

Farmer  
Register Number 23288-037  
United States Medical Center  
for Federal Prisoners'  
Post Office Box 4000  
Springfield, Missouri 65808

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

DEE FARMER,

Plaintiff,

vs.

J. MICHAEL QUINLAN  
in his official capacity as  
Director of the Federal  
Bureau of Prisons, United  
States Department of  
Justice;

CALVIN EDWARDS,  
in his official capacity as  
Regional Director of the  
Federal Bureau of Prisons;

EDWARD BRENNAN,  
individually and in his  
official capacity as Warden,  
Federal Correctional Institution,  
Oxford, Wisconsin;

Plaintiffs' First  
Amended Complaint for  
Damages and Injunctive  
Relief

Civil Action  
No. 91-C-716-S



DENNIS KURZYDLO,  
individually and in his  
official capacity as Former  
Case Manager, Federal  
Correctional Institution,  
Oxford, Wisconsin;

LARRY E. DUBON,  
individually and in his  
official capacity as Former  
Regional Director of the  
Federal Bureau of Prisons;

and  
N.W. SMITH,  
individually and in his  
official capacity as Former  
Correctional Services  
Administrator, Federal  
Bureau of Prisons,

Defendants.



## I. INTRODUCTION

1. Plaintiff is a prisoner of the United States of America serving a twenty (20) year term of commitment in the custody of the Attorney General of the United States. She is presently incarcerated at the United States Medical Center - - Springfield, Missouri. Plaintiff is a preoperative male-to-female transsexual (although plaintiff is a genetic or biologic male, plaintiff will for the purposes of this action, be referred to herein in the feminine pronoun.) Essentially, this complaint rests upon a claim that her constitutional and civil rights have been at all times mentioned herein violated by the defendants, due to their deliberate indifference to her safety, arising from their inappropriate classification, designation and housing of her, as a transsexual, in a penitentiary that has a violent environment, knowing such would endanger her life and indeed did result in her being harass, threaten and sexually assaulted.

## II JURISDICTION

2. This is a civil action authorized



by 28 U.S.C. § 1331 to redress the deprivation, under color of United States law, of rights secured by the Constitution and laws of the United States. Jurisdiction of this Court is also founded directly upon the Fifth and Eighth Amendment to the United States Constitution. Further, this Courts' jurisdiction of plaintiffs' claim for monetary damages is authorized by Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971).

3. This Courts' pendent jurisdiction is also invoked for violation of Wisconsin laws.

4. This Court has venue jurisdiction pursuant to 28 U.S.C. 1391(e) which authorize suit against federal official, acting under color of federal law, in his official capacity in any judicial district in which . . . . a defendant resides. Defendant BRENNAN and KURZYDLO reside in the Western District of Wisconsin. The Court has personal jurisdiction of each defendant pursuant to 28 U.S.C. § 1391(b) inasmuch the actions complained of that are alleged to have occurred at the Federal Correctional Institution, Oxford, Wisconsin, are in or arose within this Courts' judicial district. Eventhough, there actions complained of that



have allegedly occurred at other institutions in the Federal Prison System, said actions are consequences of the actions herein complained of arising at the Federal Correctional Institution, Oxford, Wisconsin, within this Courts' judicial district.

### III PLAINTIFF

5. Plaintiff DEE FARMER is, and at all times mentioned herein, was in the custody of the United States Bureau of Prisons, as a result of being committed to the custody of the Attorney General of the United States for a period of twenty (20) years for conviction of violation of 18 U.S.C. § 1029, under the provisions of 18 U.S.C. § 4205(b)(2). Plaintiff is of legal age and competent to testify to the facts stated herein. She is currently incarcerated at the United States Medical Center for Federal Prisoners' -- Springfield, Missouri, a facility of the Bureau of Prisons.

### IV DEFENDANTS

6. Defendant J. MICHAEL QUINLIN is,



and at all times mentioned herein was, the duly appointed Director of the United States Bureau of Prisons (hereinafter "the Bureau" or "the director") and maintains offices in Washington, D.C. Defendant QUINLAN daily promulgates rules, regulations, directives, and policies and executes the same through his agents and agents of the United States of America. Further at all times relevant herein, defendant QUINLAN executed the rules, regulations, directives and policies of the Bureau through his agents and agents of the United State of America. Defendant QUINLAN has the ability to daily control or cause to be controlled the conditions and environment in which the plaintiff resides while incarcerated now or in the future within the Federal Bureau of Prisons' system.

