

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SANDY JO BATTISTA,)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	05-11456-DPW
)	
KATHLEEN M. DENNEHY, ET AL.,)	
Defendants.)	

PRELIMINARY INJUNCTION ORDER

December 9, 2008

WOODLOCK, D.J.

In accordance with my findings with respect to the propriety of preliminary injunctive relief, as dictated on the record in the notes of the Court Reporter on October 15, 2008 and in accordance with the Memorandum issued this date, it is hereby ORDERED that:

1. The DOC, its agents, servants and/or employees, shall ensure that the GID Treatment Plan set forth herein for Battista is implemented by the DOC's mental health services provider, MHM, and that parallel medical treatment will be provided by the DOC's medical service provider. Battista's mental health treatment pursuant to this plan must commence within 14 days of the date of this Order. Treatment may not be materially altered without prior permission of the Court, and any failure of the DOC to comply with the directives contained herein may result in contempt proceedings or other sanctions.
2. Pursuant to the GID Treatment Plan Supplement, Battista will receive psychotherapy at least once every other week, with sessions lasting at least forty-five minutes; therapy sessions shall be conducted in a private conference room or private office at the Massachusetts Treatment Center.
3. Therapy sessions must be conducted by Dr. Ruth Khowais, a MHM doctoral level credentialed clinical psychologist and the Mental Health Director for the Treatment Center. Should MHM seek to change the treatment plan by using a different therapist for Battista, the DOC shall notify this Court and Battista's counsel of such change at least two weeks in advance.

4. During these therapy sessions, Dr. Khowais will provide psychotherapy focusing on the specific areas of exploration detailed in Dr. Levine's June 18, 2008 report and the GID Treatment Plan Supplement dated July 30, 2008, e.g., Battista's psychosexual development, masochism, interplay of GID with co-morbid mental disorders including pedophilia, and Battista's understanding of her gender mosaic. In addition, Dr. Khowais will assess Battista's appropriateness of initiation of hormone therapy including, but not limited to, the following clinical rationales:
 - A. Whether Battista has actively participated in discussing comprehensive mental health issues, including pedophilia, that Dr. Khowais deems relevant or appropriate in the context of therapy;
 - B. Whether Battista has actively participated in discussing appropriate expectations regarding
 - (i) the effects of any hormone therapy and any likely or potential changes in her personal interactions resulting from the hormone therapy; and
 - (ii) the possibility that hormone therapy may not be clinically indicated; and
 - C. Whether Battista has agreed to continue and actively participate in regular therapy sessions with Dr. Khowais or another therapist designated by MHM after the commencement of hormone therapy, should hormone therapy be clinically indicated and made available to Battista.
5. In addition to conducting biweekly therapy sessions with Battista, Dr. Khowais will meet in regular monthly supervision sessions with Dr. Zakai, Dr. Levine and other MHM clinicians with whom Dr. Zakai chooses to consult. Monthly supervision reports shall be signed by Dr. Zakai, Dr. Khowais, Dr. Levine, and any other MHM clinician consulted by Dr. Zakai. The monthly reports, beginning January 30, 2009, shall be provided to the Court under seal and to counsel for the DOC and counsel for Battista. The monthly supervision reports must provide an update on the progress of therapy, with specific reference to the criteria set forth in this Order. The reports must also include opinions as to other potential feminizing intervention that may be requested by Battista and discussed in therapy. The DOC, its agents, servants, and/or employees are prohibited

from dictating, directly or indirectly, the manner, format, or substance in which the monthly report is prepared by the clinicians.

6. At the completion of six (6) months of therapy sessions, and no later than June 30, 2009, Dr. Zakai, as the Chief Psychologist for MHM, shall prepare a report with MHM's recommendations for ongoing treatment for Battista's GID. This report shall consider the appropriateness of hormone therapy for Battista, consistent with the criteria set forth herein, and without consideration of any purported security concerns of the DOC. Dr. Zakai shall provide a detailed explanation of Dr. Levine's recommendation, and Dr. Khowais's recommendation, as well as his own recommendation. In the event any of these clinicians do not recommend commencement of hormone therapy, the report shall discuss whether there are additional therapeutic goals they believe must be accomplished in treatment before hormone therapy may be deemed appropriate, and shall set forth a plan to allow Battista the opportunity to achieve appropriate goals in ongoing therapy. The report shall be submitted simultaneously to the Court under seal, and to counsel for the DOC and counsel for Battista.
7. The DOC, its agents, servants and/or employees are prohibited from taking any actions, directly or indirectly, to coerce, or otherwise improperly influence recommendations or conclusions concerning any aspect of Battista's GID Treatment. The DOC is prohibited from interfering in any manner with any medical or mental health decisions made by the contractual medical or mental health care providers. The DOC shall notify the medical and mental health care providers of this Order forthwith by providing them with a copy of this Order, and shall advise these providers that any behavior which any provider deems to be in violation of this Order shall be documented in writing and reported to this Court forthwith.
8. Neither the DOC or any of its prison staff may obtain any medical or mental health information generated from the evaluation or treatment of Battista from its contractual health care providers without an order of this Court.
9. Battista shall be allowed to purchase the following items from the list of products available to female offenders in DOC custody, none of which present safety or security concerns within the Treatment Center: women's jeans, women's dress pants, women's dress shirts, women's sneakers,

women's briefs, Mennen Dry Shower Lady Speed Stick Deodorant, emery boards, ponytail holders, Centrum women's vitamins, and foam rollers (large). The list of female products that must be made available for purchase by Battista does not include a bra. The purchase of a bra and for the implementation of hair removal are matters which should be addressed as part of the therapy and specific recommendations as to these two matters must be made by Dr. Khowais, Dr. Zakai and Dr. Levine in connection with the supervision reports to be submitted to the Court, consistent with the obligation that "[d]uring therapy, an ongoing assessment and evaluation will be done to determine appropriateness of further feminization." The DOC shall ensure that Battista is provided with sufficient blank order forms for purchase of the approved clothing and canteen items identified above, as well as postings of new items, deleted items, and price changes.

10. Battista shall also be made part of any appropriate group therapy if such therapy becomes available.
11. Should any of the MHM clinicians recommend initiation of hormone therapy, an endocrine consult shall promptly be undertaken to ascertain safety and the best approach in consideration of Battista's Adrenal Hyperplasia.
12. Should Dr. Khowais, Dr. Levine, or any MHM clinicians involved in the consultation, evaluation, and/or treatment of Battista recommend initiation of hormone therapy, and should such recommendation be adopted by Dr. Zakai as the authorized agent of MHM, the fact of the recommendation for hormone therapy shall be disclosed by Dr. Zakai to the DOC and to Battista's counsel in writing, and the DOC shall promptly undertake a good-faith, comprehensive security review to ascertain any safety and security risks associated with providing Battista with hormone therapy.
13. The DOC shall provide copies of this Preliminary Injunction Order and the contemporaneous Memorandum to Dr. Zakai, Dr. Khowais, Dr. Levine, and to legal counsel or other authorized representative for the contractual health care service providers.

SO ORDERED.

/s/ Douglas P. Woodlock
DOUGLAS P. WOODLOCK
UNITED STATES DISTRICT JUDGE