

Hill v. BOP, No. 13-cv-3404 (D. Colo)

Complaint: *Bivens* action filed on behalf of a trans woman seeking both damages and injunctive relief to remedy federal officials' failure to protect and to provide adequate medical and mental health care.

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

Civil Action No.

SCOTT HILL a/k/a SAMANTHA HILL

Plaintiff,

v.

UNITED STATES BUREAU OF PRISONS, a United States agency,
PAUL A. LAIRD, Regional Director, North Central Region, Bureau of Prisons, sued in his individual capacity,
CHARLES A. DANIELS, Warden of the United States Penitentiary – Florence, sued in his individual capacity,
DR. MARK CARTER, Staff Psychologist at the United States Penitentiary – Florence, sued in his individual capacity,
DR. DANIEL SEVERN, Staff Psychiatrist at the United States Penitentiary – Florence, sued in his individual capacity,
WILLIAM HUTCHINGS, captain at the United States Penitentiary – Florence, sued in his individual capacity,
FIRST NAME UNKNOWN ANTHONY, lieutenant at the United States Penitentiary – Florence, sued in his individual capacity,
DIANE BORGES, counselor at the United States Penitentiary – Florence, sued in her individual capacity,
RICHARD DERR, unit manager at the United States Penitentiary – Florence, sued in his individual capacity,
B. JANUSZ, case manager at the United States Penitentiary – Florence, sued in his/her individual capacity,
G. LYDE, unit manager at the United States Penitentiary – Florence, sued in his/her individual capacity,
T. JAVERNICK, CMC at the United States Penitentiary – Florence, sued in his/her individual capacity,
S. BROWN, special investigative agent at the United States Penitentiary – Florence, sued in his/her individual capacity,
K. JOHNSON, associate warden at the United States Penitentiary – Florence, sued in his/her individual capacity,

Defendants.

COMPLAINT AND JURY DEMAND

PLAINTIFF Scott Hill a/k/a Samantha Hill (“Ms. Hill”), by and through undersigned counsel, hereby submits this Complaint and Jury Demand alleging violations of her rights protected by the Eighth Amendment to the United States Constitution.

NATURE OF THE CASE

This is an action seeking nominal, compensatory, and punitive damages and an injunction requiring the Federal Bureau of Prisons (“BOP”) to provide Ms. Hill with consistent and permanent safe housing and adequate medical and mental healthcare. Ms. Hill’s claims asserted herein arise from Defendants’ egregious violations of Ms. Hill’s rights protected by the Eighth Amendment to the United States Constitution.

Ms. Hill is a prisoner in the custody of the Federal Bureau of Prisons (“BOP”). Ms. Hill is anatomically male, but identifies as female, and has done so since a very young age. She prefers to dress and groom as a female and requests that others treat her as a female. Because Ms. Hill is anatomically male, the BOP houses Ms. Hill in all-male prisons. In fact, Ms. Hill has been housed in some of the BOP’s most notoriously dangerous high-security institutions that are unsafe for a transgendered prisoner like Ms. Hill. Consequently, Ms. Hill is at a heightened risk of predation by other inmates, a fact of which Defendants are and were, at the time of the events giving rise to this action, well aware. Despite Defendants’ awareness of the heightened risk posed to Ms. Hill’s safety, they have failed to protect her from actual and ongoing substantial risks of, serious harm.

Ms. Hill seeks nominal, compensatory, and punitive damages from Defendants BOP Laird, Daniels, Carter, Severn, Hutchings, Anthony, Borges, Derr, Janusz, Lyde, Javernick, Brown, and Johnson (the “Individual Capacity Defendants”) for their roles in failing to protect Ms. Hill from a violent sexual assault perpetrated against her at the United States Penitentiary in

Florence, Colorado (“USP-Florence”) on December 17, 2011. Ms. Hill seeks injunctive and prospective relief from Defendant BOP for its continued failure to provide Ms. Hill with consistent and permanent safe housing and for its failure to properly diagnose and treat Ms. Hill’s Gender Dysphoria.

USP-Florence is one of the BOP’s most violent and dangerous high-security institutions. Ms. Hill was transferred there by Defendants Laird, and Daniels, in December 2010. Defendants Laird, and Daniels made the decision to transfer Ms. Hill to USP-Florence knowing it was unsafe for her—these Defendants were aware that Ms. Hill had been sexually assaulted at least eight times prior at similarly violent and dangerous institutions. Upon arrival to USP-Florence, Defendants Daniels, Carter, Severn, Hutchings, Anthony, Borges, and Derr (the “USP-Florence Defendants”) willfully, wantonly, callously, and recklessly forced Ms. Hill to live with violent and dangerous cellmates who posed a substantial risk of serious harm to Ms. Hill. Ignoring Ms. Hill’s repeated pleas for a safe housing assignment, the USP-Florence Defendants willfully disregarded, and in some cases actively threatened, Ms. Hill’s safety, which misconduct resulted in Ms. Hill being violently sexually assaulted by her cellmate on December 17, 2011. As a consequence of the sexual assault, Ms. Hill suffered physical injuries and severe emotional distress. Leading up to and following the December 17 rape, Defendants Carter and Severn, staff psychologists at USP-Florence, failed to adequately respond to Ms. Hill’s pleas for mental health treatment related to her diagnoses of Post-Traumatic Stress Disorder (“PTSD”) and Rape Trauma Syndrome (“RTS”).

As a result of the trauma and emotional distress Ms. Hill has suffered because of the December 17 rape and prior rapes she has endured in BOP custody, Ms. Hill continues to have serious mental health needs. Despite Ms. Hill’s repeated pleas for adequate and appropriate

treatment for her trauma-related symptoms, BOP professionals have failed to provide treatment as mandated by the Prison Rape Elimination Act and relevant community standards of care.

In addition to trauma-related treatment, Ms. Hill has repeatedly requested that the BOP provide medical and mental health treatment for her Gender Dysphoria. As of yet, the BOP has failed to evaluate or treat Ms. Hill, in violation of its own policy, Prison Rape Elimination Act standards, and the community standard of care. Consequently, Ms. Hill continues to suffer physically and emotionally.

Defendants' acts and omission described herein constitute gross violations of Ms. Hill's rights protected by the Eighth Amendment to the United States Constitution and have caused and continue to cause Ms. Hill severe physical and emotional suffering. Accordingly, Ms. Hill respectfully requests that the Court grant her the relief requested herein and such other relief as the Court may deem just and proper.

JURISDICTION AND VENUE

1. This Court possesses subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343(a)(4), 1346, 2201, and 2202, and *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

2. This Court possesses personal jurisdiction over each of the Defendants, as set forth in this Complaint.

3. Venue is proper within this district pursuant to 28 U.S.C. § 1391, as all Defendants reside here and a substantial part of the events or omissions giving rise to this action occurred here.

