

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

REIYN KEOHANE,

Plaintiff,

v.

CASE NO. 4:16-cv-511

JULIE L. JONES, in her official
capacity as Secretary of the Florida
Department of Corrections, et al.,

Defendants.

ANSWER

Defendant Julie L. Jones, in her official capacity as Secretary of the Florida Department of Corrections (“DOC”), answers plaintiff’s complaint, as follows¹:

INTRODUCTION

1. Admitted that plaintiff has been diagnosed with gender dysphoria and is in the custody of the DOC. The remaining allegations of paragraph one are denied.

2. Denied.

¹ Defendant Francisco Acosta, sued in his official capacity as Warden of Everglades Correctional Institution, has been dismissed from this lawsuit. (doc. 50).

JURISDICTION AND VENUE

3. Admitted only that plaintiff brings this action pursuant to 42 U.S.C. § 1983. The remainder of the allegations in paragraph three are denied.

4. Admitted.

5. Admitted.

PARTIES

6. Admitted.

7. Admitted that defendant Jones is sued in her official capacity as Secretary of DOC. Admitted that plaintiff correctly quotes Fla. Stat. § 20.315(3). Denied that the “freeze-frame” policy is in effect or has been violated.

8. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph eight.

9. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph nine.

10. Defendant Francisco Acosta has been dismissed from this lawsuit.

GENERAL ALLEGATIONS

A. Gender Dysphoria

11. Paragraph eleven purports to set forth medical conclusions that require no response from DOC.

12. Paragraph twelve purports to set forth medical conclusions that require no response from DOC.

13. Paragraph thirteen purports to set forth medical conclusions that require no response from DOC.

14. Paragraph fourteen purports to set forth medical conclusions that require no response from DOC.

15. Paragraph fifteen purports to set forth medical conclusions that require no response from DOC.

16. Paragraph sixteen purports to set forth medical conclusions that require no response from DOC.

17. Paragraph seventeen purports to set forth medical conclusions that require no response from DOC.

18. Paragraph eighteen purports to set forth medical conclusions that require no response from DOC. Denied insofar as plaintiff alleges that DOC is not properly treating plaintiff's gender dysphoria.

19. Denied.

20. Paragraph twenty purports to set forth medical conclusions that require no response from DOC.

21. Paragraph twenty-one purports to set forth medical conclusions that require no response from DOC. Denied insofar as plaintiff alleges that DOC is not properly treating plaintiff's gender dysphoria.

22. Admitted that plaintiff quotes the reference material cited in footnote 3. Denied that these standards of care apply to DOC or that DOC has violated any applicable standard of care.

23. Admitted that plaintiff quotes the reference cited in footnote 4. Denied insofar as plaintiff alleges that DOC has violated any standard of care.

24. Paragraph twenty-four purports to set forth medical conclusions that require no response from DOC. Denied insofar as plaintiff alleges that DOC has violated any standards of care.

B. Plaintiff's Gender Dysphoria

25. Admitted that plaintiff is 22 years old. DOC is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph twenty-five.

26. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph twenty-six.

27. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph twenty-seven.

28. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph twenty-eight.

29. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph twenty-nine.

30. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph thirty.

C. Plaintiff's Incarceration and Denial of Medically Necessary Care

31. Admitted.

32. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph thirty-two.

33. Admitted that plaintiff was sentenced pursuant to a plea deal of fifteen years for attempted second-degree murder. The remaining allegations of paragraph thirty-three are denied.

34. Admitted.

35. Admitted only that plaintiff has been diagnosed with gender dysphoria. Any allegation in paragraph thirty-five claiming that DOC has not provided plaintiff with treatment is denied.

36. Admitted only that plaintiff filed grievances relating to hormone therapy, and that such hormone therapy and counseling are now being provided. The remaining allegations of paragraph thirty-six are denied.

37. The quoted informal grievance speaks for itself, and requires no response from DOC.

38. The quoted informal grievance speaks for itself, and requires no response from DOC.

39. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph thirty-nine.

40. Admitted.

41. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph forty-one.

42. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph forty-two.

