

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

)
T.D.H.¹

aka

MS. HENDERSON

)
Plaintiff,

) **C.A. NO.**
v.

)
**DAUPHIN COUNTY, DAUPHIN
COUNTY JUDICIAL CENTER
CENTRAL BOOKING FACILITY,
and JOHN/JANE DOES,**

) **JURY TRIAL DEMANDED**
)

Defendants.

COMPLAINT

PRELIMINARY STATEMENT

Ms. Henderson (Plaintiff) is an African-American transgender female who was detained in a male dorm at Dauphin County Judicial Central Central Booking Facility (Jail). Plaintiff was born with male genitalia, but identifies, presents and has transitioned to female. Plaintiff takes hormone therapy and has the physical appearance of an attractive, young petite woman. She suffers from depression, Attention Deficit Hyperactivity Disorder (ADHD), Post-Traumatic Stress Disorder (PTSD) and anxiety.

¹ For the sake of privacy, Plaintiff's initials are used instead of her full name.

Notwithstanding Plaintiff's female identity and appearance, as well as her mental disabilities, the County Jail placed Plaintiff in a male dorm. Plaintiff was physically and mentally abused by County Jail Officers and inmates. She was denied her medication.

Plaintiff files this action under 42 U.S.C. §1983 against Dauphin County, Dauphin County Judicial Center Central Booking Facility and John/Jane Does (Defendants) for various federal and state violations. In particular, Ms. Henderson alleges that Defendants violated the 4th Amendment (right to bodily privacy), 14th Amendment (excessive force, failure to provide medical care, and equal protection), the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.*, and *Monell*. In addition, Plaintiff alleges State claims of battery and the intentional infliction of emotional distress.

JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this Complaint under 42 U.S.C. §§1983, and 28 U.S.C. §§1331, 1343(a), 1367(a).
2. Venue is appropriate in this Court, pursuant to 28 U.S.C. § 1391, because the incident that gives rise to Plaintiff's claims occurred in this district.

PARTIES

3. Ms. Henderson is an African-American transgender female who resides in Dauphin County, Pennsylvania.

4. Dauphin County (County) is a local government in the Commonwealth of Pennsylvania, and its administrative office is located at 2 South Second Street, Harrisburg, Pennsylvania.
5. Dauphin County Judicial Center Central Booking Facility Prison (the Jail) is a department within the government of Dauphin County and is located at 451 Mall Road, Harrisburg, Pennsylvania.
6. John and Jane Doe(s) (Defendants) are corrections officers and other personnel employed by the County and/or Jail assigned to work at the Jail. The identify of the Individual Defendants are currently unknown, but will be formally named in this action when their identities become known.

STATEMENT OF FACTS

7. Plaintiff is a 27-year old African-American transgender female who has identified as a female since childhood. She began hormone therapy about nine years ago.
8. Plaintiff has a definite female appearance and affect: she is petite and has long straight hair, breasts, characteristics and mannerisms that are conventionally female.
9. Plaintiff has been diagnosed with anxiety, depression, PTSD and ADHD.
10. Besides medication related to hormone therapy, Plaintiff is on medication for her emotional and mental disorders.

11. In or about October 12, 2020, Plaintiff was taken to the Jail for a minor offense.
12. When she arrived, Plaintiff was wearing a pink T-shirt, a bra and pink pajamas.
13. A male corrections officer (CO) ordered Plaintiff to strip search.
14. Plaintiff told a nurse at the Jail that she suffered from anxiety, depression, PTSD and ADHD.
15. Plaintiff told the nurse that she was on medications, but the nurse provided no care, treatment or medicine for Plaintiff.
16. Plaintiff was placed in an open dorm with bunk beds that housed about 50 men.
17. Plaintiff was frightened.
18. The dorm had one sink and toilet that was cordoned off by a sheet.
19. Even though she delayed going to the toilet as long as she could, she eventually needed to use the toilet.
20. Plaintiff sat on the toilet and pulled the sheet closed to get as much privacy as possible.
21. Within seconds, a male inmate rushed towards Plaintiff, pulled open the sheet and tried to assault Plaintiff.
22. Plaintiff pulled her pants up as quickly as she could, ran back to her bunk, shaking and sobbing. She began rocking in an effort to calm herself.

