

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CHELSEA ELIZABETH MANNING)
United States Disciplinary Barracks)
1301 North Warehouse Road)
Fort Leavenworth, KS 66027-2364)

Plaintiff,)

v.)

Civil Action No. 1:14-cv-1609 (CKK)

THE HONORABLE ASHTON CARTER)
Secretary of Defense)
1000 Defense Pentagon)
Washington, DC 20301-1000)

MAJOR GENERAL)
DAVID E. QUANTOCK)
Provost Marshal General of the)
United States Army)
Department of the Army)
Army Corrections Command)
150 Army Pentagon)
Washington, DC 21310-0150)

COLONEL ERICA NELSON)
Commandant)
United States Disciplinary Barracks)
1301 North Warehouse Road)
Fort Leavenworth, KS 66027-2364)

LIEUTENANT COLONEL)
NATHAN KELLER)
Director Treatment Programs)
Military Correctional Complex)
1301 North Warehouse Road)
Fort Leavenworth, KS 66027-2364)

U.S. DEPARTMENT OF DEFENSE)
1400 Defense Pentagon)
Washington, DC 20301-1400)

Defendants.)

_____)

AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Plaintiff Chelsea E. Manning, a female prisoner currently incarcerated at the

United States Disciplinary Barracks at Fort Leavenworth, has been denied access to medically necessary treatment for her gender dysphoria and is treated differently than all other female military prisoners on the basis of her assigned sex at birth and her transgender status. She brings this action to compel Defendants to treat her serious medical needs and permit her to follow the hair length and hair grooming standards applicable to all other female prisoners consistent with their obligations under the Constitution.

NATURE OF THE ACTION

2. This action seeks declaratory and injunctive relief to redress Defendants' refusals to provide Plaintiff with medically necessary treatment or to treat her

has been denied access to medically necessary treatment for her gender dysphoria and is treated differently than all other female military prisoners on the basis of her assigned sex at birth and her transgender status. She brings this action to compel Defendants to treat her serious medical needs and permit her to follow the hair length and hair grooming standards applicable to all other female prisoners consistent with their obligations under the Constitution.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e)(1)(A) because at least one of the defendants in this action officially resides in this district and, pursuant to 28 U.S.C. § 1391(e)(1)(B), because a substantial part of the events or omissions giving rise to Plaintiff's claim occurred in this district.

PARTIES

7. Plaintiff Chelsea Elizabeth Manning is a Private in the United States Army and is presently incarcerated at the United States

transgender status.

11. Defendant Lieutenant Colonel Nathan A. Keller is the Director of Treatment Programs at the USDB. He is sued in his official capacity. Lt. Col. Keller is responsible for providing medical care to individuals confined in the USDB and is among those responsible for denying Plaintiff medically necessary treatment for gender dysphoria and subjecting her to differential treatment on the basis of her sex, gender non-conformity and transgender status.

assigned the sex of male at birth.

19. Female prisoners confined in military correctional facilities in the United States are permitted to wear medium and long, feminine hairstyles while male prisoners are required to maintain short, masculine hairstyles.

20. Plaintiff is forced to follow the male hair length and hair grooming standards, which require that her hair be cut every ta

1. A marked incongruence between

dysphoria. The WPATH Standards of Care are recognized as authoritative and accepted by the American Medical Association, the Endocrine Society, and the American Psychological Association.²

28. The WPATH Standards of Care provide for the following treatments, some or all of which will be required depending on the needs of the patient:

- Changes in gender expression and role (which may involve living part time or full time in another gender role, consistent with one's gender identity);
- Hormone therapy to feminize or masculinize the body;
- Surgery to change primary and/or secondary sex characteristics (e.g. breasts/chest, external and/or internal genitalia, facial features, body contouring);
- Psychotherapy (individual, couple, family, or group) for purposes such as exploring gender identity, role, and expression; addressing the negative impact of gender dysphoria and stigma on mental health; alleviating internalized transphobia; enhancing social and peer support; improving body image; or promoting resilience.

29. Under the WPATH Standards of Care, the development of any treatment plan and all subsequent treatment must be administered by clinicians qualified in treating patients with gender dysphoria.

30. Psychotherapy or counseling can provide support and help with the many issues that arise in tandem with gender dysphoria. Counseling alone, however, is not a substitute for medical

expressing oneself consistently with one's gender.

32. The National Commission on Correctional Healthcare (NCCHC) recommends that the medical management of prisoners with gender dysphoria "should follow accepted standards developed by professionals with expertise in transgender health," citing the WPATH Standards of Care.³ The NCCHC also explains that "Policies that make treatments available only to those who received them prior to incarceration or that limit transition and/or maintenance are inappropriate and out of step with medical standards and should be avoided."⁴

33. The Federal Bureau of Prisons and many state and local corrections agencies administer hormone therapy to prisoners with gender dysphoria in their custody and house feminine appearing prisoners in both men's and women's facilities.

34. The Federal Bureau of Prisons and many state and local corrections agencies permit male and female prisoners housed in men's prisons to maintain long hairstyles.

35. Female prisoners confined in military correctional facilities in the United States are permitted to maintain long hairstyles but male prisoners are not permitted to maintain such hairstyles.

36. The medical providers who have evaluated and diagnosed Plaintiff with gender dysphoria, including the medical providers at the United States Disciplinary Barracks

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treatment for Plaintiff's gender dysphoria, and recognize that she is female.

38. The medical providers who have evaluated Plaintiff, including the military's medical providers, agree that maintaining a feminine hairstyle is a medically necessary part of Plaintiff's treatment.