7. Defendant QUINLAN is sued in his official capacity only as Director of the Federal Bureau of Prisons. At all times mentioned in this complaint defendant QUINLAN acted under color of United States law.

8. Defendant CALVIN EDWARDS is, and at all times mentioned herein, was North Central Regional Director of the Federal Bureau of Prisons (hereinafter



"Regional Director" or "EDWARDS"), the Warden of the United States Penitentiary (hereinafter "USP" or "penitentiary") in Lewisburg, Pennsylvania or Terre Haute, Indiana. Further at all times relevant herein Defendant EDWARDS daily was or is responsible for the management of USP-Lewisburg, Pennsylvania, USP-Terre Haute, Indiana or Bureau institutions and programs within the North Central Region and for such other duties as may be delegated by the Bureau's Central Office in Washington, D.C. Defendant EDWARDS has the ability to daily control or cause to be controlled the conditions and environment in which plaintiff resides while incarcerated in the Federal Bureau of Prisons system.

9. Defendant EDWARDS is sued in his official capacity only as Regional Director and former Warden of USP-Terre Haute, Indiana and USP-Lewisburg, Pennsylvania. At all times mentioned in this complaint defendant EDWARDS acted under color of United States law.

10. Defendant EDWARD BRENNAN is, and at all times mentioned herein was, Warden of the Federal Correctional Institution, Oxford, Wisconsin 53952. Defendant BRENNAN daily had the ability to directly



control or cause to be controlled the conditions and environment in which plaintiff resided or was transferred to while incarcerated at FCI-Oxford.

11. Defendant BRENNAN is sued in his individual capacity as well as his official capacity as Warden of FCI-Oxford. At all times mentioned in this complaint, Warden BRENNAN acted under color of United States law.

12. Defendant DENNIS KURZYDLO is, and at all times mentioned herein was, Case Manager at FCI-Oxford (hereinafter "Case Manager KURZYDLO" or "KURZYDLO") and maintains his office at FCI-Oxford, Wisconsin 53952. Defendant KURZYDLO daily is responsible for the case management operations of inmates delegated to him by or through Warden BRENNAN, FCI-Oxford, Wisconsin. Defendant KURZYDLO had the ability to daily control or cause to be controlled, either directly or indirectly, the conditions and environment which the plaintiff resided or was transferred to while incarcerated at FCI-Oxford.

13. Defendant KURZYDLO is sued in his individual capacity, as well as in his official capacity as Case Manager. At all times mentioned in this complaint,



Defendant KURZYDLO acted under color of United States law.

14. Defendant LARRY E. DUBOIS was at all times mentioned herein, North Central Region Regional Director of the Federal Bureau of Prisons (hereinafter "Former Regional Director" or "DUBOIS"), and maintained his office at 10920 Ambassador Drive, Air World Center, Kansas City, Missouri 64153. Further, at all times relevant herein Defendant DUBOIS daily was responsible for the management of Bureau institutions and programs within the North Central Region and for such other duties as may have been delegated by the Bureau's Central Office in Washington, D.C. Defendant DUBOIS had/has the ability to daily control or caused to be controlled the conditions and environment in which plaintiff resided or was transferred to while incarcerated in Bureau's institutions within the North Central Region.

15. Defendant DUBOIS is sued in his individual capacity as well as his official capacity as Former North Central Region Regional Director of the Federal Bureau of Prisons, At all times mentioned in this complaint, Defendant DUBOIS acted under color of United States law.

16. Defendant N.W. SMITH was at



all times mentioned herein Correctional Services Administrator (hereinafter "Former Administrator" or "SMITH") and maintained his office at 10920 Ambassador Drive, Air World Center, Kansas City, Missouri 64153. Defendant SMITH daily was responsible for the designations of inmates within the Bureau's North Central Region institutions. Defendant SMITH had the ability to control or cause to be controlled the conditions and environment in which plaintiff resided or was transferred to while incarcerated in Bureau's institutions within the North Central Region.

17. Defendant SMITH is sued in his individual capacity as well as his official capacity as Former Administrator. At all times mentioned in this complaint, Defendant SMITH acted under color of United States law.



## V STATEMENT OF FACTS

### A. Plaintiffs' Transsexualism

18. Plaintiff is a biologic male, whom at an early age began to identify more with the female gender. Her childhood is remarkable for feminine interest and mannerisms with a dislike for male orientated activities.

