

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

CRISTINA NICHOLE IGLESIAS
(a.k.a. CRISTIAN NOEL IGLESIAS),

Plaintiff,

V.

FEDERAL BUREAU OF PRISONS, *et al.*,

Defendants.

No. 19-cv-00415-NJR

Judge Nancy J. Rosenstengel

**JOINT EXPEDITED MOTION TO MODIFY
THE COURT'S APRIL 18, 2022 PRELIMINARY INJUNCTION**

For the reasons discussed below, the parties respectfully move to modify the Court's April 18, 2022 preliminary injunction and enter the joint proposed modified preliminary injunction, attached hereto as Exhibit A. As explained in Defendants' prior motion for a one-week extension to comply with paragraph 6 of the April 18 preliminary injunction, the parties have been in discussions about a potential resolution of Plaintiff's request for gender-confirmation surgery involving retention of the Chicago-based surgeon that Plaintiff's counsel have previously identified. *See* ECF No. 242. The parties believe that their discussions have been constructive and agree that it would be in the best interest of all parties to modify the April 18 preliminary injunction to, among other things, provide the parties further time to pursue negotiations over a permanent injunction and/or other potential resolution of this case.

Because of the time-sensitive nature of this motion, the parties respectfully request that the Court act on their motion at its earliest opportunity.

DISCUSSION

In its Memorandum and Order dated April 18, 2022 (ECF No. 238) (“Mem. & Order”), the Court granted in part Plaintiff’s motion for a modified preliminary injunction. Mem. & Order at 2, 20-22. Among other terms, the modified injunction, ECF No. 239, directs Defendants to provide information on (i) surgeons who are qualified to perform gender-confirmation surgery, (ii) dermatologists who are qualified to perform hair removal in furtherance of gender-confirmation surgery, and (iii) any procurement or contracting issues associated with using the Chicago-based surgeon. *See* ECF No. 239 at 1–3. The Court also ordered BOP and DOJ counsel to show cause in writing on or before April 28, 2022, why sanctions should not be imposed, ECF No. 238 at 31, and set a show-cause hearing for May 9, 2022, ECF No. 243. On April 20, 2022, Defendants filed an unopposed motion for a one-week extension of time to comply with paragraph six of the Court’s April 18 injunction. ECF No. 242. Defendants noted that, given the parties’ mutual interest in securing the services of the Chicago-based surgeon and their progress in that direction, they were hopeful that some of the other requirements may also prove unnecessary. *Id.* at 4 n.1. Defendants noted that they would keep the Court informed of their efforts and would potentially seek further relief from the Court if appropriate. *Id.* The Court granted Defendants’ motion for an extension of time. ECF No. 245.

The parties have since continued to make progress toward a potential resolution of this matter. On April 25, 2022, the parties conferred on a joint motion to modify the preliminary injunction to allow the parties to focus their efforts on moving forward with the Chicago-based surgeon and other immediate next steps in connection with providing Ms. Iglesias gender-confirmation surgery. The parties have agreed that it is in their mutual interest for the Court to modify the April 18, 2022 preliminary injunction as reflected in Exhibit A, and whose terms can be summarized as follows:

- Defendants will continue scheduling appointments for Plaintiff for laser hair removal with the provider in Miami who is currently scheduled to begin laser hair removal on April 26, subject to the continued agreement and availability of the dermatologist.
- Defendants will identify at least three electrolysis hair removal providers in the Miami area who Defendants believe are qualified to perform permanent hair removal in preparation for vaginoplasty, and who are acceptable to Plaintiff.
- Defendants will schedule a consultation for a vaginoplasty with the Chicago-based surgeon previously identified by Plaintiff's counsel.
- Defendants will continue to attempt to gather certain information on other potential surgeons.
- Defendants will consult with the Office of Probation and Pretrial Services, as necessary, in order to effectuate any needed medical furlough(s) for Ms. Iglesias.
- By May 6, 2022, Defendants will provide an outline of a timeline of all significant steps that BOP and NaphCare must undertake to provide Plaintiff with gender-confirmation surgery with enough time for her to recover before her release on December 25, 2022.
- The obligations set forth in the parties' proposed modified preliminary injunction will pause the obligations previously imposed by paragraphs 1 through 6 of the Court's April 18 injunction, except that Defendants will file on April 28, 2022, the information that they have already compiled with respect to paragraphs 2 and 4 of the injunction and will also file the information required by paragraph 5 by May 6, 2022.
- In light of the parties' mutual wish to pursue negotiations over a permanent injunction and/or other potential resolution of the case, the parties will jointly file a proposed permanent injunction and/or other status report within 21 days.
- To allow the parties to focus on these negotiations, Defendants' obligation to file status reports pursuant to the Court's February 22, 2022 order and paragraphs 7-8 of the Court's April 18 order will be paused for the 21-day period, except that Defendants will provide timely updates to Plaintiff's counsel with information relevant to Plaintiff's ongoing care.
- To further allow the parties to focus on these negotiations, the hearing currently scheduled for May 9 will be deferred, with a hearing to be rescheduled after the parties file their proposed permanent injunction and/or other status report in 21 days. The deadline for Defendants' response to the Court's April 18 memorandum and order showing cause why Defendants and individual attorneys shall not be held in contempt and/or sanctioned will be extended to May 26, 2022.
- Plaintiff's counsel need not submit a fee petition to the Court on May 6, 2022, in light of the parties' anticipation that they will address this issue in conjunction with the parties' negotiations during the 21-day period, and in the ultimate proposed injunction and/or other status report filed at the conclusion of that period.

The parties believe that such a proposed modified preliminary injunction provides the best path forward to ensuring that Ms. Iglesias receives gender-confirmation surgery as expeditiously as possible.

CONCLUSION

For good cause shown, the parties respectfully request that the Court grant their joint motion to modify the April 18, 2022 preliminary injunction and that the Court enter the joint proposed modified preliminary injunction attached as Exhibit A.

Dated: April 26, 2022

STEVEN D. WEINHOFET
United States Attorney

LAURA J. JONES
Assistant United States Attorney

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS
Director

/s/ Joshua M. Kolsky
JOSHUA M. KOLSKY
JOHN ROBINSON
Trial Attorneys

United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.
Washington, D.C. 20005
Tel: 202-305-7664
E-mail: joshua.kolsky@usdoj.gov

Attorneys for Defendants

/s/ L. Nowlin-Sohl
Joshua D. Blecher-Cohen
ROGER BALDWIN FOUNDATION OF
ACLU, INC.
150 N. Michigan, Suite 600
Chicago, IL 60601

(312) 201-9740, 335
jblechercohen@aclu-il.org

James Esseks
Taylor Brown
L. Nowlin-Sohl
AMERICAN CIVIL LIBERTIES UNION
125 Broad Street
New York, NY 10004
(212) 519-7887
jesseks@aclu.org
tbrown@aclu.org
lnowlin-sohl@aclu.org

Frank Battaglia
Shannon Lemajeur
WINSTON & STRAWN LLP
35 W. Wacker Drive
Chicago, IL 60601-9703
(312) 558-5600
fbattaglia@winston.com
slemajeur@winston.com

Angela M. Povolish
FEIRICH MAGER GREEN RYAN
2001 West Main Street
P.O. Box 1570
Carbondale, IL 62903
(618) 529-3000
apovolish@fmgr.com

Attorneys for Plaintiff Cristina Nichole Iglesias