

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

R.G., an individual; C.P., an individual by  
and through her next friend, A.W.; and  
J.D., an individual,

Plaintiffs,

v.

LILLIAN KOLLER, Director of the State  
Department of Human Services, in her  
individual and official capacities;  
SHARON AGNEW, Director of the Office  
of Youth Services, in her individual and  
official capacities; KALEVE TUFONO-  
ISOSEFA, Hawaii Youth Correctional  
Facility Administrator, in her individual  
and official capacities; *et al.*,

Defendants.

CIVIL NO. 05-566 JMS/LEK

[CIVIL RIGHTS ACTION]

DECLARATION OF [R.G.]

[REDACTED];  
EXHIBIT A [REDACTED]

DECLARATION OF [R.G.] [REDACTED]

I, [REDACTED], hereby declare:

1. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

2. I am 18 years old and will turn 19 on [REDACTED]. I am under the jurisdiction of Hawaii Youth Correction Facility (“HYCF”) until my 19th birthday.

3. I was sent to HYCF for three months in [REDACTED] of 2004. That was my first stay at HYCF.

4. I am gay. During my first stay at HYCF, Aunty Lani (Youth Correction Officer (“YCO”) Phyllis Rosete) would often talk to me about how being gay was wrong. Aunty Lani keeps the Bible on the table or on the desk next to her coffee cup and highlighter. For example, she told me that God made Adam and Eve for each other, so that a man could be with a woman and that God did not want a woman to be with another woman. Aunty Lani told me that I could make the “right” choice because God made women to have children, which is why women are for men.

5. Aunty Lani talked to me about these religious views at least eight times during my first three months. These conversations with Aunty Lani upset and confused me a lot. I love God, and I talk to Him all the time. I

believe God says come as you are, so I am who I am. When Aunty Lani kept preaching to me about her anti-gay beliefs, which conflict with mine, I was really angry at first and then I got depressed and kept asking myself why I couldn't be normal like Aunty Lani said.

6. HYCF placed me in the Bobby Benson treatment program, but I ran from the program after 6 or 7 days and stayed on the streets for about 4 months.

7. When I got caught on the streets, I was sent back to Alder Street Detention Home. On [REDACTED], 2004, I came back to HYCF and that's when I first met [REDACTED], who is a year younger than me. [REDACTED] and I started falling in love and became a couple on August 7, 2004. I was in HYCF until [REDACTED] 2005, when I was sent to [REDACTED].

8. I have been treated badly by the YCOs, Youth Corrections Supervisors ("YCS") and Kaleve Tufono-Iosefa, the Youth Facility Administrator, because I am gay. The staff has judged me and told me that God judges me. They have labeled me, and act as if they like to hurt my feelings.

9. YCO Aunty Lani talks to me about the Bible. She says things like the path I'm choosing, being gay, is wrong because I'm going to go to

hell. She also has said that being gay is “bad” because “it’s not of God.” She has had a Bible with her when she says these things. When someone asked Auntie Lani how she knew all this stuff was true she said it was in the Bible that “man should not lay with man” and that anyone who did would be punished. She has also read to me from the Bible, saying, “Heaven is real, you know.” She would highlight words in the Bible and show them to me. Auntie Lani (as well as Auntie Earlene Josiah) has told me on many occasions that “God made Adam and Eve, not Adam and Steve.” She talked to me more about it when [REDACTED] and I would fight. She made me feel like I wasn’t the one for [REDACTED] and would say things like “[REDACTED] doesn’t love you.” She made me sad inside. It hurts so much to be told over and over again that my feelings for [REDACTED] are wrong, sick, and sinful.