23. A John Doe Defendant (a male CO) then confronted Plaintiff. He said:

"Look, faggot, do not disrupt my pod. Shut your fucking mouth or I'll spray you."

24. Plaintiff was upset and crying.

25. Another John Doe Defendant (a male CO) appeared and without warning, began to spray mace in Plaintiff's head and face. They pulled out her hair.

26. The John Doe Defendants dragged Plaintiff to the ground. One of them shoved his foot into Plaintiff's back.

27. Plaintiff screamed, "I can't breathe."

28. The John Doe Defendants began yelling: "Shut up, faggot!" and "You deserve it!"

29. One of the John Doe Defendants slammed Plaintiff's head onto the concrete floor.

30. Plaintiff was hysterical. She could not breathe. She felt a foot repeatedly stepping on her back.

31. The John Doe Defendants picked Plaintiff up; one of the John Doe Defendants shoved her face first into a wall while he cuffed her hands.

32. One of the John Doe Defendants pulled her hair out.

33. The John Doe Defendants took Plaintiff to a shower and place her head under the water and told her to scrub her head, face and hair.

34. A Doe Defendant video recorded Plaintiff as Plaintiff was in the shower; a Jane Doe Defendant (female CO) laughed at Plaintiff.

35. Plaintiff's skin was burning from the mace.

36. The John Doe Defendants placed Plaintiff in a suicide cell. There was no mat to sleep on; it had a non-working toilet with feces all over it, no water and no cup.

37. Plaintiff was forced to use the sink to relieve herself and to drink by forming a cup with her bare hands in order to get water from the faucet to drink it.

38. Plaintiff begged to see a doctor or a captain. After 4 days, a John Doe Defendant came to see Plaintiff and provided her the maced sheets and property that she had in the dorm.

39. After 4 or 5 days, Plaintiff posted bail and was released. She was taken to a hospital where she was diagnosed with a closed head concussion.

**COUNT I - VIOLATION OF 14TH AMENDMENT
(Excessive Force)**

39. Plaintiff incorporates the foregoing paragraphs, as if fully set forth herein.

40. It is unlawful for any State to "deprive any person of life, liberty, or property, without due process of law." *See* U.S. Const., Amend XIV.

41. At all relevant times, Plaintiff was a detainee in the Jail.

42. At all relevant times, the John Doe Defendants were employed by the County, working at the Jail, and acting under color of State law. *See* 42 U.S.C. §1983.

43. At no time did Plaintiff threaten or harm any John Doe Defendant or inmate, nor did Plaintiff pose any such threat or harm.

44. Plaintiff was timid, fearful and crying after a male inmate tried to sexually assault her.

45. Without provocation and without any justification whatsoever, the John Doe Defendants sprayed mace in Plaintiff's face and hair, pulled out her hair, and shoved and dragged Plaintiff to the ground.

46. One or more of the John Doe Defendants slammed Plaintiff face down on the concrete floor, kneed her in the back, slammed her face into a wall, and cuffed her hands.

47. Without any diagnosis or assessment by a mental health professional, the John Doe Defendants placed Plaintiff in a suicide cell without a mat for sleeping or a working toilet or running water.

48. Plaintiff was not suicidal and her placement alone in a suicide cell had no penal justification, but was punitive.

49. The John Doe Defendants' physical mistreatment of Plaintiff constituted the unlawful use of excessive force. *See* U.S. Const., Amend. XIV.

50. The John Doe Defendants imposed cruel and unusual punishment upon Plaintiff by their use of excessive force and/or by placing Plaintiff alone in a suicide cell. *See* U.S. Const., Amend. XIV.

51. The John Doe Defendants' violation of Plaintiff's constitutional rights was purposeful, malicious and recklessly indifferent to Plaintiff's life and liberty.

52. The John Doe Defendants' violations proximately cause Plaintiff physical and emotional injuries.

**COUNT II - VIOLATION OF 14TH AMENDMENT
(Failure to Provide Medication/Medical Care)**

53. Plaintiff incorporates the foregoing paragraphs, as if fully set forth herein.

54. The 14th amendment imposes -- at a minimum -- the same duty on the Jail and the John/Jane Doe Defendants to provide Plaintiff the medical care to which convicted prisoners are entitled under the 8th amendment.

