

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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| SANDY JO BATTISTA, |) | |
| Plaintiff, |) | |
| |) | CIVIL ACTION NO. |
| v. |) | 05-11456-DPW |
| |) | |
| LUIS S. SPENCER, COMMISSIONER |) | |
| OF THE MASSACHUSETTS |) | |
| DEPARTMENT OF CORRECTIONS, |) | |
| and MICHAEL CORSINI, |) | |
| SUPERINTENDENT OF THE |) | |
| MASSACHUSETTS TREATMENT |) | |
| CENTER in their official |) | |
| capacities, |) | |
| Defendants. |) | |

FINAL JUDGMENT AND ORDER
July 11, 2011

Following a non-jury trial concerning preliminary injunctive relief, the findings and conclusions regarding which were affirmed by the Court of Appeals, and upon the determination of the parties that the case was ripe for final judgment, after hearings and consideration of the parties' submissions, the court substantially adopts the parties' proposals for such a final judgment. Accordingly, it is hereby ORDERED that:

1. This Final Judgment and Order shall supercede the Preliminary Injunction Order dated December 9, 2008 (Docket No. 120), the Amended Preliminary Injunction Order dated February 10, 2009 (Docket No. 128), and the Modified Preliminary Injunction Order dated August 23, 2010 (Docket No. 223), which shall no longer be in effect.
2. This Final Judgment and Order shall apply to the currently named Defendants in their official capacities as Commissioner of the Massachusetts Department of Correction (the "DOC") and Superintendent of the Massachusetts Treatment Center (The "Treatment Center"), their successors, agents, servants, employees, and/or representatives (hereinafter collectively referred to as "the DOC").

3. The DOC, its agents, servants and/or employees, shall ensure that the treatment provisions set forth herein for Plaintiff Sandy Jo Battista (hereinafter "Battista") are implemented by the DOC's medical and mental health services providers.
4. In accordance with the electronic interim order of June 29, 2011, the DOC shall ensure that its current medical services provider begin and continue to provide female hormone therapy to Battista consistent with previous recommendations of the DOC's medical and mental health clinicians. The DOC shall ensure that continued hormone treatment is provided to Battista consistent with the recommendations of the DOC's medical and mental health clinicians, unless otherwise ordered by this Court.
5. Upon the initiation of treatment with female hormones, Battista will continue to be housed in a single cell in the general population at the Treatment Center. While housed in the Treatment Center's general population, Battista will have access to the same rights, privileges, treatments, programs, recreational activities, and common areas that are presently available to Battista and other residents housed in the Treatment Center's general population. Similarly, Battista shall have the same responsibilities and be subject to the same disciplinary actions as all other residents in the Treatment Center. DOC shall provide notification to Battista's counsel as soon as possible and in any event no later than two business days (defined as days when the Clerk's Office of this Court in Boston is regularly open) after any change in Battista's housing placement.
6. The DOC may implement additional security measures that the Treatment Center Superintendent deems necessary to provide for Battista's personal safety within the general population. Such additional security measures may include (i) the placement of Battista on a management plan, and/or (ii) increased staff supervision during Battista's movement outside her housing unit. If the Treatment Center Superintendent determines that these increased security measures are insufficient to protect Battista from a known risk of assault, Defendants may temporarily restrict Battista's access to certain areas of the Treatment Center. Nothing in this paragraph shall limit the discretion of DOC with regard to Battista's placement within the Treatment Center or prevent the DOC from implementing general

security measures concerning all residents of the Treatment Center. Such general security measures may include, but are not limited to, lockdowns and cell searches, consistent with the Superintendent's statutory responsibilities pursuant to Massachusetts General Laws chapter 127, § 33.

