

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.

July 8, 2013

It is hereby ORDERED that the attached redacted version of the Affidavit of Luis S. Spencer (June, 2013) (Under Seal) (Docket No. 636-1) shall be docketed for the public record in this case.

 /s/ Mark L. Wolf
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 (June, 2013) (UNDER SEAL)

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 Court's 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 May 31, 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 Court's September 4, 2012 Order ultimately be unsuccessful.

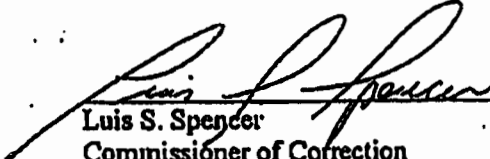
5. ADC Weiner has advised me that he continues to be in contact with [REDACTED] [REDACTED] M.D., regarding performing the surgery for plaintiff. [REDACTED] recently advised ADC Weiner that he had spoken with his medical malpractice insurer who indicated that [REDACTED] [REDACTED] would be covered for performing SRS in Massachusetts as long as the chairman of his department at the [REDACTED] approves the surgery. [REDACTED] stated that he would seek the approval of the chair of his department.

6. ADC Weiner also advised me that [REDACTED] has expressed a concern regarding the laborious process that must be undertaken to obtain a full medical license in Massachusetts and he inquired as to whether it was possible to obtain a temporary medical license in Massachusetts in order to perform the SRS for the plaintiff. In response, ADC Weiner advised [REDACTED] that the Massachusetts Board of Registration of Medicine had previously advised him that a temporary medical license was not an option. In addition, ADC Weiner has forwarded the application forms for an initial medical license in Massachusetts to [REDACTED] for his review and requested that [REDACTED] contact him if he has any questions regarding the application forms.

7. ADC Weiner has further advised me that he has recently spoken to [REDACTED] [REDACTED] at the [REDACTED] concerning the provision of hospital credentials and privileges to [REDACTED]. [REDACTED] stated that while the hospital's [REDACTED], has spoken to [REDACTED] regarding the SRS, the hospital's credentialing committee also intends to speak with [REDACTED] regarding the specific medical procedures of the SRS. According to [REDACTED] the hospital's credentialing

committee has some questions regarding the totality of the sex reassignment procedure and particularly, any complications that may arise with post-operative care.

Signed under the pains and penalties of perjury this 28th day of June, 2013.


Luis S. Spencer
Commissioner of Correction