10. Another YCO, Auntie Josiah, has quoted the Bible to me about how homosexual relationships are “not normal” and “bad” and says, “you know God doesn’t like this.” She often talks about things I do as “butchie.” She says that “butchie action” is inappropriate stuff, but she acts like everything about me and [REDACTED] loving each other is inappropriate. She would call it butchie action if [REDACTED] and me were just sitting and talking, or if we were sitting two seats away from each other but were on the same bench. When [REDACTED] and me would play dominoes together, the YCOs took them away

from us and labeled the box “Butchie Action” in red marker. Aunty Josiah also says that “butchie shit” is when [REDACTED] and me are laughing together or being sweet to each other (not even touching or anything) and “butchie drama” is when [REDACTED] and me aren’t getting along. She doesn’t say negative things like this about the other girls when they talk about their boyfriends or talk dirty or get into drama about a boy.

11. For example, [REDACTED], another ward on the girls’ side, would talk about sex with her boyfriend all the time and never got in trouble or put down for it. One time she was talking about how she likes to be “fucked in the ass” and saying “how to do it,” that “all you have to do is loosen up” and YCO Cynthia Hubbell was listening and just laughed. YCO Hubbell would also talk about what she does with her “big husband.” One time she said she was going home to “ride her daddy’s pony.”

12. Another time, Aunty Hubbell said to me and [REDACTED] when fish was served for lunch one day, “Oh yeah, good, the fish. Oh, what, you two eating fish earlier!? At least you’re not finger-banging yourselves in the TV-room.”

13. The YCOs often threaten to send me to “the boys side” or to stay in isolation just because [REDACTED] and I are together and not cause of anything we do.

14. Teacher Barbara Tanji quoted the story of Sodom and Gomorrah to me and [REDACTED], trying to tell us that it's not right to be gay. She tries to be funny, but it's not funny and it really hurt our feelings.

15. In February of 2005, Sheriff Nelly heard me listening to a song on the radio and said "Oh you look kind of horny. Do you want me to take you to your room so you can finger-bang yourself?" There were many other wards and staff around at Observation & Assessment Cottage ("O & E") when she said that and it made me feel really bad. That was the first time that I filed a grievance about being treated differently because I am gay. I told them that everyone (wards and staff, including Aunty Cat) at O & A had heard Sheriff Nelly's comment and I told them that I felt humiliated in front of everyone. Months later, after Sheriff Nelly had stopped working at HYCF, I finally got a written response that said something like, "She doesn't work here anymore and she will not work here again." It was like because the Sheriff didn't work there anymore everything was fine, but I still felt humiliated.

16. YCO Leila Holloway has told [REDACTED] and me "this 'I love you' shit has got to stop. Who do you think you are? If we wanted you to have relationships we'd bring the boys over. It's not fair to the other girls to see you two together. It's disgusting." YCO Holloway does not tell girls to stop talking about their boyfriends that way – just me and [REDACTED].

17. A couple of weeks before we were sent to Utah, I saw [REDACTED] outside the girls' cottage at O & A and he went down in the corner by the girls' window. I could hear [REDACTED], [REDACTED] and [REDACTED] talking but I couldn't make out what they were saying. [REDACTED] [REDACTED] was a ward who was then being housed on the boys' side of HYCF in Module A. Later [REDACTED] told me that [REDACTED] had asked her if she wanted to go out. I don't know how [REDACTED] knew what cell [REDACTED] was in but he knew. [REDACTED] [REDACTED] is YCO Hubbell's [REDACTED] [REDACTED] [REDACTED].

18. Later I found out from [REDACTED] [REDACTED] that YCO Hubbell was passing notes and letters back and forth between [REDACTED] and [REDACTED] [REDACTED] to try and break me and [REDACTED] up. All of the female wards at O & A (except me) knew that someone on staff and who was close to [REDACTED] was helping him pass notes because wards found notes from [REDACTED] hidden throughout the cottage. Other times, I would see Aunty Hubbell take [REDACTED] out of her cell. [REDACTED] would tell me that Aunty Hubbell would talk to her about [REDACTED] because Hubbell did not approve of me and [REDACTED] relationship but she approved of [REDACTED] and [REDACTED] relationship.