19. By the age of fifteen (15) years old, plaintiff overtly began to demonstrate her obsession with the female gender. Specifically, she began to live in the female gender, full-time, by dressing and conducting herself, thoroughly and consistently as a female.

20. In attempt to further disassociate herself with the male gender and in pursuit of Sex Reassignment Surgery, plaintiff without psychological counseling or medical consultation, illegitimately had unsuccessful scrotal surgical procedure in 1980 on the blackmarket in New York City.

21. In 1984, plaintiff entered the New York Breast Clinic where she had silicone (base) injections and hormone treatment. Plaintiff had been on Premarin,



a female hormone for several years prior to her arrest.

22. Upon her commitment to the Bureau of Prisons, plaintiff continued to be obsess with ridding herself of her primary male sex-organs and features and obtaining those of the female gender. This fact is evident from the numerous administrative and judicial complaints, the plaintiff has filed with appropriate offices' of the Bureau, including the named defendants', as set forth hereinafter.

23. Moreover, plaintiff has on several occasions introduced female hormones into the Bureau of Prisons institutions and consumed the same without medical supervision. Also, plaintiff has been disciplined by prison officials, Federal Bureau of Prisons for attempting to introduce Premarin, female estrogen into Bureau institutions without authorization.

24. Plaintiffs' complexities related to her transsexualism has only been magnified during her commitment in Bureau institutions, within the last year plaintiff has indicated to employees of the Bureau, her desire and intentions to perform self-castration.



25. The aforementioned facts are those recognized by the American Psychiatric Association and the Harry Benjamin International Gender Dysphoria Association as constituting the diagnosis of transsexualism, a mental disorder. Consistent with recognized standards, qualified professionals diagnosed the plaintiff as a transsexual prior to incarceration and even after her commitment, the Bureau's medical and psychiatric personnel also diagnosed and documented the plaintiff as a transsexual.

26. Records compiled and maintained by the Bureau of Prisons also describe the plaintiff as a non-violent, passive individual who projects feminine characteristics, both mentally and physically. It is further noted, that she is likely to experience a number of difficulties in incarceration. Because of her youth and feminine appearance she is likely to experience a great deal of sexual pressure.

27. Each of the facts stated in paragraphs 18, 19, 20, 21, 22, 23, 24, 25 and 26 were known to Defendants EDWARDS, BRENNAN, KURZYDLO, DUBOIS and SMITH at the times of their alleged actions or inactions resulting in



the alleged violations complained of herein, as set forth hereinafter in full and detail, respectively.

B.  
Failure to Ensure Safety  
of Plaintiff, as a Transsexual

28. Though, there are few transsexual offenders committed to the Federal Bureau of Prisons, it is a documented fact that transsexuals present a unique management problem in a correctional setting. Case law and correctional records reveal that the placement of preoperative male-to-female transsexuals in an all male institution has resulted in them being threaten and sexually assaulted by fellow inmates and prison guards. Irrespective of the extent of their feminine appearance, said transsexuals become the target of sexual approaches from fellow inmates, because of their feminine interest and characteristics which often leads to them being raped and abused. The greater said transsexual appearance, characteristics, interest and mannerisms are to the female gender the probability of sexual assault increases and in most instances is inevitable.



29. Upon information and belief, the environment of the institution is one of the most substantial aspects in determining the probability that said transsexual will be able to safely function within the institution. An institution with a violent environment is one where said transsexual will inevitably be raped. A violent environment in a penal setting would be one composed of prisoners with serious prior convictions, violent and drug related crimes and prison disciplinary infractions and substantial sentences of imprisonment.

30. Bureau of Prisons, Health Service Manual, 6000.2, Section 6805 entitled Transsexuals, provides that transsexuals will ordinarily be placed in co-correctional facilities. The method by which they are intergrated into the correctional setting will be determined by Institution Supplement.

31. However, inmates designations are determine by Bureau of Prisons, Security and Custody Classification Manual which setforths the guidelines for determining inmates security and custody level and assigns certain levels to each institution, except for institutions designated as administrative. At all



times mentioned herein the Bureau of Prisons institutions were assigned security levels 1-6 and custody levels of in, out and max. Security level 1 was the less restrictive and 5 the highest, per say. Inasmuch there is only one level 6 institution, United States Penitentiary, Marion, Illinois. With regard to custody levels out is the lowest, in medium and max highest. This policy has no provisions for the designation of transsexual offenders.