PARTIES

4. Plaintiff Samantha Hill is a federal prisoner in the custody of the BOP. Ms. Hill is transgender; she is anatomically male, but identifies as female. Ms. Hill is of Native American descent, and in that tradition identifies as a “Two Spirit.” The BOP identifies Ms. Hill as Scott Hill, Inmate Register Number 22297-038. Ms. Hill is presently housed at the USP in Terre Haute, Indiana (“USP-Terre Haute”).

5. Defendant Federal Bureau of Prisons is a federal agency charged with holding in its custody persons who have been convicted of violating the laws of the United States and sentenced to a period of incarceration. The BOP is also charged with establishing policies and regulations of the federal prison system and ensuring the safety of prisoners in its custody. The BOP has continuously failed to protect Ms. Hill from a substantial risk of serious harm and to provide Ms. Hill with adequate medical and mental healthcare. The BOP is sued in its official capacity.

6. Defendant Paul M. Laird (“Defendant Laird”) is the Regional Director of the North Central Region of the BOP. In that capacity, Defendant Laird is responsible for overseeing operations of all BOP facilities within the North Central Region, including all facilities in the Florence, Colorado complex. Defendant Laird placed Ms. Hill at a substantial risk of serious harm by transferring her to USP-Florence and failed to respond to Ms. Hill’s pleas for a safe housing assignment while she was housed at USP-Florence. Defendant Laird is sued in his individual capacity.

7. Defendant Charles E. Daniels was the warden of USP-Florence at all times relevant to this action. In that capacity, Defendant Daniels was charged with, among other things, ensuring the safety and adequate mental health treatment of USP-Florence prisoners. Defendant

Daniels disregarded a substantial risk of serious harm to Ms. Hill and Ms. Hill's serious mental health needs while Ms. Hill was housed at USP-Florence. Defendant Daniels is sued in his individual capacity.

8. Defendant Dr. Mark Carter, Psy.D. is a staff psychologist at USP-Florence. In that capacity, Defendant Carter is responsible for providing mental health treatment to USP-Florence inmates. Defendant Carter disregarded Ms. Hill's serious mental health needs during the entirety of her incarceration at USP-Florence. Defendant Carter is sued in his individual capacity.

9. Defendant Dr. Daniel Severn ("Defendant Severn") is a staff psychiatrist at USP-Florence. In that capacity, Defendant Severn is responsible for providing mental health care to inmates housed at USP-Florence. Defendant Severn disregarded Ms. Hill's serious mental health needs during the entirety of her incarceration at USP-Florence. Defendant Severn is sued in his individual capacity.

10. Defendant William Hutchings ("Defendant Hutchings") was Deputy Captain at the Florence, Colorado complex during the time period relevant to this action. Defendant Hutchings actively created a substantial risk of serious harm to Ms. Hill by forcing her to recount the details of brutal rapes that she suffered at the United States Penitentiary in Victorville, California ("USP-Victorville") in the presence of another inmate at USP-Florence. Defendant Hutchings is sued in his individual capacity.

11. Defendant Lieutenant Anthony (first name unknown) is a correctional officer lieutenant in the USP-Florence SHU. In that capacity, Defendant Anthony's responsibilities include, but are not limited to, SHU cell assignment decisions, monitoring inmate custody issues, and ensuring the safety and well-being of inmates housed in the SHU. Defendant Anthony

created and disregarded a substantial risk of serious harm to Ms. Hill while she was housed in the USP-Florence SHU. Defendant Anthony is sued in his individual capacity.

12. Defendant Diane Borges is a correctional counselor at USP-Florence. In that capacity, Defendant Borges is responsible for maintaining regular contact with inmates on her caseload and assisting them in various aspects of their daily lives. Defendant Borges was responsible for ensuring Ms. Hill's safety while she was housed at USP-Florence. Defendant Borges was aware of and disregarded a substantial risk of serious harm to Ms. Hill. Defendant Borges is sued in her individual capacity.

13. Defendant Richard Derr is the Unit Manager of the USP-Florence Special Housing Unit ("SHU"), where Ms. Hill was housed during the entirety of her incarceration at USP-Florence. In that capacity, Defendant Derr is responsible for ensuring the safety and well-being of prisoners housed in the USP-Florence SHU and for making custody decisions, including cell assignments and transfer decisions, pertaining to USP-Florence SHU inmates. Defendant Derr created and disregarded a substantial risk of serious harm to Ms. Hill while she was housed in the USP-Florence SHU. Defendant Derr is sued in his individual capacity.

14. Defendant B. Janusz is a case manager at USP-Florence. Defendant Janusz participated in the decision to remove Ms. Hill's protective custody status at USP-Florence, thereby creating and exacerbating the risk to her safety while she was housed there. Defendant Janusz is sued in his or her individual capacity.

15. Defendant G. Lyde was the Unit Manager of the USP-Florence SHU on January 25, 2011, when he or she participated in the decision to remove Ms. Hill's protective custody status, thereby creating and exacerbating the risk to her safety while she was housed in the USP-Florence SHU. Defendant Lyde is sued in his or her individual capacity.

16. Defendant T. Javernick is a staff member at USP-Florence. Defendant Javernick participated in the decision to remove Ms. Hill's protective custody status at USP-Florence, thereby creating and exacerbating the risk to her safety while she was housed there. Defendant Javernick is sued in his or her individual capacity.

17. Defendant K. Johnson is the Associate Warden at USP-Florence. Defendant Johnson participated in the decision to remove Ms. Hill's protective custody status, thereby creating and exacerbating the risk to Ms. Hill's safety while she was housed there. Defendant Johnson is sued in his or her individual capacity.

TIMELINE OF TRAUMATIC EVENTS

DATE	LOCATION	NATURE OF INCIDENT
March 13-18, 2001	United States Penitentiary, Lewisberg	<ul style="list-style-type: none"> • Ms. Hill is raped while in protective custody by her cellmate • Ms. Hill is diagnosed with Post-Traumatic Stress Disorder following the incident
2002	United States Penitentiary, Allenwood	<ul style="list-style-type: none"> • Ms. Hill is physically assaulted by another inmate while in protective custody
March 26, 2003	United States Penitentiary, Allenwood	<ul style="list-style-type: none"> • Ms. Hill is sexually assaulted by her cellmate
2009	United States Penitentiary, Terre Haute	<ul style="list-style-type: none"> • Ms. Hill is physically assaulted by two gang members • As a result of the assault, Ms. Hill receives 17 staples to her head and two stitches to her face
April 4, 2009	United States Penitentiary, Terre Haute	<ul style="list-style-type: none"> • Ms. Hill is assaulted by two other inmates with a five pound rock and a knife • As a result of the assault, Ms. Hill receives 15 staples • Ms. Hill is again diagnosed with Post-Traumatic Stress Disorder

