

STATE OF INDIANA )  
 ) SS:  
COUNTY OF HENRY )

IN THE HENRY CIRCUIT COURT

CAUSE NO.

REBECCA HAVILAND, )  
 )  
 ) Plaintiff, )  
 )  
v. )  
 )  
 ) ROBERT CARTER, JR., in his official capacity, )  
 ) THE GEO GROUP, INC., CORIZON HEALTH )  
 ) INC., DR. MICHAEL PERSON, and ESTHER )  
 ) HINTON, )  
 ) Defendants. )

**COMPLAINT AND JURY DEMAND**

Plaintiff, Ms. Rebecca Haviland, #881536, alleges as follows against Defendants, Robert Carter Jr., The Geo Group, Inc., Corizon Health, Inc., Dr. Michael Person, and Esther Hinton:

**I. NATURE OF ACTION**

1. Ms. Haviland, a transgender female prisoner of the State of Indiana, brings this action pursuant to 42 U.S.C. § 1983 against Defendants for their unconstitutional and discriminatory denial of services and protection to her in violation of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, as well as the Eighth Amendment to the U.S. Constitution and federal disability law.
2. Ms. Haviland’s Motion for Preliminary Injunction is filed contemporaneously with this Complaint. The Motion is filed on Ms. Haviland’s Equal Protection claim only and requests Defendants be enjoined from further denying her receipt of hormone therapy to treat her serious condition of gender dysphoria.

## II. PARTIES

3. Plaintiff is Rebecca Haviland.
  - a. Ms. Haviland is an adult U.S. citizen and prisoner of the New Castle Correctional Facility in Henry County, Indiana.
  - b. Ms. Haviland is a transgender woman with the serious condition of gender dysphoria, also known as gender identity disorder ("GID"), and mental disabilities including panic disorder.
  - c. Ms. Haviland because of her panic disorder is a qualified individual within the meaning of the Rehabilitation Act and the ADA due to impairments substantially limiting the operation of her neurological and brain functions and major life activities including thinking and caring for herself. Ms. Haviland if provided with reasonable modifications and the removal of barriers meets the essential requirements for the receipt of relevant services provided to non-disabled individuals. 42 U.S.C. §§ 12102(2), 12131(2).
4. Defendant is Robert Carter, Jr.
  - a. Defendant Carter is commissioner of the Indiana Department of Correction. The Department is responsible for the operation of state prisons and the care and protection of state prisoners in Indiana. Defendant Carter through the Department has a non-delegable duty to provide non-discriminatory services, protection, and care to Ms. Haviland.
  - b. Defendant Carter is named in his official capacity for purposes of Ms. Haviland's request for injunctive relief under the Equal Protection Clause of the Fourteenth

Amendment. Defendant Carter is not otherwise named for purposes of Ms. Haviland's constitutional claims.

c. Defendant Carter is also named in its official capacity for purposes of Ms. Haviland's Rehabilitation Act and ADA Title II claims.

5. Defendant is The Geo Group, Inc.

a. Defendant Geo Group is a for-profit corporation Defendant Carter contracted with to imprison Ms. Haviland and provide her services, care, and protection while incarcerated.

b. Defendant Geo Group is named as a state actor for purposes of Ms. Haviland's ADA Title II, Rehabilitation Act, and constitutional claims. Defendant Geo Group at all times material maintained a wrongful policy, practice, custom, or procedure concerning services, care, and treatment of Ms. Haviland as it has failed to adequately train and supervise employees charged with delivering these services.

c. Defendant Geo Group is also named in its capacity as a private entity under Title III of the ADA for its discrimination against Ms. Haviland on the basis of her disability of panic disorder by denying her the full and equal enjoyment of its services, accommodations, and privileges.

6. Defendant is Corizon Health, Inc.

a. Defendant Corizon is a for-profit corporation Defendants Carter and Geo Group contracted with to provide health and medical services to Ms. Haviland while she is imprisoned at New Castle.

b. Defendant Corizon is named as a state actor for purposes of Ms. Haviland's ADA

Title II and constitutional claims. Defendant Corizon at all times material maintained a wrongful policy, practice, custom, or procedure concerning services, care, and treatment of Ms. Haviland and failed to adequately train and supervise employees charged with delivering these services.