32. Currently, Bureau of Prisons Security and Custody Classification Manual divides institutions into the categories of low, medium and high, well as administrative. It continues the Bureau's previous provisions regarding custody levels. This latest policy is also void of any provision regarding the designation of transsexual offenders.

33. Neither, Bureau of Prisons Security and Custody Classification Manuals referenced the provisions of Bureau of Prisons Health Service Manual regarding transsexual offenders ordinarily being placed in co-correctional facilities.

34. Defendant QUINLAN, at all



times mentioned herein disregarded his responsibility to establish an effective policy on the housing and designation of transsexual offenders. He also failed to enforce existing Bureau policy regarding transsexual or ensure observance or adherence thereto.

35. Defendants' EDWARDS, BRENNAN, KURZYDLO, DUBOIS and SMITH failed to adhere, consider or observe the Bureau's policy regarding transsexual offenders' in designating and transferring the plaintiff.

### C. COMMITMENT TO BUREAU OF PRISONS

36. On or about August 14, 1986 United States Marshals' transported the plaintiff to the United States Penitentiary in Lewisburg, Pennsylvania, and then on the following day to the United States Medical Center for Federal Prisoners' in Springfield, Missouri. During her overnight stay at USP-Lewisburg, plaintiff was kept segregated in a hospital unit with other transsexual inmates, Tonett Johnson and Ralph Scott a/k/a Simone Scott.



37. Initially, plaintiff was completely segregated from other inmates at MCFP-Springfield in a segregation cell. Later, she was placed in a hospital unit where she was only allowed to interact with the inmates, whom were seriously ill and hospitalized on said unit, 3-2, never was she permitted to enter the general population.

38. The restrictions imposed upon the plaintiff as described in paragraphs 36 and 37 herein, was imposed solely because of plaintiffs' transsexualism as described in paragraphs 18, 19, 20, 21, 25 and 26 and Bureau officials belief that said facts warranted greater protection to ensure the plaintiffs' safety.

39. On August 22, 1986 a psychological report was prepared by Bureau's psychologist at MCFP-Springfield documenting plaintiffs' transsexualism. The psychologist noted that the plaintiff would likely experience a number of difficulties during her incarceration, including a great deal of sexual pressure because of her youth and feminine appearance.



40. On August 19, 1986 a history and physical was prepared by Bureau's medical doctor at MCFP-Springfield stating that the plaintiff apparently began at age 16 to identify more as a female, had some type of scrotal surgical procedure in 1980 and has been on Premarin (female hormone) for the past year.

41. On or about September 1, 1986 a Transfer Request was sent to the Bureau's North Central Region contending that the plaintiff has a predisposition to transsexuality and recommended she be transferred to USP-Lewisburg.

42. Each of the facts stated in paragraphs 39, 40 and 41 were known to Defendants' EDWARDS, BRENNAN, KURZYDLO, DUBOIS and SMITH at the times of their alleged actions or inactions resulting in the alleged violations complained of herein, as set forth hereinafter in full and detail, respectively.

D.  
TRANSFER TO USP-LEWISBURG

43. On October 17, 1986 the plaintiff was transferred from MCFP-



Springfield and placed enroute to her newly designated institution, USP-Lewisburg. On the same date, she was placed in holdover status at the Federal Correctional Institution (FCI), Elreno, Oklahoma. Based on the facts as described in paragraphs 18, 19, 20, 21, 25 and 26 herein Bureau officials at FCI-Elreno segregated the plaintiff in a hospital cell.

44. Bureau officials at FCI-Elreno prepared an administrative detention order contending that the plaintiffs' presence in the general population would pose a serious threat to life, property, self, staff, other inmates or to the security or orderly running of the institution because of her transsexualism.

45. On November 7, 1986 the plaintiff was removed from administrative segregation at FCI-Elreno and transported to her designated institution, USP-Lewisburg. Upon her arrival at USP-Lewisburg Bureau officials prepared an administrative detention order that states: Inmate Farmer is a transsexual who is 21 years old, designated to Lewisburg. Accordingly, due to the nature of his (SIC) case he (SIC)



was placed on Addt. (administrative detention) pending review by the I.D.C. prior to placement in population.

46. During, plaintiff's entire stay at USP-Lewisburg she remained administratively segregated for the reasons aforementioned. Furthermore, while at said penitentiary plaintiff remained on a status commonly known as "Total Single or T/S" which means essentially she was never permitted to come into physical contact with any other inmate.

