

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOSHUA D. ZOLLICOFFER a/k/a
PASSION STAR,

Plaintiff,

versus

BRAD LIVINGSTON, personally and in his
official capacity as Executive Director of the
Texas Department of Criminal Justice
("TDCJ"); *et al.*,

Defendants.

Case No. 4:14-cv-03037

STATE OF TEXAS)

) §§

COUNTY OF POTTER)

REDACTED AFFIDAVIT OF JOSHUA D. ZOLLICOFFER a/k/a PASSION STAR

I, Joshua D. Zollicoffer a/k/a Passion Star, having been duly sworn, upon my oath state as follows:

1. I am the plaintiff in this lawsuit. I am a 31-year-old adult, and I am competent to testify as a witness in this case. Except where otherwise noted, the facts set forth herein are of my own personal knowledge, and if called upon as a witness, I could and would testify competently to such facts. I have reviewed my complaints, grievances, appeals, and related documents and am familiar with their contents.

2. I am a transgender woman, meaning that I was assigned the sex of male at birth, but I identify as a woman. Since I was a teenager, I have known that I was attracted to men.

3. I have been in the custody of the Texas Department of Criminal Justice ("TDCJ") since 2003. I have been housed in sex-segregated male facilities.

4. From 2003 to 2006, I was housed in the Telford Unit in New Boston, Texas ("Telford"). From 2006 to 2007, I was housed in the Allred Unit in Iowa Park, Texas ("Allred"). From 2007 to 2008, I was housed in the Smith Unit in Lamesa, Texas ("Smith"). From 2008 to 2011, I was housed in the Coffield Unit in Tennessee Colony, Texas ("Coffield"). From 2011 to 2013, I was housed in the Hughes Unit in Gatesville, Texas ("Hughes"). From December 2013 to November 2014, I was housed in the Robertson Unit in Abilene, Texas ("Robertson"). In November 2014, I was transferred to the Clements Unit in Amarillo, Texas ("Clements"). From November 2014 to the present, I have been housed in Clements.

5. In each of these seven facilities, male inmates have directed unwanted sexual advances at me. Male inmates have demanded that I perform sexual acts for them or pay them for protection and have threatened to assault me if I did not submit and perform sexual acts for them.

6. In all of these facilities, a large number of the male inmates have perceived that I am not a heterosexual man. While some inmates confuse being transgender with being gay, the fact that I am not a heterosexual male was generally known in the units where I lived. I believe that most of the male inmates in the units where I was housed thought I was a transgender woman or a gay man because of my feminine mannerisms, my soft voice, and the way that I walk and talk. I have heard inmates tell one another that I am a "punk," a term used to refer to feminine people in custody. As a result of my female gender identity and my perceived sexual orientation, male inmates in all the facilities where I have been housed have sexually harassed, threatened, and/or assaulted me.

7. There is a custom in TDCJ pursuant to which gay men and transgender women are targeted by other inmates, frequently inmates with power and influence in the unit, often gang

members, and forced to perform sexual acts as a means of survival because otherwise they will be assaulted. Sometimes we are made to perform sexual acts for many members of the same gang. This is called "riding." Because gay men and transgender women are not protected by TDCJ staff, we are often coerced unwillingly into unwanted sexual encounters to escape physical assault if we try to resist.

8. Since 2003, I have complained numerous times to TDCJ officials about the sexual abuse, the threats, and the violent attacks against me. I have informed TDCJ staff that I am transgender or homosexual (because I thought they would understand the term "homosexual"). I have exhausted dozens of grievances related to threats against me and asked dozens of times to be housed in safekeeping, but each time my requests for safekeeping have been denied. I have been left in the general population of the TDCJ facilities to fend for myself.

9. As a result of begging TDCJ staff to help protect me, I have found myself in more danger. Each time that I ask for help and am returned to the general population, other incarcerated people suspect that I am a "snitch." I have learned from my time in prison that the prison culture is one of retribution and violence against people who snitch. As a result of asking for help from TDCJ staff who have refused to take reasonable steps to protect me, I have been placed at greater risk of serious harm.

10. In Telford, I was identified as feminine and forced into a relationship with [REDACTED] ("M.M."), who was a high-ranking member of a gang. I was nineteen. I thought that he could protect me from the other inmates in Telford who were sexually harassing me, but he forced me to perform sexual acts for him. When I tried to end the relationship, M.M. choked me, so I stayed in the "relationship" with him.

11. I was transferred to Allred in 2006, where I again received threats from gang members, demanding that I perform sexual acts. Even though I begged and pleaded with TDCJ staff to protect me, they put me in a cell with [REDACTED] ("C.X."), who sexually propositioned me. I told the guard that I did not feel safe around C.X., but he did not remove me or C.X. from the cell. On March 29, 2007, C.X. threatened me with a knife, held me down, and raped me. I told a guard that C.X. had raped me. When C.X. found out, he threw a fan at me that resulted in a cut to my head. A true and correct copy of my medical records from March 29, 2007 and March 30, 2007 is attached hereto as **Exhibit A**.