2010	United States Penitentiary, Coleman II	<ul style="list-style-type: none"> • Ms. Hill is sexually assaulted by her cellmate
June 10, 2010	United States Penitentiary, Coleman II	<ul style="list-style-type: none"> • Ms. Hill is sexually assaulted by her cellmate
October 18, 2010 to October 28, 2010	United States Penitentiary, Victorville	<ul style="list-style-type: none"> • Ms. Hill is repeatedly and violently sexually assaulted over the course of a ten-day period by her cellmate, a Latin Kings gang member • Ms. Hill is again diagnosed with Post-Traumatic Stress Disorder, Chronic without Delayed Onset
December 17, 2011	United States Penitentiary, Florence	<ul style="list-style-type: none"> • Ms. Hill is sexually assaulted by her cellmate
May 21, 2012	United States Penitentiary, Tucson	<ul style="list-style-type: none"> • Ms. Hill is physically assaulted by her cellmate

GENERAL ALLEGATIONS

A. Ms. Hill's high risk for predation from other inmates

18. Because of her physical appearance, sexual orientation, history of sexual assault, and cooperation with law enforcement in reporting her history of sexual assault, Ms. Hill is at a very high risk of attack by other prisoners within the BOP.

19. Prisons, including the BOP prisons where Ms. Hill has been housed, are highly predatory environments. There is a strict hierarchy within any prison system, and prisoners at the bottom of the hierarchy are perceived as weak and vulnerable, and as a result are relentlessly preyed upon by others.

20. Prisoners who appear feminine or physically weak, who identify as lesbian, gay, bisexual, or transgender (“LGBT”), who have a known history of being preyed upon, and who have cooperated with law enforcement or “snitched” are considered to be at the bottom of the hierarchy and are therefore at a heightened risk of attack by other prisoners.

21. Ms. Hill is transgender,¹ or a Two Spirit in the Native American tradition. Although Ms. Hill is physically a male, she identifies as a female. She strives to achieve a feminine appearance and to be recognized as a female by others. She is also has a naturally slight build, standing approximately five feet, five inches tall. She wears her hair long, wears make-up, and dresses as a female whenever possible. She requests that others refer to her using feminine pronouns. Ms. Hill has identified as female practically her entire life.

22. Ms. Hill has a long history of being sexually assaulted in the prison system. At a minimum, she was sexually assaulted at least eight times at five different United States Penitentiaries (“USP”). She has endured additional physical assaults at many of the facilities where she has been housed, and whenever she is housed at a USP she receives frequent threats of sexual and physical assault.

23. Because Ms. Hill routinely reports these physical and sexual assaults to BOP officials, she has been identified by other prisoners as a snitch—someone who tells on other prisoners.

24. Even though Ms. Hill identifies and presents as female, she has always been housed in all-male prisons by the BOP because of her anatomy. The BOP has classified Ms. Hill to its highest custody level and routinely houses her in its highest security facilities, USPs. In fact, Ms. Hill has spent the vast majority of her incarceration in some of the BOP’s most violent USPs, including USP-Florence.

25. Because USPs are the most violent and dangerous of all federal prisons, the risk to a prisoner like Ms. Hill is significantly heightened when housed in a USP as opposed to a

¹ According to the Gay and Lesbian Alliance Against Defamation (“GLAAD”), “‘transgender’ is an umbrella term often used to refer to people whose gender identify differs from their assigned sex at birth.”

lower security prison, such as a Federal Correctional Institution “FCI,” a medium security BOP facility.

26. Ms. Hill has, on occasion, been housed in FCIs. She has never been assaulted at an FCI.

27. The USPs at which Ms. Hill has been physically or sexually assaulted are some of the BOPs most notoriously dangerous institutions.

28. In the past, the BOP’s staff have acknowledged that Ms. Hill’s placement at the USP security level increases the risk of attack by other inmates posed to her safety. For example, on July 18, 2002, USP-Allenwood Chief Psychologist John R. Mitchell, Psy.D. (“Dr. Mitchell”) advised other BOP officials that “[i]t must be emphasized how **inappropriate inmate Hill is to remain at a penitentiary environment. [She] was unable to make it here for even three days without encountering pressure for sex from predatory inmates and requiring protective custody.**” Protective Custody Evaluation/Suicide Assessment dated July 18, 2002, attached hereto as **Exhibit 1** (emphasis added).

29. In 2003, Dr. Mitchell also recognized the safety risk to Ms. Hill, noting that “[Ms. Hill] has evidenced poor adjustment to BOP facilities throughout [her] incarceration, primarily due to [her] small physical stature, effeminate appearance, and homosexual background.” Transfer Recommendation dated July 7, 2003, attached hereto as **Exhibit 2**.

30. When treating Ms. Hill, Dr. Mitchell repeatedly alerted other BOP staff to Ms. Hill’s high risk for predation from other inmates through direct communications and notes in Ms. Hill’s psychology records.

31. As recently as June 2013, a BOP staff person acknowledged the causal relationship between Ms. Hill’s characteristics, identity, and history of assault to her repeated

experience of sexual assault in the BOP. In responding to a Freedom of Information Act (“FOIA”) request for Ms. Hill’s complete central, medical, and mental health files made by the Colorado Prison Law Project (“CPLP”) to the BOP, a BOP employee stated, “I wanted to give you a head’s up that there is a lot information in those documents regarding h[er] sexual preference... definitely this file’s very sensitive, there’s a lot of sensitive issues, so not sure if these paperworks are getting back to [her] or not, but...if so please use caution because [s]he, you know, [s]he’s had...several cases of being assaulted...in prison due to things like that.”

32. The BOP also has, in the past, repeatedly acknowledged the risk posed to Ms. Hill’s safety by placing her on protective custody (“PC”) status.

33. PC is a classification status intended to provide additional protection to prisoners who are at a heightened risk of assault at the hands of other prisoners. While the protections afforded by PC status may vary, they can include assignment to a single cell (without a cellmate), directives to keep certain prisoners away from the prisoner on PC status, and directives that the prisoner be allowed to recreate, shower, and conduct other activities of daily life alone.

34. Even when on PC status, prisoners are not necessarily physically separated from prisoners who are not on PC status. On information and belief, there is no BOP facility that houses only prisoners on PC status.

35. In Ms. Hill’s case, placement on PC status has never afforded adequate protections from assault by other prisoners.

B. The Risk to Ms. Hill’s Safety While Housed at USP-Florence and Defendants’ Deliberate Indifference to This Risk

36. From approximately December 2010 to January 2012, Ms. Hill was housed at USP-Florence.

37. The risk of predation by other inmates posed to Ms. Hill at USP-Florence was extraordinary and obvious. The Individual Capacity Defendants were aware that Ms. Hill was at a high risk of physical and/or sexual assault from other inmates in the USP-Florence SHU but failed to respond reasonably, which ultimately led to her rape on December 17, 2011. The USP-Florence Defendants' knowledge of and failure to respond reasonably to the risk posed to Ms. Hill's safety was willful, wanton, callous, and reckless.