Plaintiff's gender dysphoria

39. Plaintiff's assigned sex at birth was male, but from a young age she experienced the persistent sense that she was "different." In school she was teased and called names such as "girly-boy," "faggy," and "queer," because she did not conform to expectations of how a boy should look and act.

contemplated self-surgery to relieve her pain. She also made plans to commit suicide but her plans were discovered and she was placed on suicide watch.

45. On April 22, 2011, Plaintiff was again diagnosed with gender identity disorder during her Rule 706 Board, the body convened under the Rules for Court-Martial to assess her mental fitness to stand trial. The Rule 706 Board also documented Plaintiff's request for treatment for gender identity disorder, including permission to grow her hair and otherwise be permitted to follow grooming standards for female detainees and to begin hormone therapy.

46. On August 21, 2013, Plaintiff was sentenced to serve thirty-five years in prison. The next day – August 22, 2013 – Plaintiff was transferred to the USDB, where she remains. That day Plaintiff made a public 2 -0.004 Tc 0.0d 0 Tw 3.38 w 0.39 0 T()Tj -0.004 Tc 0.004 T4,

grooming;

Facility, under Army Regulation (AR) 27-10 and Article 138, Uniform Code of Military Justice (UCMJ). Col. Ledwith has since left her post as Commandant. Col. Erica Nelson has assumed the command of the USDB as Commandant. Plaintiff alleged in this request that the actions of Col. Ledwith and Cpt. Byrd in refusing to implement a treatment plan for her gender dysphoria were arbitrary and unreasonable. As redress she requested that a treatment plan consistent with the WPATH Standards of Care be implemented.

65. On March 4, 2014, having received no response to her request for redress, Plaintiff submitted a complaint of wrong against Col. Ledwith and Cpt. Byrd under Article 138, UCMJ, for failure to provide appropriate medical care to treat her gender dysphoria and again requested the implementation of a treatment plan in accordance with the WPATH Standards of Care.

66. On May 7, 2014, Plaintiff learned through counsel that her Article 138 complaint of wrong had been deemed deficient on March 19, 2014, on the grounds that (1) Col. Ledwith was not Plaintiff's commanding officer; and (2) Cpt. Byrd lacked the authority to approve the treatment plan.

67. On May 29, 2014, Plaintiff filed a request for an exception to the AR 27-10 requirement that complaints be made to a person's chain of command. Because Plaintiff's chain of command, Cpt. Byrd, was the only proper person against whom to bring an Article 138 complaint of wrong but he had no authority to approve her requested treatment, Plaintiff sought permission to file her complaint against the Commandant of the USDB. On July 3, 2014, Plaintiff's request for an exception to the AR 27-10 requirement that complaints be made to a person's chain of command was denied.

Center, Fort Leavenworth, Kansas. In this request, she alleged that the Directorate of Treatment Programs at the USDB had failed to provide her with medically necessary treatment and she requested treatment in accordance with medical protocols.

69. On February 21, 2014, Plaintiff was informed by the Office of the Inspector General that her action request had been forwarded to the Western Regional Medical Command (WRMC) Inspector General (IG) at the Joint Base Lewis-McChord.

70. On April 4, 2014, the WRMC IG informed Plaintiff that her action request had been passed on to the Office of the Surgeon General for the United States Army and that the WRMC IG would be taking no further action on it.

71. To date, Plaintiff has received no response from the Army Office of the Surgeon General to the action request.

The involvement of the Secretary of Defense

72. Since September 2013 Plaintiff has met regularly with Dr. Galloway as part of her general mental health treatment. During these sessions Plaintiff has repeatedly discussed the anxiety and depression caused by Defendants' failure to adequately treat her gender dysphoria. As reflected in her medical records, on multiple occasions Dr. Galloway informed Plaintiff that decisions regarding her treatment would be made by the Office of the Secretary

‘real-life-experience’ treatment by being issued female undergarments, specifically female underwear and sports bras.”

79. Prior to the filing of the original complaint in this action, the only psychotherapy that Plaintiff received was from Dr. Galloway, who stated at the time that she lacked the qualifications to treat gender dysphoria.

80. Plaintiff continues to be denied treatment in the form of the Real Life Experience in that she is denied permission to outwardly express her female gender through female hair length and hair grooming standards.

Plaintiff's evaluation by Dr. Randi Ettner

81. On August 27, 2014, Plaintiff met with Dr. Randi Ettner, an expert in the diagnosis and treatment of gender dysphoria that she retained.

82. Based on a clinical interview with Ms. Manning, psychodiagnostic assessments, and a review of her medical records, Dr. Ettner confirmed Plaintiff's diagnosis of gender dysphoria, which is persistent and well-documented, and recommended treatment in accordance ~~interview~~

to Plaintiff's request to follow the hair length and hair grooming standards for female prisoners, the parties filed a joint status report and motion to stay proceedings for seven months. ECF No. 37. That motion was granted on March 10, 2015.

100. On September 18, 2015, after the seven-month waiting period proposed by

120.

127. Plaintiff will be irreparably harmed absent injunctive relief.

**CLAIM II: Violation of the Fifth Amendment to the United States Constitution
(Asserted by Plaintiff Against all Defendants)**

128. Plaintiff incorporates by reference the allegations of the foregoing paragraphs.

129. Plaintiff is a woman and has been recognized as such by Defendants.

130. Plaintiff is similarly situated to other women incarcerated in military correctional facilities.

131. Like other women, Plaintiff maintains her female identity while incarcerated.

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Fax 212.549-2650
cstrangio@aclu.org
rsaxe@aclu.org
jesseks@aclu.org

Arthur B. Spitzer (D.C. Bar No. 235960)
American Civil Liberties Union
of the Nation's Capital
4301 Connecticut Avenue, N.W., Suite 434
Washington, DC 20008
Tel. 202-457-0800
Fax 202-