47. USP-Lewisburg is, and at all times mentioned herein was, a security level 5 (five) institution, housing aggressive and violent offenders. Moreover, said penitentiary has a history of assaults, murders, drugs, etc. which compose a violent environment.

48. On December 18, 1986 an administrative remedy response was prepared for Defendant EDWARDS (then Warden, USP-Lewisburg) stating: It has been determined by the administration that in order to afford you all possible means of protection, you will be housed on total single status. The decision to transfer you to another facility was based upon a determination, that



there is a high probability that you cannot safely function at this institution.

49. In an interview with Bureau employee, John E. Williams, (then Chief Correctional Supervisor at USP-Lewisburg) it was explained to the plaintiff that because of her feminine appearance, if she were to enter the general population inmates would put a knife to her throat and force her to do whatever they wanted, because she was the closest thing, they have or would come in contact with for a very long time, to a woman. Therefore, it was necessary to keep her separated from all other inmates.

50. A medical summary was prepared at USP-Lewisburg which claimed that the plaintiffs' last dosage of Premarin (illegally and without authorization) had been one month earlier and pertinent physical examination findings included some decrease in facial hair and rearrangement of body fat to a female distribution.

51. The decision not to permit the plaintiff to enter the population of USP-Lewisburg because of her transsexuality is set forth in the case



Farmer v. Carlson, 685 F.Supp 1335 (M.D. Pa. 1988) and is incorporated herein as though set forth in full and detail.

52. Bureau officials were aware that the plaintiff had successfully operated a credit-card fraud organization while in the custody of state and federal authorities and though serving a twenty year federal sentence and a consecutive thirty year state sentence, this had not deterred her from continuing to engage in these activities.

53. Additionally, plaintiff received two disciplinary reports at USP-Lewisburg, 1) Code 406, Unauthorized Use of the Mail, for writing the Federal Reserve Bank under the Bureau's legal mail provisions, and 2) Code 327, Unauthorized Contact with the Public, for attempting to obtain a credit-card number via telephone. Noteworthy, plaintiff received one disciplinary report at MCFP-Springfield, Code 327, supra. for operating illegal credit-card business through the inmate telephone.

54. Irrespective of these facts, after spending about five months in administrative segregation, on or about March 17, 1987 the plaintiff was



redesignated and transferred to the Federal Correctional Institution (FCI), Petersburg, Virginia.

55. Defendants' QUINLAN, EDWARDS, BRENNAN, KURZYDLO, DUBOIS and SMITH is, and at all times mentioned herein were aware and knowledgable of the facts setforth in paragraphs 43, 44, 45, 46, 47, 50, 51, 52, 53 and 54 during the time of their individual actions or inactions as setforth herein resulting in the alleged violations complained of hereinafter.

#### E. TRANSFER TO FCI-PETERSBURG

56. On March 17, 1987 the plaintiff arrived at FCI-Petersburg. She was placed in administrative segregation because of her transsexuality and pending initial classification by her assigned Unit Team.

57. At all times mentioned herein FCI-Petersburg was a level four security level institution and housed a low percentage of offenders with a history of violence or aggressive behavior.



58. Though, plaintiff was permitted in the general population at FCI-Petersburg she spent the majority of her stay at said institution in segregation for allegedly committing disciplinary infractions, as described hereinafter.

59. During the plaintiff periodic housing in the general population she was constantly subject to harassment, threats and sexual pressure. Further, on atleast three occasions she was forced to engage in sexual acts with fellow inmates.

60. On numerous occasions plaintiff sought psychological assistance for the harassment and sexual pressure she was experiencing in the general population at FCI-Petersburg. However, she did not report the aforementioned sexual assaults to prison officials in fear of retaliation by said inmates.

61. While at FCI-Petersburg plaintiff recieved five incident reports involving indirectly or directly credit-card fraud via telephone. These disciplinary infractions included fraudulently ordering 1) hair relaxer; 2) ladies sweat clothing; 3) ladies watch; and 4) ladies eyeglasses, well as



attempting to obtain a credit-card number via telephone.

62. She also recieved disciplinary infractions for: 1) having her safety shoes off; 2) wearing her T-shirt in a female fashion (off one shoulder) which officials claimed exposed a portion of her "breast."; 3) attempting to introduce female hormones into the institution, and 4) writing a letter to another inmate without authorization, well as unauthorized reproduction of a document which also concerned her transsexualism.

