

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 (October, 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 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 Mental Health Regional Administrator ("MHRA") Mitzi Peterson, MSW, LICSW. The information provided herein is true and complete to the best of my knowledge.

4. Following the progress identified in the affidavit submitted to the Court on August 30, 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.

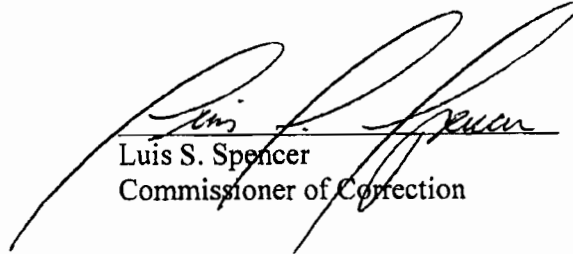
5. MHRA Peterson has advised me that she recently spoke with [REDACTED] [REDACTED] for the Massachusetts Board of Registration in Medicine, to further discuss the parameters of a temporary medical license for [REDACTED] in light of the information that the [REDACTED] has agreed to provide [REDACTED] with a visiting academic faculty appointment for the SRS should the appeal of the Court's September 4, 2012 Order ultimately be unsuccessful. The call was prompted by [REDACTED] request that we obtain further clarification from the Board of Registration in Medicine as to whether [REDACTED] could obtain a temporary medical license based on the academic faculty appointment under 243 CMR 2.02(13)(a) for a period of up to one year. [REDACTED] indicated that providing [REDACTED] with a temporary medical license for a one year period under 243 CMR 2.02(13)(a) would provide more flexibility with regard to scheduling and any subsequent follow-up appointments than a short-term temporary medical license limited to just thirty days, should the appeal of the Court's September 4, 2012 Order ultimately be unsuccessful.

6. MHRA Peterson has advised me that [REDACTED] of the Board of Registration in Medicine indicated that to be eligible for a one year academic faculty appointment temporary medical license under 243 CMR 2.02(13)(a), an out-of-state physician would have to be teaching at a medical school within the Commonwealth for a minimum of three days a month for the academic year. [REDACTED] further advised MHRA Peterson that she was uncertain as to whether the thirty day short-term temporary medical license for an academic faculty appointment could be renewed more than once. [REDACTED] suggested that [REDACTED] may want to consider obtaining a full medical license in order to cover an extended period of time and to avoid the need to renew a temporary medical license.

7. MHRA Peterson has advised me that she has scheduled a telephone conference with [REDACTED] for early November, 2013 in which to discuss the information she recently

received from [REDACTED] of the Board of Registration in Medicine and to identify the next steps with regard to [REDACTED] obtaining a medical license in Massachusetts should the appeal of the Court's September 4, 2012 Order ultimately be unsuccessful..

Signed under the pains and penalties of perjury this 31st day of October, 2013.



Luis S. Spencer
Commissioner of Correction