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**

REPLY TO DEFENDANT CENTURION HEALTHCARE OF GEORGIA, LLC'S RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDG0MENT AND A PERMANENT INJUNCTION

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INTRODUCTION

In its Opposition to Plaintiffs' Motion for Partial Summary Judgment, Defendant Centurion of Georgia, LLC ("Centurion") argues that it cannot be found deliberately indifferent to Plaintiffs' and Class Members' medical needs because: (1) Centurion cannot be liable for the State of Georgia's legislative choices in adopting SB185 or for merely enforcing SB185, and (2) Centurion and its medical providers provided continuous medical and mental healthcare to Plaintiffs and Class Members. Doc. 78 at 2. These rehashed arguments—which this Court previously rejected—once again fail as a matter of law and fact.

For the reasons set forth in Plaintiffs' Motion for Partial Summary Judgment and Permanent Injunction, Doc. 71, in Plaintiffs' corresponding Reply in response to State Defendants' Opposition, filed herewith, and below, Plaintiffs are entitled to partial summary judgment and a permanent injunction.[1]

I. Centurion's Failure to Respond to Plaintiffs' Statement of Undisputed Material Facts Renders Plaintiffs' Facts Admitted.

As a threshold matter, Centurion failed to respond to Plaintiffs' Statement of Undisputed Material Facts ("SUMF") in Support of Partial Summary Judgment. *See*

[1] Notably, Centurion's response does not attempt to dispute any of the other elements Plaintiffs must establish for a permanent injunction, let alone suggest that Plaintiffs failed to meet them. *See generally* Doc. 78. Because Defendants "made no arguments on the merits as to this issue, the issue is deemed waived." *Kelliher v. Veneman*, 313 F.3d 1270, 1274 n.3 (11th Cir. 2002).

Doc. 71-1. Thus, Centurion is deemed to have admitted all facts in Plaintiffs' SUMF. *See* N.D. Ga. L.R. 56.1(B)(2)(a)(2)–(3) (facts not refuted or otherwise objected to are deemed admitted); *see also Mann v. Taser Int'l, Inc.*, 588 F.3d 1291, 1302 (11th Cir. 2009) ("Where the party responding to a summary judgment motion does not directly refute a material fact set forth in the movant's Statement of Material Facts with specific citations to evidence, or otherwise fails to state a valid objection to the material fact pursuant to Local Rule 56.1B(2), such fact is deemed admitted by the respondent." (alterations omitted)); *Mustafa v. United States*, No. 21-20633-CIV, 2022 WL 18023353, at *5 (S.D. Fla. Sept. 15, 2022) (collecting cases acknowledging admission of facts not disputed by summary judgment non-movant).

Specifically, as established by Plaintiffs' SUMF, Doc. 71-1, Centurion, along with the State Defendants, "intentionally interfer[ed] with [medical] treatment once prescribed," *Estelle v. Gamble*, 429 U.S. 97, 105 (1976); "fail[ed] to provide service acknowledged to be necessary," *Ancata v. Prison Health Servs., Inc.*, 769 F.2d 700, 704 (11th Cir. 1985); and "refused to take the steps to see that [patients are] properly evaluated" when they implemented a blanket hormone therapy ban across the Georgia Department of Corrections ("GDC") that jeopardized the health and well-being of Plaintiffs and Class Members. *Id.*; Doc. 11-21, July 21 Notice Ltr. at 4–8; Benjamin Decl. (Doc. 11-3) ¶¶ 17–24; Horton Decl. (Doc. 11-4) ¶¶ 13–22; Wynne

Decl. (Doc. 28-1) ¶¶ 4–11; *see also* Doc. 71 at 15–16. Accordingly, because Centurion has not responded to Plaintiffs' SUMF, Centurion has admitted these material facts and thus cannot defeat summary judgment in favor of Plaintiffs by showing any factual dispute.

II. By creating the Implementation Plan, Centurion is a Final Policymaker for Purposes of *Monell* liability.

In its response to Plaintiffs' Motion, Centurion first argues that, because it did not adopt SB185, it cannot be liable for the State's legislative policy choices. That argument fails on two fronts: first, because Centurion itself adopted a policy to enforce SB185, and second, because Centurion is liable for its direct involvement in denying medically necessary care, regardless of its final policymaker role.