55. Plaintiff informed Defendant Jane Doe (the nurse) at the Jail of her disorders and disabilities and the fact that she was on medication.

56. Neither the Jail nor the Jane Doe Defendant provided Plaintiff with her prescribed medication.

57. Plaintiff was unlawfully placed in a suicide cell for at least three (3) days.

58. While in the suicide cell, Plaintiff begged for a doctor.

59. Despite Plaintiff's pleas, the Jail never provided Plaintiff with a doctor.

60. Neither the Jail nor the Jane Doe Defendant provided Plaintiff medication or medical treatment, which exacerbated Plaintiff's disorders and disabilities and caused Plaintiff unnecessary and wanton infliction of pain.

61. The Jail and/or the Jane Doe Defendant acted with malice and reckless indifference by ignoring Plaintiff's serious medical needs.

62. The Jail and/or the Jane Doe Defendant violated Plaintiff's right to receive adequate medical treatment. *See* U.S.Const., Amend. XIV.

**COUNT III - VIOLATION OF 14TH AMENDMENT
(Equal Protection)**

63. Plaintiff incorporates the foregoing paragraphs, as if fully set forth herein.

64. It is unlawful for any State "to deny any person within its jurisdiction the equal protection of the laws." *See* U.S. Const., Amend. XIV.

65. As a transgender female, Plaintiff is a member of a protected class within the meaning of the equal protection clause.

66. As an African-American female, Plaintiff is a member of a protected class within the meaning of the equal protection clause.

67. The John/Jane Doe Defendants are Caucasian.,

68. Alternatively, Plaintiff is a member of a "class of one" within the meaning of the equal protection clause based on her status as a transgender female because the Jail's and John/Jane Doe Defendants' physical and emotional abuse of Plaintiff lacked any rational basis and was so severe as to shock the conscience.

69. While calling Plaintiff "a faggot," the John Doe Defendants sprayed Plaintiff in the face with mace, pulled her hair out, dragged her to the floor, and slammed her head on the concrete floor and again against a wall.

70. When Plaintiff screamed that she "couldn't breathe," a John Doe Defendant told Plaintiff that she "deserved it."

71. A Doe Defendant filmed Plaintiff with a video recorder while Plaintiff was naked in the shower.

72. A Jane Doe Defendant laughed at Plaintiff.

73. The John/Jane Doe Defendants were substantially motivated by Plaintiff's status as a transgender female and/or her gender/identity and/or her race as an African-American when they physically and emotionally abused her.

74. The John/Jane Doe Defendants were substantially motivated by Plaintiff's race when they physically and emotionally abused her.

75. The John/Jane Doe Defendants' abuse of Plaintiff was severe and pervasive, lasting the 4 to 5 days that Plaintiff was detained in the Jail.

76. The physical and emotional abuse that the John/Jane Doe Defendants inflicted upon Plaintiff was purposeful, malicious and done with the intent to harm Plaintiff.

77. On the other hand, the John/Jane Doe Defendants did not mistreat or abuse Caucasian male detainees with whom Plaintiff was housed.

78. The John/Jane Doe Defendants violated Plaintiff's rights under the equal protection clause and their violation proximately caused Plaintiff physical and emotional injuries.

COUNT IV - VIOLATION OF ADA

(Failure to Accommodate)

79. Plaintiff incorporates the foregoing paragraphs, as if fully set forth herein.

80. Plaintiff suffers from PTSD.

81. Plaintiff also suffers from depression and anxiety.

82. Plaintiff is disabled within the meaning of the ADA because she suffers from "mental impairments that substantially limits one or more major life activities."

See 42 U.S.C. §12102.

83. The ADA required that the Jail and/or the Jane Doe Defendant make reasonable accommodation to Plaintiff, *i.e.*, provide Plaintiff with her request for her prescribed medication.

84. The Jail and/or the Jane Doe Defendant failed to provide Plaintiff her prescribed medication, in violation of the ADA.

85. The ADA further requires the Jail to accommodate disabled detainees, as Plaintiff, in terms of its facilities. *See* 28 C.F.R. 35.152.

