IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

REIYN KEOHANE, *et al.*,	)	
	)	
***Plaintiffs*,**	)	
	)	
v.	)	**Case No. 4:24-cv-00434-AW-MAF**
	)	
RICKY D. DIXON, *et al.*,	)	
	)	
***Defendants*.**	)	

THE FDC OFFICIALS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT

FDC Officials submit this reply brief in further support of their Motion for Summary Judgment (Doc. 155, the "Motion").[1]

INTRODUCTION

After abandoning their hormone claim, Plaintiffs spent thirty-four pages trying to convince this Court that declining to offer opposite-sex underwear, makeup, scented grooming products, and access to opposite-sex grooming standards constitutes ***cruel and unusual punishment under the Eighth Amendment***. (Doc. 161, 6-39). "A prisoner bringing a deliberate-indifference claim has a steep hill to climb. … [T]he Constitution doesn't require that the medical care provided to prisoners be 'perfect, the best obtainable, or even very good.'" Keohane v. Fla. Dep't Corr. Sec'y, 952 F.3d 1257, 1266 (11th Cir. 2020) ("Keohane I") (citation omitted). Based on the evidence and the law, Plaintiffs failed to meet their burden.

Plaintiffs alleged that FDC's HSB enacted "an impossible standard" for inmates to receive cross-sex hormones. (Doc. 66, 17 (¶ 39)). Contrary to Plaintiffs' speculation, discovery demonstrated, and the Motion confirmed, that, when determined to be medically necessary, FDC provided hormones. (Doc. 155, 18). Thus, Plaintiffs disavowed their hormone claim. (Doc. 161, 39-42). As to

[1] Defined terms used herein have the same meaning as in the Motion. (Doc. 155).

Plaintiffs' remaining claim, the Motion established (1) social accommodations do not constitute medically necessary treatment; and (2) even if social accommodations could constitute medically necessary treatment, no treating provider found them medically necessary for any class member. Plaintiffs failed to present evidence to challenge these facts. In fact, Plaintiffs failed to identify any inmate for whom a treating provider recommended social accommodations as medically necessary. Instead, as they did with their now-abandoned hormone claim, they speculate (contrary to evidence) that treating providers *might* have recommended "social accommodations" for some unidentified inmates but believed the HSB prohibited them from doing so. Plaintiffs' claim amounts to no more than an attempt to compel FDC Officials to provide them with the "treatment" of their choice, which precedent plainly precludes. Plaintiffs' cherry-picked testimony and unsupported speculation cannot save their claim, and the Court should grant summary judgment.

RESPONSE TO PLAINTIFFS' STATEMENT OF FACTS

Plaintiffs "contest two fundamental facts": that "substantial evidence contradicts FDC's assertion that social transition accommodations are not medically necessary care," and "that 'FDC would provide social accommodations to the extent deemed medically necessary for a particular inmate.'" (Doc. 161, 6

(quoting Doc. 155, 30)). Plaintiffs provide no evidence supporting these purported disputes.

Plaintiffs rely almost exclusively on their purported experts to assert that social accommodations constitute medically necessary care. Plaintiffs rely on Karasic to argue: "prevailing treatment protocols [are] highly effective" (doc. 161, 8); treatment includes social transition and may include hormones (id.); social transition is a "widely accepted" treatment (id., 9); social transition can "significantly relieve gender dysphoria" (id.); and prohibiting social transitioning puts individuals "'at risk of significant harm … including heightened risk of self-harm and suicidality.'" (id., 10 (quoting Doc. 154-4, ¶¶ 29, 69)). Karasic's opinions cannot carry Plaintiffs' burden.