63. As setforth above none of the disciplinary infractions allegedly committed by the plaintiff involved violent or aggressive behavior. Furthermore, many involved issues which directly relate to plaintiffs transsexuality.

64. Due to the aforementioned disciplinary infractions plaintiff was transferred to the Federal Correctional Institution (FCI) Oxford, Wisconsin.

65. At all times mentioned herein Defendants EDWARDS, BRENNAN KURZYDLO, DUBOIS and SMITH were aware and knowledgable of the facts stated in paragraphs 56, 57, 58, 60 61, 62, 63 and 64 during the time of their individual actions or inactions



complained of herein resulting in the alleged violations as set forth hereinafter.

F.  
TRANSFER TO FCI-OXFORD

66. In January, 1988 plaintiff was removed from FCI-Petersburg and placed in hold-over status at USP-Lewisburg where she was segregated in a hospital cell for the reasons stated in paragraphs 45, 46, 47, 48 and 49 herein.

67. Subsequently, she was removed from USP-Lewisburg and transported to FCI-El Reno where she was administratively segregated as a hold-over for the reasons stated in paragraph 44 herein.

68. Likewise, plaintiff was removed from FCI-El Reno and transported to USP-Terre Haute where she was administratively segregated as a hold-over for the reasons stated in paragraphs 28 and 29 herein.

69. Plaintiff was removed from USP-Terre Haute and transported to her designated institution, FCI-Oxford.

70. At all times mentioned herein



FCI-Oxford was a security level four institution, however, it housed a medium percentage of inmates with histories of violence and aggressiveness.

71. Plaintiff was permitted to enter the general population at FCI-Oxford where she recieved a substantial amount of sexual pressure from other inmates, and atleast on one occasion was forced to engage in a sex act with another inmate.

72. Shortly after her arrival at FCI-Oxford plaintiffs' transsexualism was further documented to and by prison officials in a psychological questionnaire and summary dated February 4, 1988.

73. On February 8, 1988 plaintiff filed an administrative remedy with Defendant BRENNAN in which she wrote: Farmer, a transsexual prior to her incarceration recieved psychological counseling for a sex-change at Johns' Hopkins University. Additionally, she recieved the medication of conjugated estrogen and had an unsuccessful operation on the blackmarket in New York City to have her testicles removed.

74. On February 18, 1988 Defendant BRENNAN acknowledged



having recieved plaintiffs' complaint by denying the same and returning it to her.

75. On June 22, 1988 plaintiff filed another request for administrative remedy with Defendant BRENNAN concerning various issues' directly relating to her transsexuality.

76. On July 8, 1988 Defendant BRENNAN acknowledged receipt of plaintiffs complaint by denying the same and returning it to her.

77. On July 11, 1988 plaintiff appealed Defendant BRENNAN denial of her request for administrative remedy to Defendant DUBOIS who acknowledged the same by denying plaintiffs' appeal on August 12, 1988.

78. On February 12, 1988 plaintiff brought a civil action entitled Former v. Edwin Meese, Michael QUINLAN, E.J. BRENNAN, and Mr. Haas, 88-C-110-S (W.D. Wis.) directly concerning her transsexuality. This action thorough advised Defendants QUINLAN and BRENNAN of the facts setforth in paragraph 51 herein.

79. Further, Defendants' BRENNAN and DUBOIS knowledge of plaintiffs transsexuality is thoroughly documented



in the case of Former v. Haas, 927 F.2d 607 (7th Cir. March 1, 1991) (Table, text available on WESTLAW).

80. On February 1, 1988 plaintiff received a disciplinary report at FCI-Oxford for attempting to introduce female hormones into the Institution without authorization.

81. She also received three disciplinary reports that directly or indirectly involved credit-card fraud while confined at FCI-Oxford - 1) obtaining credit information via telephone; 2) fraudulently ordering flowers, and 3) a ladies watch.

82. Consequently, it was recommended that the plaintiff receive a disciplinary transfer, pursuant thereto on February 6, 1989 Defendant KURZYDLO prepared a Request for Transfer for Defendant BRENNAN addressed to Defendant DUBOIS and SMITH recommending that the plaintiff be transferred to a maximum security penitentiary. Defendant KURZYDLO included a copy of plaintiffs' Pre-Sentence Investigation (PSI) Report which thoroughly documented her transsexuality, and a Progress Report that summarized



her previous designations and transfers.