7. The DOC, its agents, servants and/or employees are prohibited from taking any actions, directly or indirectly in retaliation against Battista for bringing this litigation. Defendants shall not house Battista on the Minimum Privileges Unit ("MPU") except as pursuant to procedures set forth in 103 CMR 431.00, *et seq.*
8. If Defendants implement any additional security measures for Battista, Defendants shall, within five (5) business days of their implementation, notify Plaintiff's counsel, of (i) the nature of the additional security measures, (ii) the anticipated duration that the additional security measures will remain in effect, and (iii) the specific reasons why the additional security measures are deemed necessary.
9. Nothing in this Final Judgment and Order shall be interpreted to prohibit the DOC from enforcing any rules, regulations, policies and/or disciplining Battista for any violations of same, pursuant to 103 CMR 431.00 *et seq.*
10. Battista shall continue to receive psychotherapy sessions as treatment for GID at the Treatment Center for the duration of her commitment. The particular therapist and the frequency and duration of the psychotherapy sessions shall be determined by the DOC's mental health services provider. GID group therapy shall be made available to Battista if such group therapy becomes available at the Treatment Center and if deemed appropriate by the DOC's mental health services provider.
11. 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. Any behavior which any provider deems to be in violation of this Order

shall be documented in writing and reported to providers' counsel, Plaintiff's counsel and Defendants' counsel.

12. Defendants shall have access to Battista's medical and mental health information for purposes of communicating with Treatment Center mental health staff in regular team discussions and for use in developing preventative security measures for the protection of Battista and other Treatment Center residents.
13. Battista shall be allowed to purchase any and all items listed in Addendum E to the DOC's Policy for the Identification, Treatment and Correctional Management of Inmates Diagnosed with Gender Identity Disorder (GID), 103 DOC 652.00 *et seq.* (the "DOC's GID Policy"). Pursuant to the DOC's GID Policy, if Battista develops breasts, the DOC will provide Battista with access to bras. 103 DOC 652.03(D)(2)(b). In addition, the DOC shall ensure that Battista is provided with sufficient and up-to-date blank order forms for purchase of the approved clothing and canteen items identified above, upon request.
14. If the DOC's medical and/or mental health clinicians recommend further GID treatment for Battista, including, but not limited to, (i) hair removal treatment, (ii) canteen items not currently listed in Addendum E of the DOC's GID Policy, and (iii) sex reassignment surgery, the DOC shall immediately notify Plaintiff's counsel of those recommendations. Such notice shall include (i) the clinicians' specific recommendations, (ii) the DOC's plan (if any) for implementing those recommendations, and (iii) the basis for any objection to implementing the clinicians' recommendations.
15. The DOC shall provide copies of this Final Judgment and Order to the Psychiatric Medical Director and the GID Consultant of the DOC's mental health services provider, the Program Medical Director of the DOC's medical services provider, other legal counsel or other authorized representative for the health care service providers, and the DOC's Assistant Deputy Commissioner for Clinical Services.
16. This Court shall retain jurisdiction over this action for the purpose of enabling any party to apply to the Court for: (i) such further orders or directions as may be necessary or appropriate for the interpretation or implementation of this Final Judgment and Order; (ii) the

modification of the provisions of this Final Judgment and Order; (iii) for Plaintiff and/or Defendants to apply to the Court for the enforcement of this Final Judgment and Order, including contempt proceedings and sanctions; and (iv) such other relief as this Court deems appropriate.

17. Michael Corsini is substituted for Robert Murphy as the successor Defendant Superintendent of the Treatment Center.
18. Luis Spencer is substituted for Harold Clarke as the successor Defendant Commissioner of the DOC.
19. All original Defendants to this action are dismissed except Michael Corsini and Luis Spencer in their official capacities.
20. The following claims are DISMISSED:
 - (a) All of Plaintiff's claims against Defendants in their individual capacities;
 - (b) All of Plaintiff's claims for monetary damages against Defendants;
 - (c) All of Plaintiff's Equal Protection claims against Defendants; and
 - (d) All claims for equitable relief, except those based upon the Eighth and Fourteenth Amendments, pursuant to 42 U.S.C. § 1983.
21. Plaintiff's claims for equitable relief under the Eighth and Fourteenth Amendments are GRANTED, pursuant to 42 U.S.C. § 1983, as set forth in this Final Judgment and Order.
22. This Final Judgment and Order shall take effect immediately upon its entry.

SO ORDERED.

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