Plaintiffs also claim Centurion providers observed social accommodations improving some patients' mental health and observed some patients experiencing negative mental-health impacts from withdrawal of accommodations. (Doc, 161, 10). These statements fall far short of establishing that social accommodations meet the constitutional standard of medically necessary care, as opposed to "psychologically pleasing" "accommodations" not required by the Constitution. Keohane I, 952 F.3d at 1274 n.9 ("Necessity, not pleasure, is the constitutional standard—and no amount of massaging can make those two things the same."). Watkins-Ferrell of Centurion testified that, while she is aware psychotropic

medications are medically necessary for some mentally ill patients, she is "not aware of the research that would indicate medical necessity" of social transitioning, even if "patients have reported that some of these accommodations were beneficial to them." (Doc. 154-18, 4-5 (45:11-46:14)). Dr. Lay, Centurion's 30(b)(6) representative, testified that he is not aware of FDC denying medically necessary care to inmates. (Doc. 154-10, 5 (195:21-24)). Lay further stated:

> Centurion's contract with FDC requires Centurion to provide health care in accordance with constitutional standards and requires Centurion to ensure that its staff members comply with ethical and professional licensure standards. With regard to social accommodations, the change from the 2019 Policy to the current HSB did not impact the ability of Centurion providers to meet those requirements when providing mental health care and medical care to inmates diagnosed with gender dysphoria within the parameters of the HSB.

(Doc. 154-22, 4 (¶ 8)). Thus, Centurion believes the HSB allows it to comply with its obligation to provide constitutional care. Observations by Centurion personnel that social accommodations can be ***helpful*** fails to establish that they are ***medically necessary***.

Plaintiffs also fail to support their dispute of FDC Officials' assertion that "'FDC would provide social accommodations to the extent deemed medically necessary for a particular inmate.'" (Doc. 161, 6 (quoting Doc. 155, 30)). Plaintiffs cannot dispute that "FDC's HSB contains no reference to social accommodations." (Doc. 155, 17). Dr. Martinez testified as follows at his deposition:

> Q. And so the question is: A person would not be able to receive any of those accommodations even if their mental health provider thought they were medically necessary for their health?
>
> * * *
>
> A. So as you pointed out in our HSB, right, they -- as part of the MDST evaluation, they would have to prove that it was medically necessary.
>
> * * *
>
> A. Again, we look at each individual patient holistically. If the MDST can prove that these items are medically necessary, we have to take it into consideration.
>
> * * *
>
> Q. Even though the policy doesn't permit it?
>
> A. We would have to take it into consideration if they prove medical necessity because the HSB is based on medical necessity.

(Doc. 154-7, 14 (201:11-25); 15 (203:9-17)). At the preliminary injunction hearing, Dr. Martinez similarly testified that, "should a provider come to the determination about something like hair length, it would have to be on an individual service plan for that individual, and it would have to be evaluated." (Doc. 57, 59:4-6).

Instead of disputing these statements with evidence, Plaintiffs provide misleading citations to cherry-picked testimony and speculation. Plaintiffs claim FDC "expressly stipulated that following the HSB, accommodations are not

available," citing FDC counsel's "stipulation", at the preliminary injunction hearing, "that the grooming standards, the hair and the canteen items have been removed." (Doc. 161, 17 (citing Doc. 57, 59:8-12)). However, Plaintiffs ignore counsel's subsequent statement: "If somebody goes forward and gets re-evaluated, they go see their therapist, they go see their psychologist, there's a different standard, but right now, today, those items are not available." (Doc. 57, 60:7-11). Thus, the "stipulation" made room for the possibility that an inmate's re-evaluation could lead to the items becoming available for that inmate. Similarly, Dr. Martinez's testimony, quoted above, made clear that a medical necessity finding by MDST for a particular inmate would lead GDVT to consider the accommodations for that inmate. (Supra, 4-5).

Plaintiffs next assert, "FDC Security Chief Harrell testified that accommodations would have to be included in the HSB in order to be permitted." (Doc. 161, 17 (citing Pl. Ex. 25, 79:22-80:20)). Directly before the testimony cited by Plaintiffs, Harrell testified, "[U]ltimately, if it's deemed by medical that it's a medically necessary device or treatment that has to be provided to the inmate, then security doesn't stand in the way of that treatment." (Doc. 161-23, 4 (79:5-11)). And, immediately after the cited testimony, in response to the question, "If a transgender woman was determined to have a medical necessity to grow out her hair, would the Department allow her to grow out her hair?", Harrell responded, "If

it were deemed medically necessary, then I believe it would allow." (Id., 6 (81:3-4)). In context, Harrell's testimony is a far cry from Plaintiff's (mis)characterization.