38. The Individual Capacity Defendants had ample knowledge of Ms. Hill's high risk of predation by other inmates and of specific threats to Ms. Hill's safety at USP-Florence.

39. To begin with, the Individual Capacity Defendants knew that immediately prior to her transfer to USP-Florence, Ms. Hill endured approximately ten days of sexual assault at the hands of her cellmate, a Latin Kings gang member, at the USP in Victorville, California ("USP-Victorville") and that Ms. Hill was at a heightened risk for future sexual assaults as a result.

40. Ms. Hill reported the multiple rapes she had suffered to BOP officials and a Federal Bureau of Investigation ("FBI") investigation was initiated. Ms. Hill was also placed on PC status as a result of the rapes.

41. After the rapes, Ms. Hill and her USP-Victorville assailant, Kenneth Lucez, were both transferred from the Victorville Correctional Complex ("VCC") to other BOP facilities.

42. When BOP prisoners are transferred, they fly from their originating facility to the federal transfer center in Oklahoma City, Oklahoma ("FTC-Oklahoma"), and from FTC-Oklahoma on to their destination facility.

43. Ms. Hill and her USP-Victorville assailant were destined for different facilities after they left VCC, but were transferred from the VCC to FTC-Oklahoma on the same plane.

44. Also on the plane from VCC to FTC-Oklahoma were other Latin Kings gang members who were associated with the USP-Victorville assailant. Some of these gang members were ultimately transferred to USP-Florence with Ms. Hill.

45. During the transfer process, the USP-Victorville assailant identified Ms. Hill as a snitch to his associates because Ms. Hill had reported to BOP officials that he had raped her.

46. The Individual Capacity Defendants knew that Ms. Hill had been identified as a snitch.

47. Upon arrival at USP-Florence, Ms. Hill, still on PC status, was placed in the Special Housing Unit (“SHU”), which is a unit that houses prisoners two to a cell that is locked down approximately 23 hours per day. The SHU houses prisoners serving disciplinary sanctions, prisoners who are in need of protection, and others who the BOP has designated to be removed from general population.

48. On information and belief, at the time that Ms. Hill was housed there, the USP-Florence SHU was overcrowded, meaning that it housed more prisoners than it was designed to house.

49. Some of the USP-Victorville assailant’s associates who had learned of Ms. Hill’s snitch status during the transfer process were also housed in the SHU.

50. Initially upon her arrival to USP-Florence, Ms. Hill was placed in a single cell (without a cellmate) and afforded other protections that prevented her from being assaulted by other prisoners.

51. The Individual Capacity Defendants knew that Ms. Hill was designated for single-cell housing because of the high risk of predation by other inmates posed to her.

52. Nonetheless, on January 25, 2011, Defendants Janusz, Lyde, Javernick, Brown, Hutchings, and Johnson stripped Ms. Hill of her PC status, finding that there was no verifiable risk to Ms. Hill's safety existent at USP-Florence. The finding that Ms. Hill's safety was not at risk at USP-Florence was contrary to all available evidence.

53. Subsequently, at some point in early 2011, Defendants Borges, Anthony, Derr, and an unknown lieutenant forced Ms. Hill to move in with a cellmate. Around the same time, Defendants Derr and Borges removed her PC status, finding that there existed no "verifiable" risk to her safety at USP-Florence.

54. Without the minimal protections afforded to her by PC status and as a direct result of Defendants Borges, Derr, and Anthony's conduct, the risk to Ms. Hill's safety increased substantially.

55. After being forced to take a cellmate, Defendant Hutchings removed Ms. Hill and her cellmate at the time from the SHU and took them to a picnic table in the yard at USP-Florence. There, Defendant Hutchings forced Ms. Hill to recount the details of the USP-Victorville rapes while handcuffed to her cellmate.

56. Thereafter, and as a direct consequence of Defendant Hutching's conduct, USP-Florence SHU prisoners (in addition to Kenneth Lucez's associates) learned of Ms. Hill's history of sexual assault. Some prisoners began soliciting Ms. Hill for sex through "kites," which are written notes prisoners pass to each other. Some of these kites were sexually threatening. *See, e.g.,* Kite, attached hereto as **Exhibit 3**.

57. Knowing that the risk to her safety was increased by other prisoners' knowledge that she had previously been sexually assaulted, Ms. Hill requested of the USP-Florence

Defendants that she be placed back on PC status, afforded a single cell, and separated from prisoners who posed a risk to her safety.

58. Ms. Hill's repeated requests for a safe housing assignment were denied and/or ignored by the USP-Florence Defendants.

59. Ms. Hill's repeated requests for a safe housing assignment further bolstered her reputation as a snitch amongst the USP-Florence SHU prisoners.

60. At one point, Defendant Anthony called Ms. Hill a "little bitch" at a volume audible to other prisoners and disclosed that she had cried in his office on the SHU tier, causing her to appear weak to other SHU prisoners, and thereby exacerbating the risk posed to Ms. Hill's safety.

61. Throughout the course of her time at USP-Florence, Ms. Hill repeatedly requested mental health treatment for trauma symptoms related to the USP-Victorville rapes and other rapes she had endured in BOP custody. In the course of those requests, Ms. Hill reported to Drs. Carter and Severn that there were existing threats to her safety at USP-Florence.

62. In response to Ms. Hill's pleas for help, Defendants Carter and Severn did not provide mental health treatment, but instead repeatedly attempted to force Ms. Hill to leave the SHU for general population by refusing to provide psychological treatment for Ms. Hill's PTSD and RTS so long as Ms. Hill insisted on living in the SHU for her own safety.

63. Defendants Carter and Severn knew that Ms. Hill was a person in need of adequate protection due to her effeminate appearance, history of sexual assaults, LGBT identity, and reputation as a snitch.

64. Additionally, all of the Individual Capacity Defendants knew that Ms. Hill was designated as a Central Inmate Monitoring ("CIM") case, meaning that special procedures were

to be followed before she could be housed with another prisoner or transferred to a new facility. Ms. Hill's central file contains a large-print single-page document that reads: "NOT TO BE TRANSFERRED OR PARTICIPATE IN COMMUNITY ACTIVITIES WITHOUT CMC CLEARANCE. SEE PROGRAM STATEMENT TITLED 'CENTRAL INMATE MONITORING SYSTEM'." On information and belief, this document is one of the first pages of Ms. Hill's central file. Notice, attached hereto as **Exhibit 4**.

65. Finally, Ms. Hill herself alerted each of the Individual Capacity Defendants to the risk to her safety by filing requests for administrative remedies and sending letters identifying the risk to her safety.