83. Defendant KURZYDLO, knew that the placement of the plaintiff in a penitentiary would not offer her any greater security or benefit her in any aspect.

84. Defendants' DUBOIS and SMITH caused or allowed the plaintiff to be redesignated to the United States Penitentiary in Terre Haute, Indiana knowing that said penitentiary has a violent environment, including a history of assaults, murders and rapes, and plaintiff, a feminine, male-to-female preoperative transsexual, life would be endangered if placed in the institutions' general population.

85. During the interim plaintiff received disciplinary reports for allegedly 1) engaging in a sex act; 2) writing another inmate, and 3) unauthorized possession of a Motrin.

86. With regard to plaintiffs' disciplinary reports in a letter dated July 14, 1988 Niel Blumberg, M.D. P.A. Diplomate American Board of Psychiatry, Neurology and Forensic Psychiatry wrote to prison officials at FCI-Oxford noting plaintiffs' diagnosis of



transsexualism and stating unless Ms. Farmer receives appropriate treatment for the above noted problems, it is unlikely that her involvement in criminal activities will cease.

87. On March 9, 1989 Defendant BRENNAN signed the Order for the plaintiff to be transferred to USP-Terre Haute knowing that plaintiff safety would be endangered at said institution. Defendant BRENNAN also knew that USP Terre Haute has a violent environment including a history of murders, assaults and rapes.

#### G. TRANSFER TO USP-TERRE HAUTE

88. Plaintiff was received at the United States Penitentiary in Terre Haute, Indiana on March 9, 1989 and placed in administrative segregation, because of her transsexuality, and supposedly pending initial classification by her assigned Unit Team. On or about March 23, 1989 plaintiff was released into the general population at USP-Terre Haute and assigned to Unit 3M.



89. On April 1, 1989 an inmate entered the plaintiffs' cell and demanded that she engage in sexual intercourse with him and when she refused he attacked her, beating her in the face with his bare fist, then kicking her with his feet, revealing a home made knife he had stuck in his sneaker, finally the inmate began tearing the plaintiffs clothing and forcibly raped her.

90. As a result of the sexual assault upon plaintiff she suffered mental anguish, psychological damage, humiliation, a swollen face, cuts and bruises to her mouth and lips and a cut on her back, well as some bleeding.

91. Plaintiff was threaten with being murdered if she informed prison officials of the rape and out of fright for her life she did not inform prison officials of the sexual assault until one week later when she was placed in detention. Plaintiff remained in detention until her departure from USP-Terre Haute.

4.  
ENVIRONMENT OF USP-TERRE HAUTE



92. By Bureau of Prisons, Program Statement 5100.2 entitled Security Classifications and Designations USP-Terre Haute is a level four institution. However, security levels are determined by points and generally have three spheres, (1) 4-low, (2) 4-med, and (3) 4-high. USP-Terre Haute was at the highest sphere of a level four. Inasmuch, USP-Terre Haute houses violent offenders level five inmates and maximum custody inmates.

93. Defendants QUINLAN, EDWARDS, BRENNAN, KURZYDLO, DUBOIS and SMITH is, and at all times relevant to the facts stated herein were aware that USP-Terre Haute is a penitentiary, with a violent environment, housing a majority of violent offenders with frequent incidents of assaults, fights, weapons, drugs and sexual assaults, well as a history of murders, weapons, drugs, sexual assaults, etc.

94. Furthermore, Defendants QUINLAN, EDWARDS, BRENNAN, KURZYDLO, DUBOIS and SMITH knew that to place the plaintiff or any male-to-female peroperative transsexual, who has a feminine appearance, presents



themselves mentally and physically as female, has been administered female hormones and had began to prepare for Sex Reassignment Surgery would be sexually assaulted at USP-Terre Haute, and through their actions or omissions permitted the plaintiff to be designated and housed at USP-Terre Haute.

95. Defendants QUINLAN, EDWARDS, BRENNAN, KURZYDLO, DUBOIS and SMITH knew that the plaintiff has no history of violence, has never been in any type of physical confrontation or fight with inmate or staff and is a passive individual who could not function in the hostile and violent environment of USP-Terre Haute.

96. Defendants EDWARDS, DUBOIS and SMITH knew of the sexual assaults, fights, drugs, assaults of stabbing and piping, well as excessive alcohol in the population of USP-Terre Haute, through administrative remedies, disciplinary appeals and transfer request filed with them respectively.