43. Admitted that plaintiff quotes the cited response from Helen Greig.

44. Admitted that plaintiff quotes the cited response from Ms. Greig.

45. Admitted that plaintiff quotes the cited response from Dr. Le.

46. Admitted.

47. Admitted that plaintiff quotes the cited appeal of the referenced informal grievances.

48. Admitted.

49. Denied.

50. Admitted that plaintiff cites the discharge summary and lists its signatories.

51. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph fifty-one.

52. Admitted that plaintiff quotes the response to the cited informal grievances.

53. Admitted that plaintiff quotes the cited grievance.

54. Admitted that the cited healthcare note is quoted.

55. Admitted that the denial of the cited formal grievance is quoted.

56. Plaintiff's quoted "explanation" speaks for itself, and requires no response from DOC.

57. Plaintiff's quoted "grievance" speaks for itself, and requires no response from DOC.

58. Plaintiff's quoted response speaks for itself, and requires no response from DOC.

59. Admitted that plaintiff "cut her scrotum with a razor." Admitted that the referenced healthcare note is quoted. DOC is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph fifty-nine.

60. The referenced Health Information Transfer/Arrival Summary speaks for itself, and requires no response from DOC.

61. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph sixty-one.

62. Admitted that Grievance No. 14-6-39574 was denied. DOC is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph sixty-two.

63. Admitted.

64. Admitted.

65. Admitted that the referenced grievance number is quoted, and that it speaks for itself.

66. Admitted that the referenced grievance number is quoted, and that it speaks for itself.

67. Admitted.

68. The cited response of Dr. Berrios speaks for itself, and requires no response from DOC.

69. Admitted.

70. Admitted that plaintiff was transferred to and presently is in custody at Everglades CI. DOC is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph seventy.

71. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph seventy-one.

72. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph seventy-two.

73. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph seventy-three.

74. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph seventy-four.

75. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph seventy-five.

76. Admitted that plaintiff quotes the cited formal grievance.

77. Admitted that plaintiff quotes the cited denial of Grievance No. 1605-401-009.

78. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph seventy-eight.

79. Admitted that plaintiff quotes the cited grievances.

80. Admitted that plaintiff quotes the cited response.

D. Exhaustion

81. Denied.

82. Denied.

83. Denied.

84. Admitted that on July 1, 2016, an email was sent to plaintiff's counsel by Alan McManus. To the extent plaintiff's partial quotation of the referenced email purports to establish exhaustion of all administrative remedies, such allegation is denied.

E. The DOC's Policy Concerning Treatment of Gender Dysphoria

85. Denied.

86. Denied.

COUNT I

**Denial of Medically Necessary Care
in Violation of the Eighth Amendment to the United States Constitution**

87. DOC reasserts its responses to paragraphs one through eighty-six as if fully set forth herein.

88. Admitted that plaintiff has been diagnosed with gender dysphoria.

89. DOC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph eighty-nine.

90. Denied.

91. Denied.

92. Denied.

93. Denied.

94. Denied.

95. Denied.

96. Denied.

97. Paragraph ninety-seven purports to state a legal conclusion which does not require a response by DOC.

PRAYER FOR RELIEF

98. DOC denies that plaintiff is entitled to any of the requested relief in subsections (a)-(f) of paragraph ninety-eight.

Any allegation not expressly admitted is denied.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's claims are barred under *Ex parte Young* and its progeny because there is no ongoing violation of federal law and therefore no injunctive relief is warranted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff has failed to exhaust all necessary administrative remedies relating to female grooming standards.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claim for nominal damages is barred by sovereign immunity and the Eleventh Amendment to the U.S. Constitution.

FOURTH AFFIRMATIVE DEFENSE

DOC claims any and all protections of the Prison Litigation Reform Act of 1995, as amended.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims fail under the PLRA because the requested relief would effectively repeal or detract from otherwise applicable limitations on the remedial powers of the courts. *See* 42 U.S.C. § 1997e.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff has no protected right as a prisoner to receive only the care directed by a private physician.

DOC reserves the right to include additional affirmative defenses as this case progresses.

Respectfully submitted,

/s/ Kirkland E. Reid

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Attorneys for Defendant Julie Jones, in her
official capacity as Secretary of the Florida
Department of Corrections

CERTIFICATE OF SERVICE

I certify that on November 2, 2016, I filed the foregoing using the CM/ECF system, which will send notification to all counsel of record.

/s/ Kirkland E. Reid

Kirkland E. Reid