IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ISIS BENJAMIN, et al. Plaintiffs, v. COMMISSIONER TYRONE OLIVER, et al., Defendants.	Civ. Case No. 1:25-cv-04470-VMC **CLASS ACTION**

PLAINTIFFS' REPLY TO DEFENDANT CENTURION OF GEORGIA'S RESPONSE TO PLAINTIFFS' EMERGENCY MOTION FOR A PRELIMINARY INJUNCTION AND MOTION FOR CLASS CERTIFICATION

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Centurion does not mount a defense to either of Plaintiffs' motions. Though Centurion reserves its right to assert defenses later, its response offers no reason not to enjoin Centurion from proceeding to enforce SB185. Plaintiffs' motions should therefore be granted.

ARGUMENT

I. Centurion's perfunctory opposition to provisional class certification is equivalent to no opposition at all.

As to the provisional class certification motion, Doc. 2, Centurion does not raise any substantive response at all, though it purports to oppose it. Doc. 24 at 1[1] (stating that its response is to "Plaintiffs' Motion for Provisional Class Certification (ECF No. 2) and Emergency Motion for Preliminary Injunction (ECF No. 3)"). Indeed, the title of Centurion's response refers only to the preliminary injunction motion. Doc. 24 at 1. Nor does Centurion's response cite any law or facts bearing on the Rule 23 elements for class certification.

This "perfunctory" opposition, made "without authority or support," amounts to no opposition at all. *In re Ellingsworth Residential Cmty. Ass'n, Inc.*, 125 F.4th 1365, 1377 (11th Cir. 2025).[2] Indeed, this Court has found abandonment when a

[1] When citing documents in the Court's electronic record, Plaintiffs refer to the document number and page number(s) in the header generated by the district court's electronic filing system or paragraph number(s), as appropriate.

[2] Unless otherwise noted, quotations, citations, and alterations original to legal citations are omitted, and alterations and emphasis within this brief are added.

party simply asserted its conclusion and cited one unpublished case. *Molina-Salas v. Aldridge Pite, LLP*, No. 1:18-CV-01557-AT-AJB, 2019 WL 1225179, at *5 (N.D. Ga. Jan. 22, 2019), *R & R adopted*, 2019 WL 1219346 (N.D. Ga. Feb. 26, 2019). That is more than Centurion has done, and Centurion has therefore "waived the right to have the court consider [its] arguments" opposing provisional class certification. *In re Ellingsworth*, 125 F.4th at 1377–78.

II. Centurion does not dispute that Plaintiffs have marshaled the evidence necessary to preliminarily enjoin SB185's implementation.

As to Plaintiffs' preliminary injunction motion, Centurion tellingly makes no argument at all about Plaintiffs' likelihood of success on the merits of their Eighth Amendment claim. *See* Doc. 3 at 12–23 (discussing and applying the deliberate indifference standard).

To begin, Centurion makes no argument that Plaintiffs have not shown an "objectively serious medical need." *Stalley v. Cumbie*, 124 F.4th 1273, 1283 (11th Cir. 2024). Centurion likewise does not dispute that it has "(1) subjective knowledge of [the] risk of serious harm" to Plaintiffs, or that it "(2) disregarded that risk, and (3) engaged in conduct that amounts to subjective recklessness," (4) or that its actions have put Plaintiffs and others at substantial risk for grave and foreseeable harm. *Compare* Doc. 3 at 23–25 *with* Doc. 24 at 3–4.

Centurion's Statewide Medical Director for Georgia, Dr. Gerald E. Wynne,

D.O., admits in his sworn declaration that Defendants have begun withholding hormone therapy that Georgia Department of Corrections providers based solely on SB185, not medical reasons. Doc. 28-1 ¶¶ 9, 11. Centurion does not deny that the hormone therapy it is terminating is medically necessary for Plaintiffs Horton, Doe, Wilson, and other gender dysphoria patients. Nor could it. The standard operating procedures ("SOPs") in effect until SB185, specifically SOP 507.04.68 § IV.D.1.d, authorized "[h]ormonal treatment" for gender dysphoria only when a "[m]edical provider in consultation with Contract Vendor Statewide Medical Director, GDC Statewide Medical Director and GDC Statewide Mental Health Director deem[ed]" such treatment "medically necessary" for the individual patient. Doc. 11-10 at 7–8.

Centurion does not dispute that it is now refusing to evaluate Plaintiffs and provisional class members to determine whether hormone therapy is medically required, even though gender dysphoria patients require individualized medical treatment and treatment evaluations to prevent grave risks. *See* Doc. 3 at 14–15 (explaining need for individualized treatment determinations). Nor does Centurion contend, in response to the Court's request for briefing, that Plaintiffs Benjamin, Madison, and others denied evaluations for hormone therapy lack a cognizable Eighth Amendment claim.

Centurion does not suggest that because it is a private contractor it cannot act under color of state law. Nor could it. Private medical providers that contract to

provide medical care in corrections institutions act under color of state law as required by § 1983. *Ancata v. Prison Health Servs., Inc.*, 769 F.2d 700, 703 (11th Cir. 1985) (collecting cases); *accord West v. Atkins*, 487 U.S. 42, 51 (1988); *Ort v. Pinchback*, 786 F.2d 1105, 1107 (11th Cir. 1986).