12. After the rape, I was transferred to Smith. Because the rape was documented, I thought that it would be obvious to TDCJ employees that I needed more protection than was available in the general population. I begged to be put in safekeeping, but I was placed back in the general population without protection where I was sexually harassed and threatened with rape again by several different men incarcerated in Smith. One cellmate, [REDACTED] ("O.R."), threatened to assault me and forced me to watch him masturbate.

13. When I arrived in Coffield in 2008, I again faced threats of sexual violence from men incarcerated with me, including [REDACTED] ("K.H."), who is currently incarcerated with me in Clements. Soon after arriving, I was forced into a sexual "relationship" with [REDACTED] ("T.K."), a powerful inmate on the unit, because he threatened to assault me if I did not submit, and because the guards would not protect me. When I tried to end the relationship, T.K. punched me on the left side of my jaw, breaking one of my teeth and causing it to puncture my lip.

Transfer to Hughes

14. When I was transferred to Hughes in 2011, I experienced the same attempts to force me to perform sexual acts against my will and threats of sexual and physical violence. I

submitted and appealed numerous grievances related to the threats to my safety, but I was forced to remain in the general population among the inmates who were threatening and assaulting me.

15. As an example of some of the threats, on December 25, 2011, [REDACTED] ("T.X."), an inmate affiliated with the Crips gang, who regularly called me a "faggot," attacked me, punching my head, face, and torso. In or around March 2012, [REDACTED] ("H.X.") and other Bloods gang members demanded that I pay them for their protection or "ride," meaning perform sexual acts for their gang. In 2013, an inmate named [REDACTED] ("R.B.") threatened me with violence if I did not submit to his demands for sexual acts. In 2013, a Bloods gang member known as [REDACTED] ("A.X.") sent me sexually explicit letters, demanding that I perform sexual acts for him in return for his protection, and another Blood, known as [REDACTED] ("C.Y.X."), made similar demands.

16. I informed officers and submitted numerous grievances related to the threats to assault me and demands that I perform sexual acts, but TDCJ staff did not move me to the dorms, place me in safekeeping, or take others steps to protect me. Instead, Lieutenant Aragon called me a "snitch" and "punk" in front of other inmates during lineup. Officer Thompson and other officers routinely pretended to grab my buttocks, which they referred to as the "grab-ass game."

17. On May 12, 2013, C.Y.X. and A.X. jointly confronted me while I was at church and accused me of "snitching" on them. C.Y.X. said that a correctional officer had informed him that I had reported that he was a gang member. A.X. punched me on the right side of my jaw, causing swelling and pain to my jaw and face. I went to the infirmary.

18. In October 2013, [REDACTED] ("F.X.") threatened to assault me if I did not perform sexual acts with him. When I refused, he attacked me on or around October 2, 2013 in

the hallway by the dining hall, cut my lip and my left hand, caused swelling and bruising on the left side of my face and jaw line, and left a knot on the left side of my head.

19. In 2013, [REDACTED] ("J.T."), a member of the Crips gang, sexually propositioned and threatened me whenever he saw me. The situation with J.T. soon escalated.

20. On November 4, 2013, I met with the Unit Classification Committee ("UCC") headed by Defendant Ralph Marez, Jr.. I told Defendant Marez and the other members of the UCC that I was gay with a female alias, that I had been raped in the past, and that I had been repeatedly threatened with sexual and other violence. I explained that I feared for my life and requested to be reassigned to safekeeping and protected. The UCC denied my request for additional protection.

21. I submitted grievance step 1 #2014040489 on or around November 6, 2013, appealing the UCC's decision. When Defendant Blanchard denied my grievance, I appealed this grievance, step 2, on or around November 15, 2013. In the grievance, I wrote that I live with the "constant threat of being hurt" because I am gay and effeminate in the general population and that I have been assaulted and threatened in the past. I also wrote that transferring me from one pod to another pod or one unit to another unit was not sufficient to prevent assaults against me. A true and correct copy of grievance #2014040489 is attached hereto as **Exhibit B**.

22. On November 13, 2013, during a church service, J.T. threatened me again. He said loudly in front of other Crips that I "belonged" to him. He told me that refusal was not an option and that since I was gay, I had to "stay in a ho's place." The other Crips threatened to assault me if I did not submit to J.T.

23. I complained to TDCJ staff about the threats and asked for protection, but the staff did not take action to help me. Officer Johnson told me, "You've fought once. Fight again."

24. On November 19, 2013, I again appeared in front of the UCC, composed of Defendant Blanchard, Defendant Leslie Walters, and Defendant James Sigmund. I told them about the threats I received from J.T. and other inmates, the rape in 2007, and the recent assault by F.X., and I again requested to be placed in safekeeping. Defendant Blanchard, Defendant Walters, and Defendant Sigmund denied my request for protection and ordered me to be returned to "the next available cell" in my custody level in the general population.

