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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

LENORA SANTOS, JUNELL
FAITH ALIVIADO and JAMIQUIA
GLASS,

Plaintiffs,

vs.

SHARI KIMOTO, Mainland Branch
Coordinator, Department of Public
Safety, State of Hawaii, in her
individual and official capacities;
JEANETTE BALTERO, Contract
Monitor, Department of Public
Safety, State of Hawaii, in her
individual and official capacities;
TED SAKAI, Interim Director,
Department of Public Safety, State of
Hawaii, in his official capacity; and
DOES 1-30,

Defendants.

CIV. NO. 12-00259 SOM/BMK

STIPULATED FACTS

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The parties agree, through the undersigned counsel, to the following Stipulated Facts. The facts in this stipulation may be received into evidence in lieu of further proof or testimony.

The parties also stipulate to certain exhibits. Pursuant to Local Rule 10.2(d), the parties will refer to the docket entries at which these exhibits appear. Hard copies of each exhibit will be provided to the Court, numbered/tabbed as “Stipulated Exhibit 1,” etc., as noted herein.

1. The Department of Public Safety (“DPS”) will not allow a prisoner to marry any other individual without the permission of DPS.

2. In order to obtain permission from DPS, the prisoner must complete some application materials, which includes a portion completed by the prisoner’s fiancée. The completed application is then submitted to DPS.

3. DPS has a policy on inmate marriages. A true and correct copy of the current policy, COR.14.13, effective June 8, 2011, which appears in the Docket as #10-17, is Stipulated Exhibit 1.

4. A true and correct copy of the previous version of COR.14.13, effective December 12, 2009, which appears in the Docket as #46-4, is Stipulated Exhibit 2.

Plaintiff Glass and her fiancé, Reginald Pettway

5. Plaintiff Jamiquia Glass is engaged to be married to Reginald Pettway. Mr. Pettway is under the custody of the State of Hawaii, and is currently incarcerated at the Saguaro Correctional Center in Arizona.

6. Ms. Glass lives in Alabama and visits Mr. Pettway at the Saguaro facility approximately once a month. Ms. Glass and Mr. Pettway speak over the telephone and write to one another regularly.

7. Ms. Glass has been engaged to be married to Mr. Pettway for approximately two years, and continues to want to marry him today.

8. In the fall of 2010, DPS received an application for Mr. Pettway and Ms. Glass to be married. That application was denied in a letter from Defendant Shari Kimoto; a true and correct copy of that letter, dated October 4, 2010, which appears in the Docket as #10-8, is Stipulated Exhibit 3.

9. DPS received another application for Mr. Pettway and Ms. Glass to be married shortly thereafter. That application was denied in a letter from Ms. Kimoto; a true and correct copy of that letter, dated May 17, 2011, which appears in the Docket as #10-9, is Stipulated Exhibit 4.

10. In a letter dated June 27, 2011, Mr. Pettway contacted the then-Director of DPS, Defendant Jodie Maesaka-Hirata, to appeal the denial of the marriage application. Michael Hoffman, the Institutions Division Administrator

for DPS, responded on behalf of the Director; a true and correct copy of Mr. Hoffman's letter, dated October 8, 2011, which appears in the Docket as #10-10, is Stipulated Exhibit 5.

11. After Mr. Hoffman sent the October 8, 2011 letter, DPS received another application for Mr. Pettway and Ms. Glass to be married. That application was denied in a letter from Ms. Kimoto; a true and correct copy of that letter, dated January 11, 2012, which appears in the Docket as #10-11, is Stipulated Exhibit 6.

12. Ms. Kimoto recommended that the application for Mr. Pettway and Ms. Glass to marry be approved. Mr. Hoffman concurred with this recommendation. Defendants contend, and Plaintiffs do not dispute, that Ms. Kimoto's and Mr. Hoffman's supervisor, then-Deputy Director for Corrections Joe Booker, overruled the recommendation and denied the application.

13. In January 2012, Mr. Pettway sent a letter to Ms. Kimoto regarding the January 2012 denial. Defendant Jeanette Baltero responded in a letter dated February 27, 2012; a true and correct copy of that letter, which appears in the Docket at #10-12, is Stipulated Exhibit 7.