Further, Plaintiffs claim "Dr. Kline testified that after the HSB issued, mental health staff were informed that accommodations were no longer permitted." (Doc. 161, 19 (citing Pl. Ex. 2, 224:19-225:2)). Again, Plaintiffs ignore the testimony immediately following their cherry-picked snippet:

> Q. So medical and mental health staff could not obtain accommodations for their patients even i[f] they believed that those accommodations were medically necessary for their patients?
>
> A. Well, they've never come to me with that. So we do things based on medical necessity. For example, some of the individuals would have breasts, have bra passes because there's a medical necessity for that.
>
> Q. Right, if a mental health provider felt there was a medical necessity for, say, women's undergarments and a hair length standards because of the psychiatric harm of or psychological harm of denying it and brought that to your attention, could you approve accommodations for that patient under the current policy?
>
> A. So the current policy doesn't provide for it, but it doesn't mean that people can't come to me if they think that there's a medical necessity and that we can look at things on an individual basis.
>
> Q. Do they know that?
>
> * * *

> [A.] They come to me when they have other -- … questions or whenever they think there's anything that is off script or not in the policy, so I don't see why they wouldn't here.

(Doc. 161-2, 43-44 (225:3-226:9); see also id., 48-49 (234:23-235:3) (Dr. Kline testifying that FDC also has not told Centurion providers they may ask for treatments not covered under other HSBs, but "they come to us with questions with experimental treatments or something else that they want to look at and we're happy to review it")). Dr. Kline's full testimony places Plaintiffs' cherry-picked quotes in context.

Lastly, Plaintiffs argue, "Centurion likewise understood the HSB to be a ban on accommodations even if mental health providers believe they are necessary for the health of the patient." (Doc. 161, 19). Centurion's testimony contradicts this speculative statement. Even assuming Plaintiff's argument that Centurion providers believed the HSB prohibited them from ***recommending social accommodations***, Centurion's testimony establishes Centurion providers have not concluded social accommodations constitute ***medically necessary care*** for any class member. As stated above, both Lay and Watkins-Ferrell testified FDC does not deny medically necessary care. (Supra, 3-4). Moreover, the FDC-Centurion contract requires care in accordance with constitutional, ethical, and professional licensure standards. (Doc. 154-22, 4 (¶ 8). The evidence shows that Centurion's

providers continue to provide medically necessary care for class members' gender dysphoria, without social accommodations.

Aside from these two purported disputes of fact, Plaintiffs provide irrelevant and/or misleading statements. For example, Plaintiffs insist social accommodations FDC provided under the 2019 Procedure must have been based on medical necessity because they required GDVT approval. (Doc. 161, 11-12). However, as established in the Motion, the 2019 Procedure provided the accommodations "[t]o assist in transitioning," and GDVT did not make findings of medical necessity before approving them. (Doc. 155, 22-23). Next, despite disavowing hormone-related claims, Plaintiffs cite purported evidence regarding hormones in an attempt to paint FDC's policy revision as a result of "political influences" (doc. 161, 14-15), but fail to explain how such influence, even if true, could render a policy unconstitutional. These purported "facts" are irrelevant to Plaintiffs' remaining claim.

Plaintiffs' Statement of Facts includes a section entitled, "FDC is Aware That Rescission of Social Transition Accommodations has Exposed Plaintiffs and Other Class Members to Serious Harm." (Doc. 161, 20-24). Plaintiffs claim FDC and Centurion providers "observed that accommodations helped improve some patients' mental health by decreasing gender dysphoria symptoms." (Doc. 161, 20). As set forth above, even assuming the truth of these statements, merely decreasing

symptoms does not move social accommodations from the category of "psychologically pleasing" to "medically necessary." (Supra, 3-4). Any number of "accommodations," from "pizza Fridays" to access to a golf course for inmates who played golf pre-incarceration, might improve inmates' mental health; that does not make these "accommodations" ***medically necessary***.