25. On November 19, 2013, I was moved into 8 Building, L-Pod 52 Cell. This was the same pod where J.T. was housed.

26. I knew that I was going to be assaulted or possibly killed even though I had done everything in my power to be protected. I immediately filed an emergency grievance appealing the UCC's decision to deny me safekeeping and move me closer to J.T. I requested again to be moved to safekeeping and explained that I was gay and that J.T. and other Crips had threatened to assault me if I did not "ride." A true and correct copy of grievance #2014048625 is attached hereto as **Exhibit C**.

27. On this same day, on my way to the dining hall, I also appealed to Defendant Prince Pickett, the 8 Building supervisor, for help. I explained my history of threats and violence by other inmates against me, and told him that I had already received threats from Crips gang members since being moved to L Pod. Defendant Pickett told me that it was "not [his] problem" and did not do anything to help me.

28. The very next morning, November 20, 2013, the assault that I had been begging to be protected from occurred (the "Razor Attack"). J.T. and other Crips gang members brutally attacked me from behind as I headed to breakfast. J.T. called me a "snitching faggot." As others watched, J.T. repeatedly slashed my face with a razor while I struggled. I thought he was going

to kill me. One cut came within a quarter of an inch of my right eye. I bled profusely and suffered intense pain. As a result of this brutal attack, I was taken to Correctional Managed Care. A true and correct copy of my medical records from November 20, 2013 is attached hereto as **Exhibit D**.

29. On November 20, 2103, after the Razor Attack, I submitted another step 1 grievance, asking to be placed in safekeeping. A true and correct copy of grievance #2014049246 is attached hereto as **Exhibit E**.

30. On November 22, 2013, two days after the Razor Attack occurred, Defendant Rene Maldonado denied my emergency step 1 grievance #2014048625 in which I requested assignment to safekeeping that I had submitted on November 19, 2013, prior to the Razor Attack. Defendant Maldonadowrote that the "committee did not find sufficient evidence to support your allegations" even though by that time I had physical injuries from the brutal attack by J.T. and had been treated by Correctional Managed Care (*See Ex. C*).

31. On November 22, 2013, the UCC, composed of Defendant Blanchard, Defendant Walters, and Defendant Sigmund, again denied my request for safekeeping and instead recommended that I be transferred to the general population of another unit. I believe that they knew that recommending unit transfer was not sufficient to protect me and knew that I would still be vulnerable to sexual assault and retaliation, that gangs operated throughout TDCJ, and that I would be targeted by members of J.T.'s gang in the new unit. While informing me on November 22, 2013 of the UCC's decision to transfer me rather than place me in safekeeping, Defendant Blanchard told me, "Now I bet you really feel like your life is in danger." When he said this, I felt like I wanted to cry.

32. On November 29, 2013, I wrote step 2 to grievance #2014049246, appealing the decision to send me to the general population in a new unit. I wrote:

simply recommending that I be transferred off the unit isn't enough to ensure that I am no longer victimized. . . . I followed instruction and was placed back into a position to be hurt —knowingly. So, I request safekeeping away from the general population of offenders that have victimized me and will continue to do so.

(Ex. E). On January 8, 2014, Defendant Armstrong denied my appeal, indicating that I had been designated “not for same unit” as J.T., transferred to Robertson, and that no further action was warranted. (*Id.*).

Transfer to Robertson

33. On December 6, 2013, TDCJ officials transferred me to the general population in Robertson.

34. Soon after, I learned from other inmates that J.T. had been housed in the general population of Robertson prior to his transfer to Hughes and was well known among inmates at Robertson as a high-ranking member of the Crips. Soon after I arrived, I learned that [REDACTED] (“T.T.”), a Crip, spread the word among the Crips in Robertson that I was a “snitching faggot” and told me that the Crips in Robertson would finish what J.T. started. Other inmates in Robertson asked me about the lacerations on my face and figured out that J.T. was the one who had done it. From my prior assaults and grievances, TDCJ staff knew that I was the enemy of a well-known Crips gang member (J.T.), but TDCJ staff took no measures to protect me in this new unit.

35. I requested an Offender Protection Investigation on (“OPI”) or around December 11, 2013. Sergeant Juan Lopez (“Lopez”) reviewed the paperwork in front of me. He told me to “suck dick, fight or quit doing gay shit but quit running me with OPIs.” He was very clear that he cared more about not having extra paperwork than protecting my life.

36. On December 12, 2013, I appeared before the UCC in Robertson headed by Assistant Warden Adam Gonzales ("Gonzales"). I told Assistant Warden Gonzales and the other members of the UCC that I was gay; had a history of coercion and sexual and physical assaults in other TDCJ facilities, including the recent Razor Attack by J.T.; and was afraid that I would be targeted by the Crips in Robertson once they learned about the incident with J.T. I explained that I feared for my life and requested to be placed in safekeeping.

