

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
No. 3:22-cv-191

KANAUTICA ZAYRE-BROWN,

Plaintiff,

v.

NORTH CAROLINA DEPARTMENT OF  
PUBLIC SAFETY, et al.,

Defendant.

**DEFENDANTS' MOTION FOR AN  
ORDER COMPELLING PLAINTIFF TO  
SUBMIT TO RULE 35 EXAMINATIONS**

Defendants, pursuant to Rule 35(a) of the Federal Rules of Civil Procedures, move the court for an order compelling, Plaintiff, Kanautica Zayre-Brown, to submit to a mental examination before Joseph V. Penn, MD, CCHP, FAPA, and separately to submit to a mental examination before Sara E. Boyd, Ph.D., ABPP. In support of this motion, Defendants state the following:

1. Dr. Penn is a duly licensed physician in Texas and is consulting with Arthur Campbell II, MD, who is a duly licensed physician in North Carolina. Dr. Penn holds three board certifications including forensic psychiatry and general psychiatry. Additionally, Dr. Penn has a specialized certification as a Certified Correctional Health Professional-Mental Health, which is provided by the National Commission on Correctional Health Care.

2. Dr. Penn's examination will concern Plaintiff's mental condition of gender dysphoria, and related mental health, behavioral health, and medical matters, which are squarely in controversy in this action. Dr. Penn will conduct a Forensic Psychiatric Evaluation and a focused Gender Dysphoria evaluation. As a medical doctor, Dr. Penn's examination will focus on Plaintiff's medical history, her current medical functioning, and detailed medical aspects of past

and prospective medical interventions.

3. Dr. Penn's examination will occur over two days, lasting no more than 3 hours each day. The examination will occur at Anson Correctional Institution, located at 552 Prison Camp Road, Polkton, North Carolina.

4. Dr. Penn intends on videotaping the entirety of Plaintiff's examination and will provide a complete copy of the videotape to Plaintiff's counsel.

5. Dr. Boyd's examination will similarly concern Plaintiff's mental condition of gender dysphoria, and related mental health, behavioral health, and psychological matters. As a clinical and forensic psychologist, Dr. Boyd's examination will focus on differential diagnosis/ascertaining co-occurring conditions, assessing her historical psychological responses to prior interventions, evaluating Plaintiff's expectancies regarding prospective interventions, and other psychosocial factors associated with Plaintiff's transition and her experiences of transphobia.

6. Dr. Boyd's examination will occur on a single day and will last no more than 4.5 hours. The examination will occur at Anson Correctional Institution, located at 552 Prison Camp Road, Polkton, North Carolina.

7. Dr. Boyd will seek Plaintiff's permission to videotape the examination, and if provided, the entirety of the examination will be videotaped, and a complete copy of the examination will be provided to Plaintiff's counsel.

8. Prior to filing this motion, the undersigned discussed this matter with counsel for Plaintiff through email and via teleconference, to seek their consent and agree upon terms to conduct the examination.

9. Plaintiff opposes the motion, and particularly objects to any examination by Joseph V. Penn, M.D. or Sarah Boyd, Ph.D. and further objects to the proposed scope and length of the

proposed examinations.

10. Filed contemporaneously herewith is a memorandum in support of this motion, which provides additional information in support of the relief requested herein, including more details about the examinations to be performed by both Dr. Penn and separately by Dr. Boyd.

Therefore, for good cause, as shown herein and in the memorandum filed contemporaneously herewith, Defendants respectfully request, pursuant to Rule 35, that the court enter an order compelling Plaintiff to submit to a mental examination before Joseph V. Penn, MD, CCHP, FAPA, and separately to submit to a mental examination before Sara E. Boyd, Ph.D., ABPP.

This the 17<sup>th</sup> day of February 2023.

**JOSHUA H. STEIN**  
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