Plaintiffs rely heavily on the unfortunate suicide of one class member, claiming "distress from the loss of accommodations due to the HSB was one of the factors that contributed to" the suicide. (Doc. 161, 21). The psychological autopsy tells a different story. According to the autopsy, the inmate's history included pre-incarceration suicide attempts, depression, substance abuse, and sleep disturbances. (Doc. 165-1, 14, 34). In October and November 2024 – after FDC implemented the HSB – the inmate reported being happy about the inmate's appearance. (Id., 34). As provided in the psychological autopsy, the inmate argued with a romantic partner immediately before the suicide. (Id., 35). The inmate experienced a lapse in hormone medication (not because of the HSB) but admittedly failed to submit a grievance regarding the hormones. (Id., 36-38). Finally, the inmate requested a bra pass the day before the inmate's death, but the inmate already possessed a bra pass and apparently failed to understand this fact. (Id., 37-38). Plaintiffs' self-serving suggestion that this inmate committed suicide because of the withdrawal of social accommodations vastly oversimplifies this tragedy. Further, the autopsy does not

suggest that any treating provider determined social accommodations to be medically necessary for the inmate, nor does it suggest that provision of accommodations to other inmates with gender dysphoria could prevent future suicides.

ARGUMENT

Plaintiffs bear the burden of establishing the medical necessity of social accommodations in accordance with the requirements of the Eighth Amendment. Hoffer v. Sec'y, Fla. Dept. of Corr., 973 F.3d 1263, 1274 (11th Cir. 2020). Plaintiffs claim they "presented overwhelming evidence" that the HSB constitutes a blanket ban on social accommodations. (Doc. 161, 30). Plaintiffs' allegedly "overwhelming" evidence consists of cherry-picked, out-of-context testimony and bald speculation that, at best, Centurion providers believed they could not recommend social accommodations. (Supra, 8). For example, Plaintiffs claim, "unlike in *Keohane I*, there is no disagreement between class members and their healthcare providers about the appropriate course of treatment for them; their healthcare providers agreed that accommodations were indicated, but have been precluded from providing them." (Doc. 161, 37). But, Plaintiffs provide no evidence from any treating provider that social accommodations constitute medically necessary care at all, much less any evidence that any treating provider determined social accommodations medically necessary for any class member.

Plaintiffs also cannot dispute the testimony of Centurion officials that the HSB does not prevent Centurion from providing medically necessary care or the testimony of Drs. Martinez and Kline, both of whom testified that GDVT would consider social accommodations if MDST recommended them as medically necessary for a particular inmate. (Supra, 3-4; 8-9). In short, no evidence supports Plaintiffs' speculative assertion that their treating providers agree that social accommodations are medically necessary for them. Indeed, the evidence indicates that Centurion believes it can provide constitutional care without recommending social accommodations.

As previously explained in Keohane I, Plaintiffs' purported experts cannot carry Plaintiffs' burden. While Evans claimed social accommodations "are medically necessary" for each Plaintiff (doc. 161, 31), she admitted she possesses "the experience to provide therapeutic treatments … for gender dysphoria, not medical treatment." (Doc. 154-9, 6 (175:12-14)). In any event, Plaintiffs' experts establish, at most, "a situation where medical professionals disagree as to the proper course of treatment," which cannot support an Eighth Amendment claim. Keohane I, 952 F.3d at 1274; Hoffer, 973 F.3d at 1273 ("Because the plaintiffs here are receiving medical care—and because the adequacy of that care is the subject of genuine, good-faith disagreement between healthcare professionals—we are hard-pressed to find that the Secretary has acted in so reckless and conscience-shocking

a manner as to have violated the Constitution."). Thus, Plaintiffs' experts alone cannot establish the medical necessity of social accommodations.

