020; correct?

25 A. I still -- I probably talk to her more than anyone still,

1 but I haven't witnessed it with my eyes if that's what you're
2 asking.

3 Q. Yes, that's what I'm asking. Anything that you know about
4 her treatment since you leaving Coastal is based on what she
5 has recounted to you; is that accurate?

6 A. That would be accurate.

7 Q. Okay. Thank you very much, Mr. Duckworth. I don't have
8 any further questions -- oh, I'm sorry, maybe I do.

9 (Aside with co-counsel at 6:20 p.m.)

10 BY MR. SHAPIRO:

11 Q. I'm sorry, Mr. Duckworth, just two last questions. Trying
12 to clarify. I know you stated that you reported to an officer
13 that someone who was not authorized to be in the dorm was
14 there; correct?

15 A. That is correct.

16 Q. Did you ever report to any officer the details of the
17 assault that you witnessed against Ms. Diamond?

18 A. That is incorrect. I mean, I'm sorry, I did not do it. I
19 did not report it.

20 Q. Okay.

21 A. Yeah, sorry.

22 Q. And did you ever tell any officials at Coastal State
23 Prison who the attacker was?

24 A. No. Like I said, I had the conversation with Ashley. She
25 said she was going to take it in her hands, and I trusted her

1 with that. I would assume that after she did report it that
2 someone would have come to me because that's how, you know,
3 investigations work. But no one ever did.

4 Q. All right. Thank you very much.

5 A. You're very welcome.

6 THE COURT: All right. May Mr. Duckworth be excused?

7 THE WITNESS: Yes, sir.

8 THE COURT: All right. You are excused. Thank you.

9 THE WITNESS: Oh, thank you.

10 (Witness excused at 6:21 p.m.)

11 THE COURT: All right. From the plaintiff, anything
12 before we adjourn?

13 MR. McCOY: (Shaking head in the negative.) No, Your
14 Honor.

15 THE COURT: From the defense?

16 MR. CHALMERS: No, Your Honor.

17 THE COURT: All right. We will reconvene at 9:00 in
18 the morning. Thank you.

19 COURT OFFICER: All rise. This Court is adjourned
20 for the day.

21 (Proceedings were adjourned at 6:22 p.m.)

22 END OF RECORD
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CERTIFICATE OF OFFICIAL REPORTER

I, Darlene D. Fuller, Federal Official Realtime Court Reporter, in and for the United States District Court for the Middle District of Georgia, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 24th day of May, 2021

Darlene D. Fuller

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