37. Assistant Warden Gonzales and the other members of the UCC denied my request for safekeeping and placed me in the general population in Robertson.

38. On January 30, 2014 and February 6, 2014, Defendant Armstrong denied my step 2 appeal of grievances #2014040489 and #2014048625, in which I had requested to be placed in safekeeping, even though I told him that I was gay; that I had been sexually assaulted, raped, and threatened in the past; and that I was afraid that I would be assaulted again if I had to remain in general population. (See Exs. B & C).

39. Incarcerated people in Robertson also identified me as feminine because of my mannerisms and the way that I dressed and talked. Other inmates also frequently used female pronouns to refer to me, sometimes used derogatory terms like "punk" and "faggot," and propositioned me for sex. For example, a Crips gang member known as [REDACTED] ("C.G.X.") repeatedly pressured me to perform sexual acts for him in return for my safety. C.G.X. told me that I had to find a man to protect me or be raped.

40. In or around March 2014, I received a letter threatening to kill me from an inmate known as [REDACTED] ("P.N."), also a member of the Crips.

41. I felt desperate and fearful, so in or around March 2014, I sent letters to Defendant Joni White because she was the head of the State Classification Committee ("SCC"), and I hoped

that she would approve my transfer into safekeeping. I told Defendant White that "I've been called a 'snitching faggot,' told that [J.T.] should have cut my throat and that if [I] try the same mess over here they will finish what he started and do what he should have did. I've been told that I need to find a man and threatened with rape." I also wrote to Defendant Ralph Bales, the PREA Ombudsman, begging for help. True and correct copies of my letters to Defendant White, including one dated March 18, 2014, are attached hereto collectively as **Exhibit F**.

42. I appeared in front of the UCC headed by Assistant Warden Gonzales on April 7, 2014, and again explained the threats to my safety, including the "kite" from P.N., the sexual threats from C.G.X., and the threats to my life from T.T. Assistant Warden Gonzales and the other members of the UCC denied my request to be placed in safekeeping. Instead, they recommended that I be transferred to the general population of yet another unit.

43. I appealed the denial of my request to be moved to safekeeping on April 9, 2014 in step 1 of grievance #2014125239. I wrote that the dangers to me were:

all rooted in the fact that I am a homosexual housed in the gang influenced general population of offenders. . . Just recommending that I be transferred to another unit will not ensure my safety, just as it did not after the 3-29-07 sexual assault, nor after the 11-20-13 assault with a weapon. I am an offender with a 'potential for victimization', otherwise I wouldn't be constantly victimized and threatened by other offenders.

A true and correct copy of grievance #2014125239 is attached hereto as **Exhibit G**.

44. I also submitted requests in May 2014 to Officer Scott, the Safe Prisons Program's Coordinator at Robertson, formally requesting to be identified as transgender and informing him that I had received threats as a result of my identity in the past. A true and correct copy of requests submitted to the Safe Prisons' Coordinator is attached hereto as **Exhibit H**.

45. I also submitted and appealed grievance #2014140325, where I laid out the threats to my safety. I wrote that, "I've been traumatized by past experiences and fear repeating them.

This can only be rectified by housing me on safe keeping away from the general population of offenders looking to victimize me." A true and correct copy of grievance #2014140325 is attached hereto as **Exhibit I**.

46. On May 30, 2014, I learned that the SCC, headed by Defendant White, had not only rejected my request to be moved to safekeeping, but that the SCC had also rejected the UCC's recommendation that I be transferred to a different unit. This meant that the SCC thought I should be placed back in the general population in Robertson in the midst of the inmates whom members of the UCC had been informed were threatening me. I was terrified. (*See Ex. G*).

47. On this same day, May 30, 2014, I spoke to Ms. Trail, an officer attached to the Safe Prisons Program's Office in Robertson. I explained that I was gay and feared for my life. She recommended that I be placed in safekeeping.

48. On June 5, 2014, I appeared in front of the UCC headed by Assistant Warden Gonzales. He informed me that the UCC had adopted the Safe Prisons coordinator's recommendation that I be placed in safekeeping. Assistant Warden Gonzales told me that the UCC was forwarding the recommendation that I be placed in safekeeping to the SCC, headed by Defendant White, but added that, "They probably won't grant it."

49. On June 17, 2014, I learned that the SCC has denied the UCC's recommendation that I be placed in safekeeping. This was confirmed to me later in writing in grievance #2014205241 by Defendant Webb, who wrote: "You were reviewed by UCC on 6-5-14, and recommended for safekeeping status. On 6-16-14, this request was denied by SCC." A true and correct copy of grievance #2014205241 is attached hereto as **Exhibit J**.