Plaintiffs next argue that "[c]ourts have routinely held that prison policies violate the Eighth Amendment when they categorically exclude recognized treatments for gender dysphoria regardless of the individual's medical need for them." (Doc. 161, 27-28). In Plaintiffs' out-of-circuit cases (which involved hormone therapy or surgery), the defendants refused to consider the treatments at all. Fields v. Smith, 653 F.3d 550, 559 (7th Cir. 2011) (statute banning hormone treatment violated Eighth Amendment); De'lonta v. Johnson, 708 F.3d 520, 525-26 (4th Cir. 2013) (reversing grant of motion to dismiss where plaintiff alleged defendants refused to evaluate necessity of gender-reassignment surgery); Rosati v. Igbinoso, 791 F.3d 1037, 1039-40 (9th Cir. 2015) (same). Plaintiffs cite Kosilek v. Spencer, 774 F.3d 63 (1st Cir. 2014) (*en banc*), for the proposition that a blanket policy banning surgery "would" violate the Eighth Amendment. (Doc. 161, 28). However, the Kosilek Court credited the defendants' "disclaim[er of] any attempt to create a blanket policy" and concluded that no deliberate indifference existed where the plaintiff received "one of two alternatives," because "it is not the place of our court … to require that the DOC adopt the more compassionate of two adequate options." Id. at 90-91; see also id. at 82 (Eighth Amendment imposes no "duty to provide care that is ideal, or of the prisoner's choosing"). That is exactly

what Plaintiffs seek here – an injunction compelling FDC to provide Plaintiffs' chosen "treatment" over the treatments selected by Plaintiffs' treating providers. The evidence establishes that FDC provides substantial treatment for gender dysphoria and would consider social accommodations for a particular inmate if a treating provider found them medically necessary (not just "helpful" or "psychologically pleasing"). (Doc. 155, 13-21, 23-25; supra, 4-7). The Constitution requires no more.[2]

Plaintiffs continue to rely on FDC's previous provision of social accommodations to argue that they are medically necessary. (Doc. 161, 36). Bayse v. Ward, 147 F.4th 1304, 1313 (11th Cir. 2025), demonstrates that prison officials' previous provision of social accommodations on grounds other than medical necessity cannot support the current medical necessity of social accommodations. Plaintiffs dismiss Bayse in a footnote by saying "the plaintiff presented no evidence that social accommodations were medically necessary for her." (Doc. 161, 37 n.20). But that is precisely what FDC Officials argue here – (1) Plaintiffs present no evidence that social accommodations are ever medically necessary, and

[2] Plaintiffs cited two out of circuit cases regarding social accommodations. (Doc. 161, 28-29). FDC Officials distinguished these cases in the Motion. (Doc. 155, 41-42). Additionally, Plaintiffs' cases regarding "medically necessary supplies and devices" such as orthopedic shoes and shower chairs fail to establish the medical necessity of social accommodations. (Doc. 161, 28). Those cases involved actual physical risks to the inmates, as opposed to denial of "psychologically pleasing" items.

(2) Plaintiffs present no evidence that social accommodations are medically necessary for any individual Plaintiff or class member. The Eighth Amendment demands more than speculation, expert opinions, and cherry-picked quotations. Plaintiffs cannot establish the medical necessity of social accommodations as a general matter or for any class member. Accordingly, FDC Officials remain entitled to summary judgment.

Plaintiffs attempt to both abandon their hormone claim and continue to argue the HSB is unconstitutional regarding hormones by arguing a lack of enforcement of "the HSB as written with respect to hormone therapy." (Doc. 161, 35). This is a nonsensical argument. To the extent the Court concludes that Plaintiffs possess standing to pursue hormone claims, then it should find that the HSB does not violate the Eighth Amendment and grant summary judgment on the merits. (Doc. 155, 31-34).

CONCLUSION

For the reasons stated above and, in the Motion, the FDC Officials respectfully request that the Court grant summary judgment in their favor.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this Reply Brief in Support of Motion for Summary Judgment contains 3,185 words and does not exceed 3,200 words as required by Local Rules 7.1(I) and 56.1(D).

/s/ Kenneth S. Steely
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon all parties in this matter, including without limitation the following, by the Court's CM/ECF system on this 30th day of March 2026:

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