The only substantive response Centurion musters now relates to whether *Centurion*—as opposed to the state officials—is a proper defendant. *See* Doc. 24 at 3–4. But it is no defense to enforce or comply with an unconstitutional law. *Cooper v. Dillon*, 403 F.3d 1208, 1222 (11th Cir. 2005) (rejecting argument that defendant could not "be liable for enforcing an unconstitutional state statute"). Centurion knows this, because when a comparable law was passed in Florida, Centurion's local affiliate continued to provide hormone therapy to people in custody in recognition of its constitutional obligations. Doc. 3 at 21; Doc. 11-21 at 5. And the United States District Court for the District of Idaho has enjoined Centurion's Idaho affiliate *four* times from enforcing a state statute almost identical to SB185, concluding it is substantially likely that statute, violates the Eighth Amendment. *Robinson v. Labrador*, 747 F. Supp. 3d 1331, 1343, 1350–51 (D. Idaho 2024) (issuing first preliminary injunction); *injunction renewed*, Case No. 1:24-cv-00306, 2024 WL 4953686 (D. Idaho Dec. 3, 2024); *injunction renewed*, 2025 WL 673930 (D. Idaho

Mar. 3, 2025); *injunction renewed* 2025 WL 1547067 (D. Idaho May 30, 2025).[3]

And as these cases suggest, Centurion is wrong about its potential for liability if the Court determines SB185 is unconstitutional, and it *knows* it. Though the Court "can't erase a duly enacted law from the statute books," it can enjoin defendants "from taking steps to enforce the unconstitutional law." *Henry v. Sheriff of Tuscaloosa Cnty., Alabama*, 135 F.4th 1271, 1325 (11th Cir. 2025). Even *Howell v. Evans*—the only Eleventh Circuit authority Centurion cites—acknowledges at least two ways a plaintiff bringing a 42 U.S.C. § 1983 claim against a prison medical contractor can establish causation against the contractor. 922 F.2d 712, 724 (11th Cir. 1991). *Howell* states that to establish causation for the purposes of a § 1983 claim against a medical contractor in the corrections environment, a plaintiff must "show[] *either* that [the contractor] was directly involved in the violation, *or* that a policy or custom of [the contractor] led to the violation." *Id*.

Centurion makes no effort to dispute the evidence of its direct participation, nor does it present any evidence supporting its suggestion that Centurion has not set policy or custom or that it lacks "final authority" with any evidence. *See* Doc. 24 at 3 n.1. Meanwhile, the evidence already before the Court shows that Centurion led the effort "to ensure compliance with the new law in GASB185." Doc. 11-18 at 2.

[3] Centurion's Idaho affiliate did not even oppose the Idaho plaintiffs' preliminary injunction motion, which is telling in itself. *Labrador*, 747 F. Supp. 3d at 1337 n1.

In fact, the materials distributed to GDC employees bore a Centurion imprint on each slide, confirming that Centurion devised the implementation strategy. Doc. 11-20 at at 4–24. As Dr. Wynne's declaration confirms, Centurion began terminating the hormone therapy of all gender dysphoria patients—including Plaintiffs Horton and Wilson—beginning in July 2025. Doc. 28-1 ¶¶ 4–5, 9, 11. To do so, Centurion used the enforcement plan already enjoined as unconstitutional in Idaho, Doc. 11-18 at 2, further confirming its authoritative policymaking role.

Thus, Centurion's leadership in GDC's implementing SB185 establishes both the involvement and authority necessary to make Centurion liable under the Eighth Amendment. *See, e.g.*, *Zatler v. Wainwright*, 802 F.2d 397, 401 (11th Cir. 1986) (asking whether "a policy or custom that [defendants] established or *utilized*" led to the challenged constitutional deprivation); *see also Labrador*, 747 F. Supp. 3d at 1351 (enjoining Centurion from enforcing statutory "prohibition on the use of state funds for purposes of providing hormone therapy").

III. Centurion does not dispute Plaintiffs have satisfied all the other requirements for a preliminary injunction.

Finally, Centurion's response does not even refer to the other elements Plaintiffs must establish to warrant a preliminary injunction, let alone suggest that Plaintiffs failed to meet them. *Gonzalez v. Governor of Ga.*, 978 F.3d 1266, 1270–71 (11th Cir. 2020) (identifying elements for a preliminary injunction under Federal Rule of Civil Procedure 65). Centurion's response does not, for example, dispute the

risk of irreparable harm to Plaintiffs or argue that the balance of the equities weighs against issuing an injunction. *Compare* Doc. 3 at 24–27 *with* Doc. 24 at 3–4. In addition, Centurion does not dispute that the injunction sought here is appropriately narrow for purposes of the Prison Litigation Reform Act, 18 U.S.C. § 3626 (a)(2), or that the Court should waive the bond requirement.

Because Plaintiffs have established all the elements necessary for a preliminary injunction, as Centurion all but concedes, Plaintiffs' Motion for a Preliminary Injunction should be granted.

CONCLUSION

The only question at this stage is whether Plaintiffs have carried their burden on their Preliminary Injunction and Provisional Class certification Motions, and Centurion makes no argument that Plaintiffs have not. The Court should grant those motions.

[Signature appears on following page.]

Respectfully submitted this 25th day of August, 2025.

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Certificate of Compliance

Pursuant to Local Rule 7.1(D), I certify that this submission complies with the page and word requirements in Local Rule 5.1 because it does not exceed 15 pages and is prepared with size 14-point Times New Roman font.

/s/ Amanda Kay Seals
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Certificate of Service

I certify that on August 25, 2025, I submitted the foregoing via the Court's CM/ECF system, which will serve an electronic copy on all attorneys of record.

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