

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MICHELLE L. KOSILEK,	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 00-12455-MLW
	)	
LUIS S. SPENCER, in his official	)	
capacity as Commissioner of the	)	
Massachusetts Department of	)	
Correction,	)	
Defendant	)	

ORDER

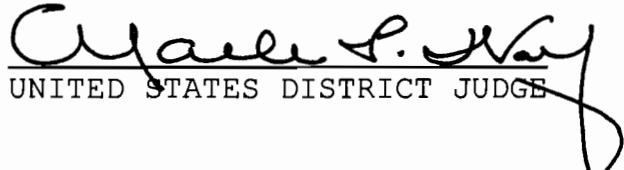
WOLF, D.J.

May 3, 2013

It is hereby ORDERED that:

1. The attached redacted version of the Affidavit of Luis S. Spencer (April, 2013) (Under Seal) (Redacted) (Docket No. 622-2) shall be docketed for the public record in this case.

2. As paragraph 6 of Commissioner Spencer's affidavit raises a question of whether there has been a violation of paragraph 2(b) of the November 20, 2012 Order, plaintiff Michelle Kosilek shall, by May 23, 2013 file, under seal, an affidavit addressing: whether the referenced email was sent on his behalf; if so, attaching a copy of the email; and, if so, seeking to explain why the message did not constitute a violation of paragraph 2(b). Kosilek shall also file, under seal, a redacted version of the affidavit, which the court may make part of the public record.

  
 UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MICHELLE KOSILEK,

Plaintiff,

v.

Civil Action No. 00-12455-MLW

LUIS S. SPENCER, in his official  
capacity as Commissioner of the  
Massachusetts Department of Correction,

Defendant.

**AFFIDAVIT OF LUIS S. SPENCER (April, 2013) (UNDER SEAL) (REDACTED)**

I, Luis S. Spencer, do hereby depose and state as follows:

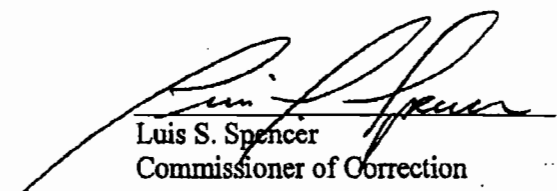
1. I am the Commissioner of Correction for the Commonwealth of Massachusetts.
2. I have prepared this affidavit in response to the Court's January 18, 2013 Memorandum and Order and the Court's November 20, 2012 Order, which stayed the September 4, 2012 Order providing sex reassignment surgery ("SRS") to Michelle Kosilek ("Kosilek") and required the Massachusetts Department of Correction ("DOC") to take the steps reasonably necessary in preparation for providing the SRS should the appeal of the September 4, 2012 Order ultimately be unsuccessful.
3. The information provided in this affidavit is based on my personal knowledge and information obtained from DOC Assistant Deputy Commissioner for Clinical Services ("ADC") Lawrence Weiner. The information provided herein is true and complete to the best of my knowledge.

4 Following the progress identified in my affidavit submitted to the Court on April 1, 2013, I am able to report continued progress in taking the steps reasonably necessary in preparation for providing the SRS should the appeal of the September 4, 2012 Order ultimately be unsuccessful.

5. ADC Weiner has advised me that he has had further positive conversations with [REDACTED] and [REDACTED]. Neither doctor has identified any medical obstacles to performing the surgery, including hospital credentialing and privileging.

6. However, I wish to bring to the Court's attention the fact that [REDACTED] advised ADC Weiner that he had received an unsolicited e-mail from an individual reportedly on behalf of plaintiff Kosilek. ADC Weiner has requested that [REDACTED] provide him with a copy of the e-mail. A copy of the e-mail will be provided to the Court upon receipt by the DOC.

Signed under the pains and penalties of perjury this 30<sup>th</sup> day of April, 2013. ,

  
Luis S. Spencer  
Commissioner of Correction