14. Defendants contend that the marriage of Mr. Pettway and Ms. Glass would present a threat to the security and good government of a correctional institution pursuant to COR.14.13. Defendants do not argue that the marriage would present a threat to the protection of the public.

15. Ms. Glass was convicted of three felonies in the 1990s. She was released from prison in 2000 and has no criminal record since that date.

16. Both Ms. Pettway and Ms. Glass are over 18 years old. They are not related to one another, and neither of them is married. They can afford to pay the application fee for a marriage license in either Arizona or Hawaii.

Plaintiff Aliviado and her fiancé, James G. Freitas, Jr.

17. Plaintiff Junell Faith Aliviado is engaged to be married to James G. Freitas, Jr. Mr. Freitas is under the custody of the State of Hawaii, and is currently incarcerated at the Saguaro Correctional Center in Arizona.

18. Ms. Aliviado lives in Hawaii and visits Mr. Freitas at the Saguaro facility approximately two to three times a year. Ms. Aliviado and Mr. Freitas speak over the telephone and exchange letters regularly.

19. Ms. Aliviado has been engaged to Mr. Freitas for several years, and continues to want to marry him today.

20. In July 2011, DPS received an application for Mr. Freitas and Ms. Aliviado to be married. As required by DPS, both Ms. Aliviado and Mr. Freitas completed portions of the marriage application. That application was denied in a letter from Ms. Kimoto; a true and correct copy of that letter, dated August 9, 2011, which appears in the Docket at #10-5, is Stipulated Exhibit 8.

21. In November 2011, DPS received another application for Mr. Freitas and Ms. Aliviado to be married. That application was denied in a letter from Ms. Kimoto; a true and correct copy of that letter, dated December 20, 2011, which appears in the Docket as #10-6, is Stipulated Exhibit 9.

22. Ms. Aliviado has three adult children and one minor child; her minor child is sixteen years old.

23. Ms. Aliviado does not have a criminal record.

24. Mr. Freitas is serving a prison sentence for sexual assault of a minor. He has approximately ten years left on his sentence at present, though he is not subject to a mandatory minimum term.

25. Defendants contend that the marriage of Mr. Freitas and Ms. Aliviado would present a threat to the protection of the public pursuant to COR.14.13. Defendants do not argue that the marriage would present a threat to the security and good government of a correctional institution.

26. Both Ms. Aliviado and Mr. Freitas are over 18 years old. They are not related to one another, and neither of them is married. They can afford to pay the application fee for a marriage license in either Arizona or Hawaii.

Additional stipulated exhibits

27. A true and correct copy of DPS Policy COR.15.01, entitled “Restricted Visitors,” effective date April 21, 2010, which appears in the Docket as #10-18, is Stipulated Exhibit 10.

28. A true and correct copy of DPS Policy COR.15.04, entitled “Visitation,” effective date February 17, 2010, which appears in the Docket as #10-18, is Stipulated Exhibit 10-19, is Stipulated Exhibit 11.

Stipulation as to authenticity of documents

29. The parties stipulate as to the authenticity of the following documents, though Defendants maintain that these documents are not relevant to the instant case:

30. A true and correct copy of a letter from Shari Kimoto to Roy Kaiama, Jr., dated November 3, 2010, which appears in the Docket as #10-14, is Stipulated Exhibit 12.

31. A true and correct copy of a letter from Daniel Gluck to Shari Kimoto, dated December 1, 2010, which appears in the Docket as #10-15, is Stipulated Exhibit 13.

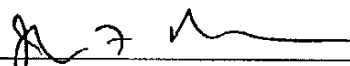
32. A true and correct copy of a letter from Tom Read to Roy Kaiama, Jr., dated December 7, 2010, which appears in the Docket as #10-16, is Stipulated Exhibit 16, is Stipulated Exhibit 14.

DATED: Honolulu, Hawaii, July 10, 2012.



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In the United States District Court for the District of Hawaii; *Santos et al. v. Kimoto et al.*; Civil No. 12-00259 SOM/BMK; Stipulated Facts