86. The ADA also prohibits the Jail from placing Plaintiff in a designated medical cell if Plaintiff was not receiving medical treatment. *Ibid.*

87. The ADA also prohibits the Jail from placing Plaintiff in an inappropriate security classification because no other cells or beds are available. *Ibid.*

88. Notwithstanding the Jail's and/or Defendant Jane Doe's knowledge that Plaintiff presented as a female and suffered from disabilities (*i.e.*, PTSD, depression, and anxiety), they placed Plaintiff in an open men's dorm.

89. The placement of Plaintiff in an open men's dorm was an inappropriate security classification under ADA regulations. *See* 28 C.F.R. 35.152(b)(2)(i).

90. Notwithstanding that the Jail and/or Defendant Jane Doe never provided Plaintiff with her prescribed medication and never provided her medical treatment/care, they placed Plaintiff in a suicide cell, in violation of ADA regulations. *See* 28 C.F.R. 35.152(b)(2)(ii).

91. The Jail and/or Defendant Jane Doe failed, on multiple occasions, to reasonable accommodate Plaintiff's ADA disabilities, said failures constitute discrimination under the ADA.

92. The Jail's and/or Defendant Jane Doe's failure to accommodate Plaintiff was repeated, purposeful, malicious and reckless indifferent to Plaintiff's disabilities.

93. As a result of the Jail's and/or Defendant Jane Doe's ADA violations, Plaintiff's disabilities were exacerbated and she suffered -- and continues to suffer -- mental and emotional pain.

**COUNT V - VIOLATION OF 42 U.S.C. §1983
Monell Claim Against the County and Jail**

94. Plaintiff incorporates the foregoing paragraphs, as if fully set forth herein.

95. The County and/or Jail has a written or unwritten policy of classifying and housing detainees according to biological gender.

96. The County and/or Jail houses detainees according to biological gender without regard to detainees' transitions or gender identity.

97. This policy jeopardizes the safety of detainees.

98. As a result of this policy, Plaintiff suffered an attempted assault by a male detainee, as well as verbal harassment by other detainees.

99. The John Doe Defendants inflicted serious physical and emotional injury upon Plaintiff solely because of her gender identity.

100. The egregiousness of the John Doe Defendants' physical and emotional abuse demonstrates the County's and/or Jail's lack of training of its COs and staff.

101. The County and/or Jail are accountable for the reckless disregard of Plaintiff's constitutional rights, in violation of 42 U.S.C. §1983. See *Monell v.*

Department of Social Services, 436 U.S. 658 (1978).

102. The reckless disregard of Plaintiff's constitutional rights are evident in the County's/Jail's classification/housing policy and its failure to train/supervise COs and staff.

103. The County's and/or Jail's violations proximately caused Plaintiff physical and emotional injuries.

COUNT VI - BATTERY (State Law)

104. Plaintiff incorporates the foregoing paragraphs, as if fully set forth herein.

105. The John Doe Defendants intentionally and, with reckless disregard for Plaintiff's safety, physically abused her, causing harmful and offensive contact with Plaintiff's person.

106. The John Doe Defendants' physical abuse constituted the tort of battery under Pennsylvania law, the result being serious injury to Plaintiff.

**COUNT VII -- INTENTIONAL INFLICTION
OF EMOTIONAL DISTRESS (State Law)**

107. Plaintiff incorporates the foregoing paragraphs, as if fully set forth herein.

108. The John Doe Defendants outrageous and extreme misconduct in physically and emotionally abusing Plaintiff was intentional and designed to cause Plaintiff severe pain, embarrassment and humiliation.

109. The John Doe Defendants knew and understood that Plaintiff was physically and emotionally fragile.

110. The words uttered by the John Doe Defendants while physically abusing Plaintiff are evidence that their abuse was based solely upon Plaintiff's status as a transgender female.

111. The words and conduct of the John Doe Defendants were egregious, reckless and resulted in exacerbating Plaintiff's mental disabilities.

REQUESTED RELIEF

WHEREFORE, Plaintiff respectfully requests judgment against all Defendants, jointly and severally, including:

- A. Compensatory Damages as to all Defendants;
- B. Punitive Damages as to all Defendants;
- C. Reasonable Attorney Fees and Costs;

- D. Declaratory, injunctive and other equitable relief, including an independent jail monitor of Plaintiff's choosing;
- E. Such other relief as may be just and appropriate.

Plaintiff hereby demands a jury trial.

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