66. At one point, the USP-Florence Defendants temporarily transferred Ms. Hill to FCI-Florence, a lower security prison. On information and belief, this transfer was effectuated because the USP-Florence Defendants were aware of the high risk of assault Ms. Hill faced while housed in the USP-Florence SHU. Nonetheless, in fall 2011, the USP-Florence Defendants transferred Ms. Hill back to the USP-Florence SHU, knowing of the substantial risk of serious harm posed to her by that placement.

67. Even while knowing of Ms. Hill's vulnerability to sexual and physical assault, the USP-Florence Defendants failed to respond reasonably to this risk to when, among other things:

- a. They removed her PC status upon arrival to USP-Florence;
- b. They forced her, on multiple occasions, to live with a cellmate;
- c. They failed to choose a suitable, non-predatory cellmate for her;
- d. They failed to respond to Ms. Hill's requests for a safe housing assignment;
- e. They failed to timely transfer Ms. Hill to an FCI;

- f. After they did transfer Ms. Hill to FCI-Florence, they moved her back to the USP-Florence SHU and forced her to accept a cellmate;
- g. They disciplined Ms. Hill for refusing a threatening and predatory cellmate;
- h. They physically assaulted Ms. Hill for refusing a threatening and predatory cellmate;
- i. They disregarded and failed to take action after learning that numerous USP-Florence SHU inmates had sent sexually threatening kites to Ms. Hill;
- j. They failed to reasonably respond to Ms. Hill's numerous requests for administrative remedies asking for a safe housing assignment;
- k. They created a hostile and unsafe environment for Ms. Hill in the USP-Florence SHU; and
- l. They attempted to force Ms. Hill to enter the general population at USP-Florence.

68. The consequences of the USP-Florence Defendants' failure to respond reasonably to the risk posed to Ms. Hill's safety during the period in which she was housed in the USP-Florence SHU were grave.

69. On December 17, 2011, Ms. Hill was violently raped by her cellmate.

70. The night of December 16, 2011, Ms. Hill's cellmate began stuffing rosary beads into the tip of his penis and commented to Ms. Hill to the effect of, "You're gonna wake it up. And if you wake it up, you'll be coughing semen in the morning."

71. Ms. Hill immediately notified a BOP staff member, whose name is unknown, that she was at imminent risk of harm and that she needed to be removed from her cell.

72. A USP-Florence investigative staff member, whose name is unknown, came to Ms. Hill's cell and told her there was no space to move her to a different cell.

73. Hours later, shortly after midnight December 17, 2011, Ms. Hill's cellmate raped her.

74. With the rosary beads still in his penis, the assailant caused significant tearing to Ms. Hill's anus. *See* Medical Records from St. Thomas More Hospital, attached hereto as **Exhibit 5**.

75. Because Ms. Hill feared further attack if she attempted to alert USP-Florence staff that she had been raped, Ms. Hill remained silent for the rest of the night. Until the morning, Ms. Hill was forced to sit in underwear wet with her assailant's semen and hold back tears and screams. For hours, Ms. Hill sat with her violent, predatory attacker only feet from her while having to relive the assault over and over again in her mind.

76. The first person to come by Ms. Hill's cell in the morning was a nurse, who came to deliver Ms. Hill's medications at approximately nine o'clock a.m.

77. Ms. Hill passed the nurse a note saying that she'd been raped and needed to be taken out of the cell immediately. In the note, Ms. Hill instructed the nurse to say Ms. Hill needed to be removed for bloodwork so as not to alert Ms. Hill's cellmate that Ms. Hill had told staff he had raped her. In response to the note, the nurse loudly said, "Is this real? Are you for real? This better be real."

78. The nurse finally notified guards, who came to remove Ms. Hill from the cell.

79. The guards took Ms. Hill to be interviewed by Defendant Anthony and others. For the approximate hour she was being interviewed, Ms. Hill was forced to sit in the clothes still soaked with her rapist's semen.

80. Because she was suffering extreme trauma, Ms. Hill's teeth were chattering during the interview. Defendant Anthony asked, "What, are you cold?" Ms. Hill responded, "No, don't you understand how I feel right now?" Defendant Anthony responded, "No, I've never had a dick in my ass."

81. Throughout the course of the interview, Defendant Anthony repeatedly expressed the opinion that men who identify as gay or transgendered cannot be raped because, under certain circumstances, they have consented to sex with someone of the same sex.

82. Following the interview, Ms. Hill was placed in the SHU "shock cell," a small, glass encased observation cell. While she was in the shock cell, multiple guards passed by and snickered and laughed at Ms. Hill, who was crying and visibly upset.

83. Ms. Hill was forced to continue to sit in clothes soaked in her rapist's semen while she was in the shock cell.

84. After spending approximately one hour in the shock cell, guards took Ms. Hill to the intake area of the prison and removed her clothing and put it in a paper bag. They provided Ms. Hill with fresh clothing in preparation for transportation to the hospital.

85. Before leading Ms. Hill to the transport van, guards placed a blindfold over Ms. Hill's eyes. Ms. Hill has never been blindfolded during transport before, including during her transport to USP-Florence.

86. Ms. Hill was transported to and received medical treatment at St. Thomas More Hospital in Cañon City, Colorado. *See* Exh. 6.

87. Ms. Hill was taken back to the USP-Florence SHU and remained there for approximately two weeks, although she was then single-celled and kept away from all other inmates.

88. On December 30, 2011, Ms. Hill was transferred to FCI-Florence.

89. The Individual Capacity Defendants' knowledge of and failure to respond reasonably to the risk posed to Ms. Hill's safety were the direct cause of injuries Ms. Hill received as a result of the December 17, 2011 rape.

90. The Individual Capacity Defendants' knowledge of and failure to respond reasonably to the risk posed to Ms. Hill's safety was willful, wanton, callous, and reckless.

91. As a consequence of the December 17, 2011 rape, Ms. Hill suffered physical injuries and severe emotional distress and pain and suffering.

C. The BOP's Ongoing Failure to Respond Reasonably to the Risk Posed to Ms. Hill and the Resultant Harm Suffered

92. Since the December 17, 2011 rape, the BOP has continued to fail to safely house Ms. Hill. After USP-Florence, Ms. Hill was transferred to the USP in Tucson, Arizona ("USP-Tucson"), where the PC designation she received after the USP-Florence rape was removed. Consequently, USP-Tucson staff attempted to force Ms. Hill into general population, but Ms. Hill refused such an assignment out of fear for her safety as she continued to face multiple threats of sexual and physical assault, which prison officials were aware of.

93. In or around May of 2012, Ms. Hill was physically assaulted by her cellmate in the USP-Tucson SHU. She was subsequently given PC status and transferred to a USP in Coleman, Florida ("USP-Coleman II").