97. Defendant EDWARDS was the Warden at USP-Terre Haute during plaintiff's incarceration there and though he was personally aware of



her transsexuality well as the high probability she could not safely function at said institution he permitted her to enter the general population.

98. In addition, to being sexually assaulted at USP-Terre Haute plaintiff received a great deal of sexual pressure which continued even after her placement in detention.

## VI LEGAL CLAIMS

99. Plaintiff has been and at all times mentioned herein was denied her right to Due Process of law as guaranteed by the Fifth Amendment of the Constitution of the United States, by willful and knowing failure of Defendant QUINLAN to establish an effective policy on the designations and housing of transsexual offenders committed to the Bureau of Prisons as set forth more specifically in paragraphs 32, 33, 34 and 35.

100. Plaintiff has been and at all times mentioned herein and is being denied her right to Due Process of law as guaranteed by the Fifth Amendment of the Constitution of the United States



by being improperly classified, designated and housed within the Federal Bureau of Prisons system.

101. Plaintiff has been and at all times mentioned herein was denied her statutory right as protected by the Due Process Clause of the Fifth Amendment to the United States Constitution and her Eighth Amendment right to be free from deliberate indifference to her safety by the Defendants failure to provide for her safety, protection and safekeeping as described more specifically in paragraphs 82, 83, 84, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, and 98. See also 18F USC 4042 (2), (3).

102. As a proximate result of Defendants' QUINLAN, EDWARDS, BRENNAN KURZYDLO, DUBOIS and SMITH prejudicial abuse of discretion and failure to proceed in the manner required by law in the actions taken against plaintiff by the Federal Bureau of Prisons, and each of the defendants, employees, agents and all other persons acting in concert and participation with them, in prejudicially abusing their discretion and failing to proceed in the manner required by law in the actions taken



against plaintiff by the Federal Bureau of Prisons, plaintiff was, has been, and continues to be deprived of Constitutional, civil, statutory and regulatory rights and immunities to such extent that her physical and mental health have been, and presently are being irreparably damaged beyond the ability of a pecuniary damages award alone to restore her to such sound physical and mental health.

Plaintiff alleges that she has been injured by the acts of defendants and each of them to such a degree that it is impossible for her to accurately place a dollar amount to such loss, no amount of money, no matter how high the amount, being sufficient in itself to compensate her for such loss; therefore, plaintiff herein alleges compensatory damages in the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) and punitive damages in the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) to be assessed against defendants BRENNAN, KURZYDOLO, DUBOIS and SMITH. and each of them to the plaintiff.

103. Plaintiff has no plain, adequate or complete remedy at law



to redress the wrongs described herein. Plaintiff has been, and, regardless of how many or which institutions she is or may be transferred to by Defendant QUINLAN or defendant QUINLAN'S employees or agents, will continue to be irreparably injured by the conduct of the defendants and each of them, their successors in office, employees, agents and all other persons acting in concert and participation with them unless this Court grants the Declaratory, Injunctive, and damages relief which plaintiff seeks.

## VII RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully prays that this Court enter judgment granting plaintiff:

1. A declaratory judgment that the actions and omissions of the defendants as described herein violates plaintiffs' rights as guaranteed by the United States Constitution;
2. A permanent injunction which:



a. Provides for the plaintiff to be confined in a co-correctional facility and prohibits her from being confined in any of the Federal Bureau of Prisons "penitentiaries", USP- Terre Haute, USP- Leavenworth, USP- Lewisburg, USP- Lompoc or USP- Atlanta;

3. A jury trial on all issues triable by jury.

4. Compensatory damages in the amount of One Hundred Thousand dollars (\$100,000.00) to plaintiff from defendants BRENNAN, KURZYDLO, DUBOIS and SMITH.

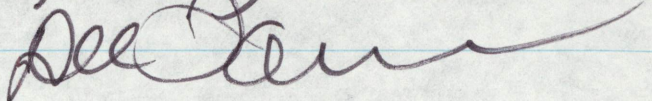
5. Punitive damages in the amount of One Hundred Thousand dollars (\$100,000.00) to plaintiff from defendants BRENNAN, KURZYDLO, DUBOIS and SMITH.

6. Plaintiffs' cost of this suit.

7. For such other and further relief as this Court may deem just and proper.

DATED: December 4, 1991

Respectfully submitted



Dee Farmer

In Propria Persona