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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

ROBINSON, et al., Plaintiffs, v. **LABRADOR** in his official capacity as Attorney General of the State of Idaho; et al., Defendants.	Case No. 1:24-cv-00306-DCN **PLAINTIFF'S REPLY ISO MOTION FOR SIXTH PRELIMINARY INJUNCTION**

This Court is authorized to issue a sixth preliminary injunction that parallels the injunctions it issued on September 3, 2024, Dkt. 58, December 3, 2024, Dkt. 96, March 3, 2025, Dkt. 120, May 30, 2025, Dkt. 137, and August 29, 2025, Dkt. 143. None of the material facts have changed

for the purpose of determining whether another preliminary injunction is warranted, as was true when this Court issued the second, third, fourth, and fifth preliminary injunctions in this case.

Defendants once again cite distinguishable case law. Dkt. 177 at 2–3; *Clark v. Valletta*, No. 23-7377-CV, 2025 WL 2825324, at *7 (2d Cir. Oct. 6, 2025). In *Clark*, the Second Circuit reversed the District Court's denial of summary judgment on qualified immunity grounds because it determined that "there is no clearly established right to specific gender-dysphoria treatments," and "Defendants . . . actions were objectively reasonable."[1] *Id.* at *14. *Clark* was a qualified immunity case, which requires a different standard of analysis than consideration of a preliminary injunction in an Eighth Amendment claim. *Id*. at *5 ("Qualified immunity shields federal and state officials . . . unless a plaintiff pleads facts showing (1) that the official violated a statutory or constitutional right, and (2) that the right was 'clearly established' at the time of the challenged conduct.") (quoting *Ashcroft v. al-Kidd*, 563 U.S. 731, 735 (2011)).

Clark offers no guidance here because Plaintiffs need not establish the elements that the *Clark* decision turned on. The relevant inquiry here is whether a blanket policy mandating discontinuation of hormone therapy constitutes deliberate indifference to a serious medical need. *See Estelle v. Gamble*, 429 U.S. 97, 102-06 (1976). The *Clark* court acknowledged that the deliberate indifference standard is different than the qualified immunity standard. *Id.* at *6 ("The district court here erred by conducting its qualified-immunity analysis at too high a level of generality. It defined the relevant right as 'the right to be free from deliberate indifference to serious medical needs.' But such a right 'is far too general a proposition to control this case.'"). *Clark* did not decide whether the deliberate indifference standard was satisfied, and nothing in its reasoning alters the analysis required here. *Id.*

[1] *Clark* is a decision from the Second Circuit and is therefore not binding on this Court.

Even if *Clark* did directly address whether the deliberate indifference standard was satisfied by the plaintiffs, the Court should still disregard *Clark* because the facts are easily distinguishable. In *Clark*, the plaintiff was already receiving hormone therapy, seeking a higher dose of hormones, and receiving other medical treatment not at issue in the present case. *Id*. at *17. The Court recognized that "Defendants provided Clark with psychotherapy, antidepressants, lifestyle accommodations, and hormone therapy—all of which are reasonable treatments for gender dysphoria." *Id*. at *7. Here, unlike in *Clark*, Plaintiffs are faced with a *complete* discontinuation of hormone therapy—a treatment that Defendants themselves had deemed medically necessary for Plaintiffs on an individual basis. *See* Dkt. 2-1 at 7–10; Dkt. 2-5 at 10–11. The Court specifically distinguished the course of medical treatment provided by Defendants in *Clark* from the "total inaction" that was determinative in its prior decision in *LaBounty v. Coughlin*, 137 F.3d 68 (2d Cir. 1998). *Id*. at *7. But the prospect of a complete discontinuation of medically necessary care is akin to "total inaction in the face of an obvious hazard." *Id.* Accordingly, *Clark* is factually distinguishable and should not be afforded any weight.

Defendants again cite to *Dana v. Campbell*, No. 1:18-CV-00298-DCN, 2025 WL 1827042 (D. Idaho July 1, 2025) and *United States v. Skrmetti*, 145 S. Ct. 1816 (2025), Dkt. 177 at 1–2, which Plaintiffs have previously addressed. *See* Dkt. 148 at 2–3. *Skrmetti* concerned the provision of gender affirming care for minors, *see, e.g.*, *Skrmetti*, 145 S. Ct. at 1836–37, and *Dana* involved claims that an official delayed diagnosing the plaintiff with gender dysphoria. *Dana*, No. 1:18-CV-00298-DCN, 2025 WL 1827042 at *5. This Court's prior analysis of *Dana* and *Skrmetti* still stands; the cases do not "definitively resolve the question of medical necessity of gender-affirming care." Dkt. 150 at 6. Thus, the "legal status of gender-affirming care has not shifted." *Id*.

Defendants fail to provide a basis in law to the contrary. Further, any questions as to the medical necessity of gender-affirming care would support the Court's five previous findings that serious questions as to the merits of the case support issuing a preliminary injunction.

Defendants argue that the existence of a debate over medical necessity defeats Plaintiffs' Eighth Amendment claim because "mere disagreement over the proper treatment does not create a constitutional claim." Dkt. 177 at 3 (quoting *Clark*, 2025 WL 2825324, at *11). However, as Plaintiffs have repeatedly noted, there has been no disagreement over treatment for the Plaintiff class. Dkt. 1 at 2–3, Dkt. 2-1 at 19–20, Dkt. 2-5 at 10–13, Dkt. 40-2 at 2–3. By definition, each member of the class has been prescribed hormone therapy by an IDOC physician, in line with the recommendations of every major medical association in the country. *See* Dkt. 2-1 at 7–10; Dkt. 2-5 at 10–11; *see also* Dkts. 114-5, 114-6, 114-7. Defendants' "reiterat[ion]" of the "debate" over the safety and effectiveness of hormone therapy "does not constitute evidence resolving the question of the medical necessity of gender-affirming care." Dkt. 137 at 5.

The Court has previously found, and should still find, that the parties are in a period of "deliberative investigation," weighing in favor of issuing another preliminary injunction. Dkt. 58 at 9; *see also* Dkt. 120 at 7; Dkt. 137 at 6; Dkt. 150 at 6.

Defendants also "incorporate here their arguments opposing the previous injunctions." Dkt. 177 at 3. Plaintiffs thus incorporate their responses to said arguments. *See* Dkt. 25, Dkt. 90, Dkt. 118, Dkt. 136; Dkt. 148.

CONCLUSION

Plaintiffs have made the requisite showing that a preliminary injunction against enforcement of Idaho Code § 18-8901 continues to be necessary in this case. Plaintiffs respectfully request that the Court issue a sixth preliminary injunction prior to the fifth preliminary injunction's expiration on December 1, 2025.

DATED: November 19, 2025

By: */s/ Harlan Mechling*

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