94. Ms. Hill had been previously housed at USP Coleman II and had a documented history of being sexually assaulted there. Fearing for her safety at that facility, USP-Coleman II staff would not allow Ms. Hill into the general population, and submitted a transfer request for her.

95. Ms. Hill was then transferred to USP-Allenwood, by way of the USP in Atlanta, Georgia (“USP-Atlanta”). Fortunately, Ms. Hill’s transfer to USP-Allenwood allowed her to be reunited with Dr. Mitchell, who had historically, and during Ms. Hill’s most recent placement at USP-Allenwood, made attempts to ensure Ms. Hill’s safety in the BOP.

96. Dr. Mitchell’s efforts, unfortunately, were made in vain, and on or around July 19, 2013, Ms. Hill was transferred to the United States Penitentiary at Terre Haute (“USP-Terre Haute”). Ms. Hill had previously been raped at USP-Terre Haute and experienced significant anxiety and emotional distress when she was returned to that facility.

97. Given her history of sexual assault at USP-Terre Haute and the inherent risk posed to her safety by being housed at the USP custody level, her safety remained at constant risk so long as she was housed there.

98. Today, Ms. Hill is housed at the Federal Correctional Institution II in Butner, North Carolina (“FCI-Butner II”).

99. Despite the ongoing risk posed to Ms. Hill’s safety, the BOP has completely failed to take any reasonable measures to abate the risk. For example, the BOP has failed to mandate that Ms. Hill be housed at no higher than the FCI custody level to preclude her placement in USPs, which are notoriously violent. The BOP has also failed to afford Ms. Hill a centralized PC designation that would require that she receive protection wherever she is housed within the agency. Instead, The BOP has left individual facilities to create their own PC policies, which has resulted in inconsistent application of protective measures to Ms. Hill.

100. Moreover, the BOP has failed to house Ms. Hill in a facility commensurate with her needs as a transgender prisoner. Instead, the BOP has continued to house Ms. Hill in male institutions.

101. Ms. Hill's continuous transfers between dangerous BOP facilities, and the BOP's failure to provide a safe environment for her demonstrates the agency's ongoing deliberate indifference to the substantial risk of harm posed to Ms. Hill.

D. Ms. Hill's serious medical and mental health needs arising from repeated rapes she has endured while in BOP custody

102. As a result of the USP-Victorville rapes and other rapes she has endured while in BOP custody, Ms. Hill has been diagnosed with Post Traumatic Stress Disorder ("PTSD") and Rape Trauma Syndrome ("RTS").

103. PTSD is a psychological condition commonly experienced by rape survivors. The condition causes persons who have suffered trauma to experience trauma symptoms even when not directly experiencing a trauma. PTSD is a condition that can last indefinitely.

104. Like PTSD, RTS is a psychological condition brought on by the traumatic experience of rape. RTS disrupts cognitive, emotional, physical, and interpersonal functioning. RTS is a condition that can last for years.

105. Symptoms Ms. Hill experiences that are associated with PTSD and RTS include, but are not limited to:

- a. Extreme anxiety and panic attacks;
- b. Fear and extreme nervousness;
- c. Overwhelming guilt and shame;
- d. Sleep deprivation;
- e. Hopelessness and helplessness;
- f. Difficulty maintaining close relationships;
- g. Flashbacks and reliving of past rapes and physical assaults;
- h. Upsetting dreams;

- i. Cognitive difficulties;
- j. Frequent crying;
- k. Mood swings;
- l. Dissociation;
- m. Fatigue; and
- n. Tension.

106. The most effective treatment for both PTSD and RTS is talk therapy or cognitive behavioral therapy. Other types of psychotherapy treatment may be appropriate.

107. PTSD and RTS constitute serious medical and mental health needs.

E. Defendants Carter and Severn's Failure to Provide Adequate Mental Health Treatment for Ms. Hill's Rape Trauma Syndrome and Post Traumatic Stress Disorder

108. To ease her mental suffering and symptoms associated with her PTSD and RTS, Ms. Hill repeatedly requested mental health treatment in the form of talk therapy and medication from while at USP-Florence.

109. Defendants Carter and Severn were assigned to treat Ms. Hill and therefore received these repeated requests for help. However, Defendant Carter repeatedly failed to reasonably respond to Ms. Hill's requests for mental health treatment.

110. Specifically, Defendants Carter and Severn's actions included, but were not limited to:

- a. Repeatedly denying Ms. Hill talk therapy on the grounds that she could only receive such treatment if she "agreed to come out to the compound," even though Ms. Hill's life would have been threatened by entering general population at USP-Florence; and

- b. Repeatedly creating signed written records indicating that Ms. Hill had not requested mental health treatment and was not experiencing any significant mental health symptoms that would require treatment greater than that she was being provided even though Ms. Hill had repeatedly indicated she was in need of mental health treatment and had repeatedly requested such treatment.

111. In addition, although Defendants Carter and Severn continued Ms. Hill's prescription for medication intended to aid in treating her PTSD and RTS symptoms, medication alone constituted grossly inadequate treatment.

112. Defendants Carter and Severn's conduct constituted deliberate indifference to Ms. Hill's serious medical and mental health needs.

113. Defendants Carter and Severn's failure to provide mental health treatment to Ms. Hill was willful, wanton, callous, and reckless.

F. The BOP's ongoing failure to treat Ms. Hill's Rape Trauma Syndrome and Post Traumatic Stress Disorder.

114. Since her transfer from USP-Florence, the BOP has continued to fail to adequately treat Ms. Hill's PTSD and RTS.

115. Ms. Hill continues to suffer severe symptoms of PTSD and RTS. Yet, the BOP has failed to afford Ms. Hill meaningful, consistent, and adequate medical and mental health treatment.

116. The Prison Rape Elimination Act ("PREA"), a federal statute intended to provide greater protection and improve rape trauma-related services available to survivors of prison rape, requires that prisons, including the BOP, provide timely and appropriate medical and mental health care after a prisoner has been raped. The PREA requirements, while not giving rise to a

cause of action on their own, provide guidance as to what constitutes adequate medical and mental health treatment after a prisoner has suffered a rape.

117. An express purpose of PREA is to bring the BOP into compliance with the Eighth Amendment.

118. Specifically, the Department of Justice regulations that implement PREA require, among other things, the BOP to provide timely and appropriate medical and mental health care to victims of sexual abuse, and provide the victim access to victim advocates from rape crisis centers for emotional support services relate to the sexual abuse. In addition, these regulations seek to restrict the use of SHU or solitary confinement as a means of protecting vulnerable inmates and require the BOP to create a safer environment through training and screening protocols, education of inmates and guards, development of protocols that encourage reporting of abuse, and requiring more prompt and thorough investigation of claims of rape.