50. On this day, June 17, 2014, Senior Warden Fox moved me to a different building, Building 3, in the general population at Robertson, where I feared that I would continue to be targeted by the Crips gang and other inmates.

51. Soon after I was returned to the general population, I learned from another inmate that T.T. had spread word to the Crips gang members in Building 3 that I was a "snitching faggot" who should be killed. [REDACTED] ("T.K.X."), a Crips gang member in Building 3, told me that I would be killed. He called me a "snitch" and a "faggot" and said that I could not "run forever" but will sooner or later "have to face the consequences" because I rejected J.T. and tried to press charges against him. I received similar threats of assault and murder from other members of the Crips in Building 3.

52. I filed step 1 of grievance #2014187421 on July 21, 2014, detailing the threats I had received from Crips gang members in the new building. I said that the Crips wanted to retaliate against me because of my conflict with J.T. while at Robertson. I wrote, "I have been told that I will be killed if I remain in population." A true and correct copy of grievance #2014187421 is attached hereto as **Exhibit K**.

53. On July or around 25, 2014, the day after I first met with an attorney to discuss what had happened, Sergeant Marquez moved me into "lock-up," a cell in solitary confinement, which is used to discipline inmates. I remained in solitary until August 8, 2014, when I was transferred to "transient" status to await a decision from the SCC. The transient cell is essentially the same as the solitary confinement cell, and the restrictions are nearly the same. The only real difference is that in transient status, I have electricity. Being confined in isolation is its own form of torture because I have little human contact; I cannot sleep; I continuously think about past traumatic experiences; and I suffer psychological distress. I have felt deterred from filing

complaints about threats of sexual abuse because I do not want to be placed in isolation again. While in transient status, I was also afraid that at any moment I could be released back into the general population and killed.

54. When I asked Defendant Lopez why I was stuck in solitary without a hearing or a disciplinary infraction, Officer Lopez told me to "quit filing OPIs" if I did not want to be in solitary.

55. On August 1, 2014, I appeared in front of the UCC headed by Assistant Warden Webb. I again explained my problems and the death threats that I had received from inmates at Robertson. I told the UCC members that my problems related to me being a transgender woman confined in the general population in a male prison. Defendant Webb replied, "It's a man's prison. You can't expect to walk around acting like that and not have problems."

56. Assistant Warden Webb denied my request for safekeeping and recommended that I be transferred to the general population in a different unit, even though I believe he understood that as a transgender woman, I would have the same problems in general population of a new unit.

57. On or around August 4, 2014, I submitted grievance #2014192951, and on August 11, 2014, I submitted grievance #2014196990, outlining the threats made to my safety by gang members and requesting placement in safekeeping. In the August 11, 2014 grievance, I wrote:

[T]ransferring me from unit to unit in general population does nothing to rectify this problem that is pervasive. . . . I have been threatened with my life as well as threatened with rape. Housing me in general population to repeat the same cycles with different offenders is absurd. . . .

A true and correct copy of grievance #2014196990 is attached hereto as **Exhibit L**.

58. The next day, on August 12, 2014, I again wrote directly to SCC, headed by Defendant White, requesting placement in safekeeping. I identified myself as a transgender

woman and again explained that my "life is in danger." A true and correct copy of my August 12, 2014 letter to the SCC is attached hereto as **Exhibit M**.

59. I was terrified waiting to learn what the SCC would decide. After so much time in solitary and transient status, I was feeling depressed, upset, alone, isolated, and hopeless. I was having trouble sleeping. The transient status cells (which are materially the same as administrative segregation and solitary confinement cells used to punish inmates) are very small, approximately 10 feet by 8 feet, and I was confined to this cell for 23 hours each day. While housed in transient status or solitary, there were restrictions on my calls with family, visits from my family, working, going to church, and going to the law library or the regular library. My mother and sister had to cancel a trip to visit me planned for or around October 17, 2014 because I was in transient status. Because I was in transient status, I was also prevented from participating in the Cognitive Intervention Program and the College Trades Program, both programs that I would like to join.

60. While waiting in isolation to find out whether I would be sent back to the general population in Robertson or sent to the general population of a new unit, I constantly thought about being raped, coerced and assaulted, and the fact that it could occur again in the future. I had nothing else to do but think about these things. I have known inmates who have gone "crazy" or committed suicide after being locked in isolation, and I do not want this to happen to me.

61. On October 6, 2014, I learned that on or around September 17, 2014, the SCC had rejected the UCC's recommendation that I be transferred to a new unit. This means that even though they knew all of my history and all of the current threats against me, the SCC thought it

was best to send me back into the general population of Robertson, where it was all but certain that I would have been seriously hurt, if not killed.

62. On September 26, 2014, Defendant Fernando Fuster denied my step 2 grievance #2014187421. (See Ex. K).

63. On or around October 7, 2014, I learned that the UCC has appealed the SCC's decision to send me back into the general population in Robertson.