19. Aunty Hubbell made me feel like an outcast because she was encouraging a relationship between [REDACTED] and [REDACTED] [REDACTED] but discouraging mine with [REDACTED] because I am gay. Aunty Hubbell would pull me away from

the other girls and tell me that “█████ deserves better you know, you should let her go because █████ can have a better life with boys and she deserves a family.”

20. Aunty Hubbell kept messing with me and █████ for weeks. Aunty Hubbell kept doing things like keeping us from sitting next to each other, not letting us play games with each other, and from being on the same team when we were playing sports. Aunty Hubbell wouldn't even let us sit in the same row in the van. Aunty Hubbell also made up two groups, A and B, and put me and █████ in different groups so that we would not be able to talk to each other. Not all the staff followed Hubbell's groups – some of the staff, except Hubbell and YCO Earlene Josiah, would let us talk to each other.

21. It was really hard on me to not be allowed to talk to █████ at all when Aunty Hubbell, Aunty Josiah and some of the other staff were around. I felt like the only way that I could communicate with █████ was to show her in some way that I was committed to her. Since we were told to sit away from each other and not to talk, I started carving myself. I carved “█████,” “█,” “██████████” and “█████” (her middle name) into my skin. I used paper clips, bra wires, and whatever I could find to carve big letters so that █████ would be able to see it. I was carving myself because I was frustrated that I could not



talk to her or see her so I thought if I carved myself she would know that I care about her and that I love her.

22. When the staff saw the carvings, I was put on lockdown for a couple of days. They put me on suicide watch and moved me from my cell to the handicapped cell.

23. A couple of days later, on or about September 10, 2004, [REDACTED] came into her cell (then cell 10) to be close to me. [REDACTED] and [REDACTED] started fighting about [REDACTED] [REDACTED]. I found a letter from [REDACTED] to [REDACTED] saying that they would drink together and he would have a family with her on the outs. [REDACTED] ended the letter with "I love you," and when I saw this I got depressed, and I thought about letting her go. [REDACTED] and I starting fighting about the letter; she denied it and said that she had never seen it. [REDACTED] kept going in and out of her cell. Aunty Hubbell got mad and went into her mailbox and pulled out a letter and said to [REDACTED] "[REDACTED], you let me give him this or what?" [REDACTED] said "Shh. Aunty, shut up." Then Aunty Hubbell came back after she grabbed the envelope from her box and stuck it under [REDACTED]'s door. When Aunty Hubbell left, I asked [REDACTED] who the note was from but I already knew it was from [REDACTED]. At that time, everyone was getting ready for showers. I got really mad and started punching my mattress and crying and swearing and stuff. I was crying and then YCS Eric Yamagishi came into my cell and told

me to calm down and that everything would be ok. I came out of my cell and got really mad and threw a rubbish can down the hallway. Then Eric Yamagishi asked me to go back into my cell and I said no. I finally went in after he had asked me a couple of times. Then I pulled out the mattress and was whacking it. Other wards were telling me to calm down. Then I finally said, "Fuck that. I don't love [REDACTED] anymore."

24. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

25. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[Redacted text block containing 20 horizontal black bars]

26. I also found out later that one of the nurses had passed notes for [REDACTED] and [REDACTED] [REDACTED] and that really upset me because I had spent hours talking with him about how much I was in love with [REDACTED] and how I felt about her and he inspired me to want to be a nurse but then it turned out that he was also trying to break us up and was encouraging [REDACTED] relationship with [REDACTED] [REDACTED]

27. On April 20, 2005, Kaleve held a meeting of all the girls and staff members at O & A about [REDACTED] and me. Kaleve, Aunty Hubbell, Aunty Bonnie Silva, Koa, and some other staff and all of the wards were there. [REDACTED] and I were not allowed to participate in the first part of the meeting; we were locked down from about 2:00-3:10 p.m.

28. We found out later that while we weren't there Kaleve told the other wards that if they didn't voice negative feelings about [REDACTED] and me they could get demoted on the level system or they might get an 8210, a write-up for bad behavior.