First, Centurion is liable under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), and its progeny, as a final policymaker. As Centurion itself acknowledges, Doc. 78 at 4–6, private medical providers that contract to provide medical care in corrections institutions are liable for their own unconstitutional policies. *See Ancata*, 769 F.2d at 703 (collecting cases); *accord West v. Atkins*, 487 U.S. 42, 51 (1988); *Ort v. Pinchback*, 786 F.2d 1105, 1107 (11th Cir. 1986); *Buckner v. Toro*, 116 F.3d 450, 453 (11th Cir. 1997) (affirming finding "that the *Monell* policy or custom requirement applies in suits against private entities performing

functions traditionally within the exclusive prerogative of the state, such as the provision of medical care to [incarcerated persons]").

Here, the undisputed record shows that Centurion *created*, *decided*, and *implemented policy* to enforce SB185, thereby meeting the standard for private contractor liability under *Monell* for § 1983 violations. Specifically, evidence shows that Centurion led the effort "to ensure compliance with the new law in GA." Doc. 11-18 at 2; Doc. 11-20, SB185 Implementation Plan at 2, 10–16. In fact, the materials distributed to GDC employees about enforcement of SB185 bore a Centurion imprint on each slide, confirming that Centurion devised the implementation strategy and began terminating gender dysphoria care based on its own policy. Doc. 11-20 at 4–24; *see also* Doc. 28-1 ¶¶ 4–6, 9, 11. Centurion effectively adopted SB185's ban on hormone therapy as its own policy, and it is liable for that adoption.

Second, in addition to being liable as a policymaker, Centurion is liable because of its direct involvement in implementing SB185. In the Eleventh Circuit and beyond, a defendant can be held liable on injunctive claims when "a policy or custom that [it] established or *utilized*" led to the challenged constitutional deprivation and thus, violates the Eighth Amendment. *See, e.g.*, *Zatler v. Wainwright*, 802 F.2d 397, 401 (11th Cir. 1986); *see also Robinson v. Labrador*, 747 F. Supp. 3d

1331, 1351 (D. Idaho 2024) (enjoining Centurion from enforcing statutory "prohibition on the use of state funds for purposes of providing hormone therapy"). Even *Howell v. Evans*—one of the primary Eleventh Circuit authorities Centurion cites, Doc. 78 at 5–6—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: 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." 922 F.2d 712, 724 (11th Cir. 1991).

Centurion is undisputedly "directly involved" in the Eighth Amendment violation here. As the contractor for the Georgia Department of Corrections, it is directly denying Plaintiffs and Class Members medically necessary care, Doc. 11-20, SB185 Implementation Plan at 2; Wynne Decl. (Doc. 28-1) ¶¶ 4–5, and it admits that in doing so, it "has always followed GDC's policy for treating inmates with gender dysphoria." Doc. 78 at 6.

Centurion argues it is not "vicariously liable for the actions or policies of … the Georgia Legislature or GDC." Doc. 78 at 7. But that argument, yet again, mischaracterizes Plaintiffs' claim: Plaintiffs do not blame Centurion for enacting SB185. Rather, they seek to hold Centurion liable for denying Plaintiffs and Class Members medically necessary hormone therapy pursuant to SB185. Doc. 1 ¶¶ 29,

68–69, 106, 127. Centurion's position not only disregards well-established precedent in *Howell* that confirms private contractor liability based on enforcement of unconstitutional state law, but it also defies logic: by Centurion's view, a private contractor could lawfully refuse chemotherapy to cancer patients, deny insulin to diabetics, and withhold hormone therapy to patients like Plaintiffs with a "documented medical need," so long as the "state told" them to do so.

This is not the result countenanced by Section 1983. To the contrary, courts can separately hold the final policymaker and the actor that implemented the policy liable for the constitutional violation. *See, e.g.*, *Howell*, 922 F.2d at 724; *Zatler*, 802 F.2d at 401. Centurion's direct involvement with the denial of hormone therapy makes it liable here.

Thus, unlike the private contractor-defendant in *Howell* to which Centurion attempts to analogize its role, Doc. 78 at 5–7, Centurion's liability is not based on vicarious or imputed liability for the General Assembly's enactment of SB185 or GDC's implementation of SB185, but on Centurion's final policymaking authority with respect to, and its direct involvement in, the enforcement of SB185 against Plaintiffs and Class Members.