Transfer to Clements

64. ON NOVEMBER 17, 2014 I WAS TRANSFERRED FROM ROBERTSON TO CLEMENTS.

65. ON OR AROUND NOVEMBER 18, 2014, I MET WITH THE UCC AT CLEMENTS. I REQUESTED TO BE PLACED IN SAFEKEEPING AND EXPLAINED TO THE UCC THAT I AM A TRANSGENDER WOMAN AND HAVE A HISTORY OF BEING TARGETED FOR SEXUAL ABUSE AND ASSAULT WHILE IN THE GENERAL POPULATION. ONE OF THE MEMBERS OF THE UCC, CAPTAIN DEAN, RECOGNIZED ME FROM COFFIELD, WHERE HE HAD PREVIOUSLY WORKED, AND TOLD THE OTHER OFFICERS ABOUT MY FEMALE GENDER IDENTITY AND MY COERCED RELATIONSHIP IN COFFIELD. INSTEAD OF PROTECTING ME, THE MEMBERS OF THE UCC ASSIGNED ME HOUSING IN THE GENERAL POPULATION AND MADE FUN OF MY IDENTITY.

66. FROM THE BEGINNING, IT WAS CLEAR THAT THE SAFE PRISONS PROGRAMS OFFICE WOULD DO NOTHING TO PROTECT ME AND THAT THEY WOULD RETALIATE AGAINST ME IF I TRIED TO COMPLAIN. ON OR AROUND NOVEMBER 18, 2014, I MET WITH THE SAFE PRISONS PROGRAMS COORDINATOR AT CLEMENTS, SERGEANT MAFS, AND HER ASSISTANT, OFFICER GARCIA. I ALSO TOLD THEM THAT I AM TRANSGENDER AND HAVE A HISTORY OF BEING ASSAULTED. OFFICER GARCIA TOLD ME THAT THEY WOULD NOT TOLERATE MY FILING OPIs IN CLEMENTS LIKE I HAD DONE IN OTHER UNITS. HE THREATENED TO CAUSE ME PROBLEMS FOR ME, INCLUDING WRITING ME UP AND PROVOKING FIGHTS BETWEEN ME AND MY CELLMATE, IF I CONTINUED TO FILE REQUESTS FOR PROTECTION AND GRIEVANCES. AS A RESULT, I FEEL THAT I CANNOT GO TO SAFE PRISONS PROGRAM WITH ANY CONCERNS FOR MY SAFETY AND THAT I

WILL FACE ADDITIONAL PROBLEMS IF I TRY TO SEEK PROTECTION.

67. SOON AFTER ARRIVING AT CLEMENTS, I BEGAN TO HAVE PROBLEMS WITH MEN INCARCERATED ON THE UNIT WHO SAW ME, RECOGNIZED ME AS FEMININE AND TARGETED ME FOR SEXUAL ABUSE. OTHER INMATES REFERRED TO ME WITH FEMALE PRONOUNS AND SOMETIMES USED DEROGATORY TERMS LIKE "PUNK" AND "FARTBOT" TO REFER TO ME. ALMOST IMMEDIATELY, [REDACTED] ("T.C."), A MEMBER OF THE MANDINKO WARRIORS GANG WHO WAS HOUSED WITH ME IN 7 BUILDING, H-POD, BEGAN TO PROPOSITION ME AGGRESSIVELY TO PERFORM SEXUAL ACTS FOR HIM. T.C. CALLED ME A "HO" AND TOLD ME "ALL OF THE GIRLS ON THIS UNIT ARE ACCOUNTED FOR," AND "YOU HAVE TO HAVE A MAN." IN FEBRUARY 2015, T.C. CONFRONTED ME IN THE DINING HALL AND DEMANDED THAT I "GIVE HIM SOME PUSSEY." I WALKED AWAY WHEN HE SAID THIS TO ME, BUT I AM AFRAID THAT HE WILL FOLLOW THROUGH ON HIS THREAT AND ASSAULT ME. WE ARE HOUSED ON THE SAME POD, AND HE HAS EASY ACCESS TO ME.

68. AN INMATE CALLED [REDACTED] ("E.T.") ALSO BEGAN TO AGGRESSIVELY SEXUALLY PROPOSITION ME WHEN HE SAW ME IN THE DINING HALL. I TRIED TO AVOID HIM, BUT THE SITUATION ESCALATED WHEN HE GRABBED MY BUTTOCKS AND DEMANDED THAT I PERFORM SEXUAL ACTS FOR HIM. I WANTED TO REPORT THE INCIDENT TO THE SAFE PRISONS OFFICE BUT WAS CONCERNED THAT THIS WOULD BE COUNTERPRODUCTIVE.