29. When we came out of our cells to join the meeting, Kaleve said "pull up some chairs, we have been talking about your relationship." I had already been crying in my cell, and I felt very agitated and angry that they were having this discussion.

30. Kaleve asked all the girls to say how they felt about my relationship with [REDACTED]. When no one said anything, Kaleve looked around at everyone and gave her own answer. She said, “For me, it’s wrong.” She was not talking about sexual contact within HYCF or breaking any other rules but just that it’s supposedly wrong for two girls to be in love with each other.

31. [REDACTED] and I were told by Kaleve that she called the meeting so that everyone could talk about how they felt about [REDACTED] and me and to make the wards come up with rules and punishments related to our relationship. Kaleve told us that the other girls came up with the rules because they were “disgusted” with [REDACTED] and me when we would say, “I love you” or the few times that we gave each other a hug. It was humiliating because of the way that they talked about our relationship. I was uncomfortable with other people talking about my relationship with [REDACTED] that way, making it sound as if it was bad and wrong that we cared about each other.

32. One ward, [REDACTED] [REDACTED] said that she doesn’t like it when [REDACTED] and I are near each other because it grosses her out. I was crying the whole time during the meeting. I felt like everyone was against me. [REDACTED] started crying near the end of meeting.

33. Another of the wards, ██████████ ██████████ said during the meeting that it makes her sick to hear me and ██████████ say I love you to each other. I asked ██████████ ██████████ if it wasn't more gross for her to be talking about watching pornos, or how she likes to be fucked in the ass, or how much come she would like to have in her mouth and how big is a fat cock than for me to say "I love you," or "I miss you," to my girlfriend. ██████████ ██████████ responded, "This meeting is not about me." I looked over at Kaleve and she said, "██████████ right, this meeting is not about them, it is about you two."

34. Later in that same meeting, Kaleve said my relationship with ██████████ was "bothersome," "disgusting," and "wrong" because we were both girls. It made me feel humiliated and very angry when Kaleve and the other wards talked badly about my relationship with ██████████ publicly like that.

35. The group of girls wound up "deciding" that ██████████ and I were to be "separated from each other," were not permitted to "talk[] with each other without permission from staff," were not allowed to make "hand signals" and were not permitted to "write letters to each other." The consequences for breaking the rules were first a verbal warning, second a time-out in cells, and third, for total non-compliance, a referral to security staff. Kaleve put this all in an Internal Communication Form ("ICF") dated April 21, 2005. The ICF is not right though because Kaleve didn't sign it like she signs the other ones that

I have seen. A true and correct copy of the ICF is attached to this declaration as Exhibit A.

36. To my knowledge, none of the other wards ever got punished or lectured to when they were talking about their feelings or explicit sexual stuff with their boyfriends. One ward, [REDACTED], would talk about her prostituting when she was on the outs [outside HYCF]. She would talk about her “tricks,” “dates,” and also about her “folks,” and how she got her pussy ripped out there and how she loves being fucked by men. [REDACTED] would talk about this stuff in front of everyone, wards and staff and she never got in trouble, not once. None of the staff ever told her to stop talking about it.

37. [REDACTED] and I got caught kissing one time in May of 2005. We also got written up because I hugged her and once for playing footsie. Other girls are allowed to hug each other, but I am not allowed to hug [REDACTED]. I can’t touch the girls at all, even the little regular things people do when they are friendly like pat on the shoulder or hug, because I’m labeled. I don’t know why.

38. I’ve never even been given a single apology for any of the things that have happened to me at HYCF or in response to the grievances I’ve filed. For example, in February of 2005, I filled out an ICF. In that ICF I truthfully wrote down that YCO Josiah makes comments about my sex life like I’m a carpet muncha and at least I’m not fucken finger banging someone else and I

told them that YCO Hubble says similar stuff. I also truthfully complained that Sheriff Nelly told me I look horny and I should go to my cell and finger bang myself. In that ICF, I also told them that I was being discriminated against because I am gay and that the staff often use words that are hurtful and harmful to me.