119. The BOP has failed to comply with these regulations by not providing consistent, continuous, adequate, or appropriate mental health treatment to Ms. Hill, as well as by housing Ms. Hill in SHU as the only means of the protecting her from further assaults.

120. Although Ms. Hill has had some access to mental health care providers who have provided some talk therapy, that access has been minimal, sporadic at best, and insufficient to appropriately treat her PTSD and RTS. As of the date of this Complaint, Ms. Hill does not have access to any talk therapy or other adequate emotional support services.

121. In addition, Ms. Hill's long-term placement in the SHU, which she has been forced to endure because the BOP has failed to house her at adequately safe facilities, also has exacerbated the symptoms of her PTSD and RTS.

122. The BOP's failure to consistently and appropriately safely house Ms. Hill exacerbates the symptoms of her PTSD and RTS.

123. These failures constitute deliberate indifference to a serious medical and mental health need.

G. Ms. Hill's Serious Medical and Mental Health Needs Arising from Gender Dysphoria

124. Ms. Hill has gender dysphoria, as defined by the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition ("DSM-V"). Ms. Hill has no documented diagnosis of gender dysphoria as a result of the BOP's failure to provide an evaluation of Ms. Hill's condition.

125. The American Psychiatric Association, in the DSM-V, describes transgender persons as those who suffer from gender dysphoria. The diagnostic criteria for gender dysphoria include a long-standing and strong identification with another gender, long-standing disquiet about the sex assigned or a sense of incongruity in the gender-assigned role of that sex, no physical intersex characteristics, and significant distress or impairment in occupational functioning, social functioning, and other areas of life. According to the DSM-V, a transsexual is someone who desires to live and be accepted as a member of the opposite sex, usually accompanied by the wish to make his or her body as congruent as possible with the preferred sex through surgery and hormone treatment, the transsexual identity has been present for at least two years, and the disorder is not a symptom of another mental disorder or a chromosomal abnormality.

126. Symptoms of gender dysphoria can be extremely painful. They can include extreme emotional discomfort, a desire to hide or be rid of physical signs of the biological sex, and a strong dislike for and desire to change the genitalia of the biological sex.

127. Gender dysphoria constitutes a serious medical need.

128. Appropriate treatment for gender dysphoria includes, but is not limited to:

- a. Mental health support;
- b. Hormone treatment;
- c. Dress of preferred gender role;
- d. Grooming supplies of preferred gender role;
- e. Hygiene supplies of preferred gender role;
- f. Use of name and pronouns of preferred gender role;
- g. Opportunities to behave in preferred gender role;
- h. Language and speech therapy;
- i. Hair removal treatments or devices;
- j. Peer support groups; and
- k. Sex reassignment therapy or surgery.

129. Additionally, in the prison or jail context, treatment for gender dysphoria includes, but is not limited to:

- a. Freedom from retaliation and harassment by prison or jail staff and other inmates;
- b. Housing with other LGBT inmates, or inmates of the same preferred gender;
- c. Separate housing, or at a minimum separate bathroom and shower facilities, from other inmates, if the inmate is housed in a facility of those with the same biological sex;
- d. Pat and strip searches conducted by a staff member of the gender of the inmate's choice;

- e. Confidentiality of the inmate's sexual orientation;
- f. Availability of LGBT literature and resources;
- g. Staff training regarding transgender inmates; and
- h. Protective custody.

130. Gender dysphoria constitutes a serious medical and mental health need.

H. The BOP's failure to adequately treat Ms. Hill's Gender Dysphoria

131. Ms. Hill has repeatedly requested treatment for her gender dysphoria from the BOP.

132. Specifically, Ms. Hill has requested:

- a. To be free from retaliation and harassment by BOP staff and other inmates;
- b. To be referred to using her female name, Samantha, and feminine pronouns;
- c. To be provided female clothing, undergarments, hygiene and grooming products, and any cosmetic products as may be allowed for her custody level;
- d. Separate bathrooms and shower facilities where males are not present;
- e. Hormone therapy;
- f. Housing with females or other LGBT inmates;
- g. To be free from sexual and physical assault by other inmates;
- h. Pat and strip searches to be conducted by a staff member of the gender of Ms. Hill's choice;
- i. Confidentiality of Ms. Hill's sexual orientation;
- j. LGBT literature and resources;
- k. Medical and mental health care appropriate to Ms. Hill's sexual orientation and history of rape in custody;

- l. Staff training regarding transgender inmates;
- m. Evaluation and diagnosis of her gender identity disorder/GD; and
- n. Protective custody.

133. The BOP has failed to provide any treatment whatsoever for Ms. Hill's gender dysphoria.

134. BOP policy provides that inmates who have gender dysphoria will receive treatment, or will at least be evaluated to determine the appropriateness of treatment.

135. Specifically, BOP policy requires that:

[I]nmates who assert they have [gender dysphoria]² will receive thorough medical and mental health evaluations from medical professionals with basic competence in the assessment of the DSM [V] sexual disorders and who have participated in BOP's [gender dysphoria] training... The evaluation will include an assessment of the inmate's treatment and life experiences prior to incarceration (including hormone therapy, completed or in-process surgical interventions, real life experience consistent with the inmate's gender identity, private expressions that conform to the preferred gender, and counseling). If a diagnosis of [gender dysphoria] is reached, a proposed treatment plan will be developed which promotes the physical and mental stability of the patient. The development of the treatment plan is not solely dependent on services provided or the inmate's life experiences prior to incarceration. The treatment plan may include elements or services that were, or were not, provided prior to incarceration, including, but not limited to: those elements of the real life experience consistent with the prison environment, hormone therapy and counseling. Treatment plans will be reviewed regularly and updated as necessary.

Current, accepted standards of care will be used as a reference for developing the treatment plan. All appropriate treatment options prescribed for inmates with [gender dysphoria] in currently accepted standards of care will be taken into consideration during evaluation by the appropriate medical and mental health care staff. Each treatment plan or denial of treatment must be reviewed by the Medical Director or BOP Chief Psychiatrist. Hormone therapy must be requested through the non-formulary review process, and approved by the Medical Director and/or BOP Chief Psychiatrist.

² In 2013, the Diagnostic and Statistical Manual of Mental Disorders was updated from version IV to version V. A significant change in version V is the renaming of what was previously termed gender identity disorder to gender dysphoria. As the relevant BOP policy was written before this update, it refers to gender identity disorder.

In summary, inmates in the custody of the Bureau with a possible diagnosis of [gender dysphoria] will receive a current individualized assessment and evaluation. Treatment options will not be precluded solely due to level of services received, or lack of services, prior to incarceration.

Memorandum for Chief Executive Officers dated May 31, 2011, attached hereto as **Exhibit 6**.