69. IN CLEMENTS, I ALSO RECOGNIZED SEVERAL PEOPLE WHO WERE PREVIOUSLY INCARCERATED WITH ME EITHER AT COFFIELD OR HUGLIES AND AM CONCERNED THAT THEY WILL RESURRECT PROBLEMS THAT I HAD ON OTHER UNITS. FOR EXAMPLE, [REDACTED] ("J.C."), A CRIP AND A CLOSE FRIEND OF J.T.'S, WAS PREVIOUSLY AT HUGLIES WHEN I WAS THERE AND IS NOW AT CLEMENTS. J.C. WAS PRESENT WITH J.T. WHEN HE THREATENED ME ON NOVEMBER 19, 2013 - THE DAY BEFORE THE RAZOR ATTACK.

70. IN PARTICULAR, I HAVE HAD PROBLEMS WITH K.H., A CRIP WHO IS ALSO NOW AT CLEMENTS, AND WHO WAS INCARCERATED AT COFFIELD WHEN I WAS THERE. WHEN WE WERE IN COFFIELD, K.H. MADE UNWANTED, AGGRESSIVE SEXUAL ADVANCES TOWARDS ME UNTIL T.K., WITH WHOM I WAS IN A VIOLENT, COERCED SEXUAL RELATIONSHIP, MADE K.H. STOP. AT CLEMENTS, K.H. BEGAN TO

PROPOSITION ME AGAIN AGGRESSIVELY FOR SEX. HE TOLD ME THAT HE WANTED ME TO BE HIS "BITCH" AND THAT HE WAS GOING TO COME TO MY POD TO HAVE SEX. I TRIED TO AVOID HIM. IN JANUARY, K.H. STARTED TELLING OTHER INCARCERATED PEOPLE AT CLEMENTS, INCLUDING MANY CRIPS, THAT I BELONGED WITH HIM. HE TOLD CRIPS IN MY POD TO WATCH ME, AND HE SENT MESSENGERS TO ARRANGE A MEETING BETWEEN US. I HAVE AVOIDED ALL THESE MEETINGS AND TRIED TO GET HIM TO LEAVE ME ALONE. I AM CONCERNED THAT HE IS PLANNING TO SEXUALLY ASSAULT ME AND WILL HURT ME IF I REFUSE HIS SEXUAL ADVANCES.

71. I ALSO LEARNED THAT [REDACTED] ("C.G."), A CRIP WHO WAS HOUSED WITH ME ON BOTH COFFIELD AND HUELLES, HAD BEEN RECENTLY TRANSFERRED TO CLEMENTS AND IS HOUSED IN 3 BUILDING. C.G. IS A CLOSE FRIEND OF J.T. - THE INMATE RESPONSIBLE FOR THE RAZOR ATTACK. IN FEBRUARY, I RECEIVED A MESSAGE FROM ANOTHER PERSON IN CUSTODY THAT HE WAS LOOKING FOR ME.

72. IN ADDITION, I HAVE RECEIVED THREATS FROM OTHER INMATES, INCLUDING [REDACTED] ("S.B.") WHO IS ALSO A MEMBER OF THE CRIPS GANG AND WAS PREVIOUSLY HOUSED ON THE HUELLES UNIT AT THE SAME TIME AS I WAS.

73. I WAS DESPERATE TO GET SOME PROTECTION FROM THE PEOPLE WHO WERE THREATENING ME. STILL I WAS AFRAID THAT TDCJ STAFF WOULD RETALIATE AGAINST ME IF I COMPLAINED, AND I WOULD BE IN MORE, NOT LESS DANGER.

74. ON OR AROUND FEBRUARY 19, 2015, MY SITUATION HAD GROWN SO DESPERATE THAT EVEN THOUGH I WAS TERRIFIED ABOUT RETALIATION, I FILED A REQUEST FOR AN OPI AND A GRIEVANCE RELATED TO THE THREATS AGAINST ME. IN THESE DOCUMENTS, I DESCRIBED THE THREATS THAT I HAD RECEIVED FROM FOUR MEN, ALL MEMBERS OF THE CRIPS GANG - E.T., K.H., C.G., S.B. - I EXPLAINED THAT THESE FOUR MEN HAD THREATENED TO ASSAULT ME AND THAT 2 OF THEM, E.T. AND K.H. ATTEMPTED TO FORCE ME TO PERFORM SEXUAL ACTS WITH THEM, AND BEGGED TO BE PLACED IN SAFEKEEPING.

75. I ALSO WROTE AND SENT LETTERS TO DEFENDANT

WHITE AT THE SCC COMMITTEE AND DEFENDANT LYNNE SHARP, THE NEW PREA OMBUDSMAN, EXPLAINING THE THREATS I WAS RECEIVING AND THE DANGER I FACED AND ASKING THEM TO PLACE ME IN SAFE KEEPING.

76. ON FEBRUARY 20, 2015, I WAS PLACED IN LOCK UP OR ISOLATION AS A RESULT OF MY REQUEST FOR AN OPI. I WAS GIVEN AN OPI TO FILL OUT, AND I USED THAT TO RECORD, AGAIN, EVERYTHING I HAD TOLD STATE CLASSIFICATION AND THE PREA OMBUDSMAN.