- c. Additionally, Defendant Corizon is named in its capacity as a private entity under Title III of the ADA for its discrimination against Ms. Haviland on the basis of her disability of panic disorder by denying her the full and equal enjoyment of its services, accommodations, and privileges.
7. Defendant is Dr. Michael Person. Defendant Person is an employee of Defendant Corizon, specifically a doctor it has assigned to care for prisoners at New Castle Correctional Facility, and named in his individual capacity for purposes of Ms. Haviland's constitutional claims.
8. Defendant is Esther Hinton. Defendant Hinton is an employee of Defendant Carter, specifically his Indiana Department of Correction contract monitor, and named in her individual capacity for purposes of Ms. Haviland's constitutional claims.

### **III. FACTS**

#### **A. OVERVIEW OF DEFENDANTS' DISCRIMINATORY DENIAL OF SERVICES, CARE, AND PROTECTION TO MS. HAVILAND**

9. Ms. Haviland is an imprisoned transgender woman reliant on Defendants for all services, care, and protection necessary to her life and wellbeing.
10. Ms. Haviland seeks hormone therapy from Defendants to treat her serious condition of gender dysphoria, also known as gender identity disorder or "GID."
11. Hormone therapy is "the only effective treatment for a serious condition like GID." *Fields*

*v. Smith*, 653 F.3d 550, 557 (7th Cir. 2011). For GID, there is “no evidence of uncertainty about the efficacy of hormone therapy as a treatment.” *Id.*

12. Nevertheless, Defendants without any reason rationally related to a legitimate governmental interest have denied and continue to deny Ms. Haviland hormone therapy.
13. Defendants, however, do not deny effective treatment, including hormone therapy treatment, to treat serious conditions of non-transgender individuals they imprison.
14. Ms. Haviland has suffered serious physical and mental injury as a result of Defendants' wrongdoing and continues to suffer because of their actions and will face irreparable harm unless Defendants are enjoined from continuing in their course of wrongdoing against Ms. Haviland.

#### **B. DEFENDANTS' DISCRIMINATORY DENIAL OF SERVICES, CARE, AND PROTECTION TO MS. HAVILAND**

15. No later than by the beginning of 2015, Ms. Haviland notified Defendants she was a transgender woman in need of hormone therapy treatment to treat her gender dysphoria.
16. Ms. Haviland's gender dysphoria became so severe that in the first half of 2015 she became suicidal on at least four occasions. Record of these effects of Ms. Haviland's gender dysphoria is attached and incorporated into this Complaint as Exhibit A.
17. During that time, Ms. Haviland, due to the severity of her gender dysphoria, also tried at least twice to cut off her genitals. *Id.* Incredibly, Defendants discriminatorily and without any reason rationally related to a legitimate governmental interest disciplined Ms. Haviland for these acts. Record of this unlawful discipline is attached and incorporated into this Complaint as Exhibit B.
18. On July 9, 2015, Defendants finally granted Ms. Haviland's request to begin hormone

therapy through the receipt of estrogen and androgen antagonists. Evidence of Defendants' agreement is attached and incorporated into this Complaint as Exhibit C.

19. As Ms. Haviland's prison grievance record here shows, Defendants recognized:

- a. "[Y]ou were seen on 7/9/15 and discussed your hormone therapy"; and
- b. "[T]he resolution you were requesting has been indicated and thus the issue would be resolved." *Id.*

20. However, on November 11, 2015, Defendant Person discriminatorily and without any reason rationally related to a legitimate governmental interest revoked Defendants' agreement to provide Ms. Haviland hormone therapy.

21. By July 16, 2016, all Defendants had discriminatorily and without any reason rationally related to a legitimate governmental interest approved the denial of hormone therapy to Ms. Haviland to treat her serious condition of gender dysphoria. Record of the denial of treatment is attached and incorporated into this Complaint as Exhibit D.

22. To date, Defendants continue to discriminatorily and without any reason rationally related to a legitimate governmental interest deny Ms. Haviland hormone therapy to treat her gender dysphoria, causing Ms. Haviland to continue to suffer mental trauma and self-harm.

23. Defendants' acts and omissions subject Ms. Haviland to discriminatory denial of effective hormone therapy treatment for a serious condition.

24. Ms. Haviland is denied this treatment even though non-transgender prisoners are not denied effective treatments, including hormone therapy, for serious medical conditions including, for example, cancer, hypothyroidism, and hemochromatosis.

25. In addition, Defendants have failed and continue to fail to protect Ms. Haviland from

[ danger of physical violence both from herself and other inmates, including self-harm and an attack on January 9, 2016 when she was beaten in the head by other prisoners because she is a transgender woman. ]

26. Defendants have further discriminated against Ms. Haviland and denied her services including mental health treatment and counseling on the basis of her mental disability of panic disorder, causing her mental anguish and pain through, among other things, self-harm.