136. The BOP has failed to provide an evaluation or treatment for Ms. Hill's gender dysphoria.

137. Additionally, PREA requires that the BOP, among other things:

- a. Develop and maintain a zero-tolerance policy regarding sexual abuse;
- b. Screen inmates for risk of being sexually abused or sexually abusive, and use screening information to inform housing, bed, work education, and program assignments;
- c. Educate and train employees on their responsibilities in preventing, recognizing and responding to sexual abuse;
- d. Ban cross-gender pat-down searches of female inmates in prisons and jails;
- e. Enable inmates to shower, perform bodily functions and changes clothing without improper viewing by staff of the opposite gender;
- f. Require adequate levels of staffing to protect vulnerable inmates.
- g. Provide adequate medical and mental health care.
- h. Adequately investigate all reports of sexual and physical abuse and sufficient and safe means for prisoners to report abuse.

138. The BOP has failed to comply with PREA requirements pertaining to gender dysphoria treatment.

139. The BOP's failure to treat Ms. Hill's gender dysphoria constitutes deliberate indifference to a serious medical and mental health need.

FIRST CAUSE OF ACTION
(Failure to Protect - All Defendants)

140. Plaintiff incorporates the preceding paragraphs of this Complaint as if fully set forth herein.

141. The Individual Capacity Defendants did not respond reasonably to a substantial risk of serious harm posed to Ms. Hill while she was housed at USP-Florence.

142. Defendants Anthony, Hutchings, Carter, Derr, and Borges exacerbated and aggravated the risk that Ms. Hill would be subjected to serious harm while she was housed at USP-Florence.

143. The Individual Capacity Defendants deliberately disregarded the substantial risk that Ms. Hill would be sexually assaulted while housed at USP-Florence.

144. The Individual Capacity Defendants willfully, wantonly, callously, and recklessly disregarded the substantial risk that Ms. Hill would be sexually assaulted while housed at USP-Florence.

145. This deliberate and reckless disregard resulted in Ms. Hill being violently raped while housed at USP-Florence.

146. Defendant BOP continues to deliberately disregard the substantial risk of serious harm posed to Ms. Hill's safety.

147. Defendants' failure to protect Ms. Hill from a substantial risk of serious harm constitutes a violation of her right against cruel and unusual punishment protected by the Eighth Amendment to the United States Constitution.

SECOND CAUSE OF ACTION

(Deliberate Indifference to Rape Trauma Syndrome and Post Traumatic Stress Disorder - Defendants Carter, Severn, and BOP)

148. Defendants Carter and Severn failed to provide Ms. Hill adequate mental health care pertaining to her RTS and PTSD while she was housed at USP-Florence.

149. Defendants Carter and Severn acted with deliberate indifference to Ms. Hill's serious medical and mental health needs while she was at USP-Florence.

150. Defendants Carter and Severn willfully, wantonly, callously, and recklessly disregarded Ms. Hill's serious medical and mental health needs while she was housed at USP-Florence.

151. Defendant BOP continues to deliberately disregard Ms. Hill's serious medical and mental health needs pertaining to her RTS and PTSD.

152. Defendants Carter, Severn, and BOP's failure to provide adequate medical and mental health treatment to Ms. Hill constitutes a violation of her right against cruel and unusual punishment protected by the Eighth Amendment to the United States Constitution.

THIRD CAUSE OF ACTION

(Deliberate Indifference to Gender Dysphoria - Defendant BOP)

153. Defendant BOP, on an ongoing basis, has failed to provide Ms. Hill adequate medical and mental health care pertaining to her gender dysphoria.

154. Defendant BOP, on an ongoing basis, has acted with deliberate indifference to Ms. Hill's serious medical and mental health needs.

155. Defendant BOP's failure to provide adequate medical and mental health treatment to Ms. Hill constitutes a violation of her right against cruel and unusual punishment protected by the Eighth Amendment to the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants for:

(a) Nominal and compensatory damages to compensate her for her physical injuries, pain, suffering, and emotional distress suffered as a result of the USP-Florence Defendants' failure to protect her and Defendants Carter and Severn's failure to provide adequate mental health treatment;

(b) Punitive damages in a sum as to deter the Individual Capacity Defendants of conduct of this nature in the future;

(c) An injunction directing that the BOP implement such measures as are necessary to ensure Ms. Hill is safely housed within the BOP. At a minimum, Ms. Hill shall be afforded:

- a. A centralized protective custody designation not subject to removal;
- b. Housing with other LGBT inmates and separation from male inmates;
- c. Removal from SHU and cessation of social isolation;
- d. Access to programming and rehabilitative services commensurate with the access afforded other inmates of Ms. Hill's custody level; and
- e. Housing in a facility where staff have been appropriately trained in custody matters pertaining to LGBT inmates.

(d) An injunction prohibiting the BOP from housing Ms. Hill at a male USP.

(e) An injunction directing that the BOP provide Ms. Hill with consistent, continuous, appropriate, and adequate medical and mental health treatment for her PTSD, RTS, and gender dysphoria. At a minimum, that treatment shall include:

- a. Freedom from retaliation and harassment by BOP staff and other inmates;
- b. Reference using her female name, Samantha, and feminine pronouns;

- c. Female clothing, undergarments, hygiene and grooming products, and any cosmetic products as may be allowed for her custody level;
- d. Separate bathrooms and shower facilities where males are not present;
- e. Hormone therapy;
- f. Housing with females or other LGBT inmates;
- g. Freedom from sexual and physical assault by other inmates;
- h. Pat and strip searches to be conducted by a staff member of the gender of Ms. Hill's choice;
- i. Confidentiality of Ms. Hill's sexual orientation;
- j. LGBT literature and resources;
- k. Medical and mental health care appropriate to Ms. Hill's sexual orientation and history of rape in custody;
- l. Staff training regarding transgender inmates;
- m. Evaluation and diagnosis of her gender identity disorder/gender dysphoria;
- n. Protective custody; and
- o. Sex reassignment surgery;

(f) A declaration that Defendants' conduct, as set forth in this Complaint, violated and continues to violate Ms. Hill's rights under the Eighth Amendment to the United States Constitution;

(g) An award of attorneys' fees and costs;

(h) Such other relief as this Court deems just and proper.

DATED this 17th day of December, 2013.

Respectfully submitted,

COLORADO PRISON LAW PROJECT

s/ Elisabeth L. Owen

Elisabeth L. Owen
1515 Wynkoop Street
Suite 360
Denver, CO 80202
T: 720-389-9145
F: 720-763-9609
E: lisi@coloradoprisonlawproject.org

BRYAN CAVE LLP

s/ Stephen D. Gurr

Stephen D. Gurr
Sarah April
Christy Anderson
1700 Lincoln Street
Suite 4100
Denver, CO 80203
T: 303-861-7000
F: 303-866-0200
E: sarah.april@bryancave.com
steve.gurr@bryancave.com
Christy.anderson@bryancave.com