39. Henry Haina, a former YCO, came to interview me on two occasions to ask about YCO assaults on wards. During the first interview, I told him that I had complained about being treated badly because I am gay. Haina responded that he was not investigating that. During the second interview, Haina again only asked about assault on wards. He never mentioned my complaints about being discriminated against because I am gay. No one else at HYCF ever investigated my complaints either.

40. In April and May, I also talked with Dr. Bidwell about the way HYCF staff treated me and [REDACTED] cause we're gay. Even though I read a long letter that Dr. Bidwell wrote to Kaleve and others about me being harassed all the time because I am gay, no one at HYCF ever talked to me or followed up about me being treated differently and badly because I am gay.

41. I just don't understand why I can't be treated like everyone else at HYCF; I don't understand why so many of the staff members there can't consider me as a person instead of just gay.



42. My thinking has changed because of all the harassment and preaching of anti-gay religious views at HYCF. Now when I talk about my girlfriend or how much I love her, I don't see it as romantic; I call it my butchie shit. I feel like I'm not normal. They made me see it that way, and now it's like they're still making me feel bad. Because no one ever stopped them from doing it, they kept at it until their messages got into my thinking, and now I can't get them out.

43. In early August, there was a report of something from the government about HYCF. The staff were all freaking out about it. I asked to call my lawyer at the ACLU but my social worker said, "No, I can't. There is a lot of shit going down right now."

44. On or about [REDACTED], 2005, I was placed on probation from HYCF and sent to [REDACTED]. [REDACTED] is a substance abuse center for both alcohol and drugs.

45. While I was at [REDACTED] [REDACTED], another much-older client wrote a sexually explicit poem to me. I wanted to be open and truthful with my counselor so I wouldn't lose her trust, so on the morning of [REDACTED] 8, 2005, I showed her the poem and she kept the original. I also told her that another older woman client had been talking dirty to me. After meeting with my counselor, I went to take a nap. One of the [REDACTED] [REDACTED] staff woke me up

and told me to gather my stuff because I was going back to HYCF. No one told me why I was being sent back. Devon Enesa from HYCF was waiting for me.

46. In the car on the way back to HYCF, I begged Devon Enesa to find me another placement because I did not want to go back to HYCF because of the way I have been treated there.

47. [REDACTED]

[REDACTED]. I was very scared to go back to HYCF. No one had protected me from being harassed before, and I knew that the HYCF staff were going to be mad at me for telling on them by filing this lawsuit.

48. As a "recommit," I was placed back into Observation & Assessment, which is a two-week assessment period prior to beginning the level-system. I was Level 3 when I was released from HYCF.

49. Under HYCF's new policy, a ward is not eligible for placement into a program until the ward has reached Level 3, week 2. This means that a ward is supposed to spend a minimum of 14 weeks at HYCF before the ward can be placed into a program, and if someone gets sent back again she has to start at the bottom and stay at HYCF another 14 weeks. Even though HYCF found another placement for me this time in a couple of days, HYCF's rule makes me scared that if I get sent back to HYCF they will make me stay for

months instead of finding me a safe placement, and I'll have to deal with more harassment, abuse, and preaching. I will also have to deal with the staff's comments and their feelings about me because of this lawsuit.

50. I was released on probation to the [REDACTED] on the [REDACTED]. [REDACTED] is an independent living facility. Now I have an advocate, [REDACTED], who is helping me look for a job. I had my first two job interviews last week at [REDACTED] and I put in some more applications at [REDACTED] and some other stores.

51. I am hoping to find a job and make enough money to live on my own when I turn 19. If I have enough money, by next semester, I would like to go to community college to study fire science. I want to be a firefighter so that I can try to help people and help to support my family as well.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ of September 2005 in Honolulu, Hawaii.

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