27. Prior to filing this action, Ms. Haviland exhausted all administrative remedies available to her and all jurisdictional prerequisites were met necessary for filing this Complaint. Record of her exhaustion of administrative remedies is attached and incorporated into this Complaint.

#### **IV. CLAIMS FOR RELIEF**

##### *EQUAL PROTECTION RIGHTS VIOLATIONS AGAINST MS. HAVILAND AS A TRANSGENDER WOMAN*

##### FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION (ALL DEFENDANTS)

[ 28. Under the Fourteenth Amendment, Defendants may not discriminate against prisoners without a reason rationally related to a legitimate government interest and so violate prisoners' fundamental rights by denying them the equal protection of laws. ]

29. However, based upon the facts above, Defendants Carter, Geo Group, and Corizon so discriminated against Ms. Haviland and violated her rights through policy, practice, custom, or procedure, or failure to train or supervise their employees.

30. Individual Defendants further intentionally, willfully, wantonly, and maliciously

discriminated against Ms. Haviland by denying her equal protection of laws.

31. As a result of the wrongdoing of Defendants, Ms. Haviland suffered physical injury, pain, mental anguish, emotional distress, permanent mental injury, and other damages and injury.

*EIGHTH AMENDMENT RIGHTS VIOLATIONS  
AGAINST MS. HAVILAND THROUGH FAILURE TO PROTECT*

EIGHTH AMENDMENTS TO THE U.S. CONSTITUTION  
(DEFENDANTS GEO GROUP & CORIZON)

32. Under the Eighth Amendment, Defendants GEO Group and Corizon may not subject prisoners to cruel and unusual punishment through failure to protect them from violence, refusal to reasonably intervene when prisoners are known to engage in or pose threats of self-harm, failure to provide mental health care, and infliction of unlawful conditions of confinement either through individual deprivations or deprivations inflicted in combination.
33. However, based upon the facts above, these Defendants so violated Ms. Haviland' rights through policy, practice, custom, or procedure, or failure to train or supervise their employees.
34. As a result of the intentional wrongdoing of these Defendants, Ms. Haviland suffered physical injury, pain, mental anguish, emotional distress, and other damages and injury.

*DISABILITY RIGHTS VIOLATIONS AGAINST MS. HAVILAND  
AS A QUALIFIED INDIVIDUAL WITH PANIC DISORDER*

REHABILITATION ACT, 29 U.S.C. § 794a & THE ADA, 42 U.S.C. § 12132  
(DEFENDANTS CARTER, GEO GROUP, & CORIZON)

35. Under Title II of the ADA, Defendants Carter, Geo Group, and Corizon in their



capacities as public entities are prohibited from discriminating against qualified individuals with disabilities by denying them reasonable accommodations and the benefits and services afforded to individuals without disabilities.

36. Defendants Carter and the Geo Group are also so prevented from this discrimination under Section 504 of the Rehabilitation Act.
37. By policy, practice, or procedure, or through their employees, based on the facts above, these Defendants, however, discriminated against Ms. Haviland on the basis of and because of her disability of panic disorder by denying her the benefits, programs, and services afforded to individuals without disabilities and by denying her reasonable accommodations.
38. Further, under Title III of the ADA, Defendants Geo Group and Corizon as private entities are prohibited from discriminating against qualified individuals with disabilities by unlawfully denying them accommodations and services provided to individuals without disabilities, but by their acts and omissions so denied Ms. Haviland accommodations and services. 42 U.S.C. § 12181 et seq., 28 CFR 36.01 et seq.
39. As a result of the intentional, willful, and wanton wrongdoing of these Defendants, Ms. Haviland suffered physical injury, pain, mental anguish, emotional distress, and other damages and injury.

#### **V. PRAYER FOR RELIEF**

Wherefore, Ms. Haviland respectfully requests the Court:

- A. Enjoin Defendants from further discriminating against her and violating her rights in contradiction to the Equal Protection Clause of the Fourteenth Amendment to the U.S.

- Constitution;
- B. Award compensatory damages for violations of constitutional law and disability rights law;
  - C. Award punitive damages against individual Defendants for violations of constitutional law;
  - D. Award her legal costs and attorney fees pursuant to 42 U.S.C. § 12133, 42 U.S.C. § 12205, 29 U.S.C. § 794a(b), and 42 U.S.C. § 1988; and
  - E. Grant all other just and proper relief.

**JURY DEMAND**

Ms. Haviland demands a trial by jury in this action pursuant to Rule 38(B) of the Indiana Rules of Trial Procedure.

Respectfully,

**CHRISTOPHER C. MYERS & ASSOCIATES**

/s/ David W. Frank

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