III. Centurion fails to dispute Plaintiffs' evidentiary showing of Centurion's deliberate indifference in enforcing SB185.

Centurion's second argument—that it cannot be found to be deliberately indifferent because it has "provided continuous medical and mental healthcare to patients who are impacted by SB185"—is doomed by its acknowledgment that all such care is provided pursuant to, and only because of, SB185. Doc. 78 at 2, 8, 10. Like State Defendants, Centurion is withholding hormone therapy and evaluations—undisputedly, medically necessary treatment—and solely providing mental health counseling and follow-up visits to address the foreseeable consequences of its tapering plan, based solely on SB185 and not on independent medical judgment to treat Plaintiffs' and Class Members' gender dysphoria. *See* Wynne Decl. (Doc. 28-1) ¶¶ 9, 11; *see generally* Owen Decl. (Doc. 25-2); Doc. 78 at 10; Horton Decl. (Doc. 11-4) ¶¶ 7–8, 12–19; Wilson Decl. (Doc. 11-6) ¶¶ 8–13; Doe Decl. (Doc. 11-7) ¶¶ 7–17; Benjamin Decl. (Doc. 11-3) ¶¶ 12–24; Madison Decl. (Doc. 11-5) ¶¶ 7–17; Haw Decl. (Doc. 11-2) ¶¶ 53–59, 61–62; Ettner Decl. (Doc. 11-1) ¶¶ 54–59, 108–11, 117–66; Doc. 11-21, July 21 Notice Letter at 4–8.

"Monitoring" patients or offering Plaintiffs and Class Members generalized counseling in lieu of medically necessary care like hormone therapy to treat their gender dysphoria does not pass constitutional muster. *See, e.g.*, *Kothmann v. Rosario*, 558 F. App'x 907, 912 (11th Cir. 2014) (plaintiff offered counseling in lieu of

hormone therapy had a viable Eighth Amendment claim); *Diamond v. Owens*, 131 F. Supp. 3d 1346, 1353, 1372–75, 1382 (M.D. Ga. 2015) (same). In other words, Centurion is not treating Plaintiffs' gender dysphoria with counseling; it is treating the consequences of SB185. Owen Decl. (Doc. 25-2) ¶ 7. Centurion cannot satisfy the Eighth Amendment by treating the consequences of a blanket ban instead of Plaintiffs' serious medical need. *See Kothmann*, 558 F. App'x at 910 (providing "anti-anxiety and anti-depression medications, mental health counseling, and psychotherapy treatments" in lieu of hormone therapy or evaluations to a gender dysphoria patient violated clearly established Eighth Amendment law as pled); *Diamond*, 131 F. Supp. 3d at 1353, 1372–76, 1382 (same).

Accordingly, like State Defendants, Centurion is enforcing a blanket ban on medically necessary treatment for a serious medical need, despite being cognizant of the myriad health risks. *See* Wynne Decl. (Doc. 28-1) ¶¶ 4–11; Owen Decl. (Doc. 25-2) ¶¶ 7–14; Doc. 11-20 at 2, 10–16. Contrary to the defendant-medical services provider care in *Hines v. Parker*, 725 F. App'x 801, 806 (11th Cir. 2018), whose provision of care was not shown to be inferior or otherwise deficient by medical standards, Centurion's failure to provide medically necessary care in the face of a serious known medical condition of gender dysphoria is "the very definition of

deliberate indifference." *Keohane v. Fla. Dep't of Corr. Sec'y*, 952 F.3d 1257, 1267 (11th Cir. 2020).

CONCLUSION

Accordingly, Centurion's arguments in opposition to Plaintiffs' Motion for Summary Judgment fail, and Plaintiffs' Motion for Summary Judgment and Permanent Injunction should be granted or in the alternative, Plaintiffs should be granted a second successive preliminary injunction.[2]

[*Signature and certificates follow*.]

[2] For arguments in support of Plaintiffs' alternative request for a successive preliminary injunction, see Plaintiffs' Reply in response to State Defendants' Brief in Opposition to Plaintiffs' Motion for Partial Summary Judgment and Permanent Injunction, filed contemporaneously herewith.

Respectfully submitted this 24th day of November, 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.

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Certificate of Service

I certify that on November 24, 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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