77. ON FEBRUARY 21, 2015, I WAS CALLED TO 1 BUILDING BY LIEUTENANT MURRAY. SHE TOLD ME THAT IF I HAD ANYTHING MORE TO ADD, I SHOULD TELL HER. SHE TOLD ME THAT THERE IS AN OFFICIAL TAG IN MY FILE THAT SAYS I AM CLASSIFIED AS TRANSGENDER.

78. ON THE MORNING OF FEBRUARY 23, 2015, I WAS PULLED FROM MY CELL, WHILE DRESSED IN BOXERS AND SHOWER SLIDES, AND WAS TAKEN BEFORE THE UCC (COMPRISED) OF MAJOR HARDEGREE, CAPTAIN THOMAS, AND CLASSIFICATION SPECIALIST GRANT. I TOLD THEM THAT I WAS TRANSGENDER AND EXPLAINED MY HISTORY OF BEING ASSAULTED AND THE THREATS THAT I HAD RECEIVED AT CLEMENTS. MAJOR HARDEGREE TOLD ME, "OK, I'M GOING TO DO ABSOLUTELY NOTHING FOR YOU AND PUT YOU BACK IN GENERAL POPULATION."

79. THE AFTERNOON OF THE SAME DAY, FEBRUARY 23, 2015, I WAS MOVED TO 4 BUILDING, TRANSIENT POD, WHERE I WAS HOUSED WITH INCARCERATED PEOPLE CLASSIFIED AS E4s, A SIGNIFICANTLY HIGHER SECURITY THAN MINE. I AM CURRENTLY CLASSIFIED AS A62, A LOWER SECURITY LEVEL, SO IT DID NOT MAKE SENSE THAT I HAD BEEN MOVED INTO A HIGHER SECURITY UNIT. I WAS AFRAID OF THE PEOPLE WHO WERE CLASSIFIED AS E4 AND BELIEVED THAT SOME OF THE PEOPLE WHO HAD THREATENED ME WOULD HAVE ACCESS TO ME. C.G. AND S.B. ARE BOTH CLASSIFIED AS E4s, AND THEY ARE ABLE TO COMMUNICATE EASILY WITH CRIPS CLASSIFIED AS E4s ON THE TRANSIENT POD. I WAS TOLD BY C.G. THAT IT WAS ONLY A MATTER OF TIME BEFORE I WAS "CAUGHT" AND KILLED. I BELIEVED THAT I HAD BEEN MOVED TO 4 BUILDING AS

A PUNISHMENT FOR COMPLAINING ABOUT THE THREATS AGAINST ME AND AS A MEANS TO TRY TO GET ME NOT TO COMPLAIN IN THE FUTURE.

80. ON OR AROUND FEBRUARY 23, 2015, I WROTE AND TRIED TO SUBMIT A GRIEVANCE REGARDING BEING ASSIGNED HOUSING WITH #14'S. HOWEVER, THIS GRIEVANCE WAS RETURNED TO ME, AND I WAS TOLD THAT I WAS NOT ALLOWED TO SUBMIT IT BECAUSE IT WAS REDUNDANT.

81. ON OR ABOUT FEBRUARY 24, 2015, I WAS TRANSFERRED BACK TO GENERAL POPULATION IN 7 BUILDING, WHERE I WAS ASSIGNED TO SHARE A CELL WITH [REDACTED] ("I.D.") A WELL KNOWN, HIGH-RANKING MEMBER OF THE CRIPS GANG ON I-POD. ALMOST IMMEDIATELY, I.D. ACCUSED ME OF BEING A "SNITCH." HE TOLD ME THAT IF I "TOLD ON" HIM, I WOULD NOT LIVE TO "SNITCH" ON ANYONE ELSE. I UNDERSTOOD THAT HE OR MEMBERS OF HIS GANG WOULD KILL ME. IT IS IMPOSSIBLE FOR ME TO SUBMIT GRIEVANCES OR PROTECT MYSELF FROM OTHER CRIPS WHO ARE THREATENING ME WHEN I AM STUCK IN A CELL WITH I.D. I AM VERY AFRAID OF I.D.

82. IT DOES NOT MAKE SENSE FOR TDCJ TO PLACE ME IN A CELL WITH A CRIPS GANG MEMBER AFTER I HAVE FILED AN OPI REQUEST AND A GRIEVANCE ASKING THEM TO PROTECT ME FROM THREATS FROM FOUR CRIPS. I BELIEVE THAT TDCJ STAFF PUT ME IN A CELL WITH A KNOWN, HIGH-RANKING CRIPS GANG MEMBER ON PURPOSE TO PUNISH ME FOR COMPLAINING ABOUT THE THREATS AGAINST ME.

83. ON FEBRUARY 26, 2015, K.H. WAS TRANSFERRED FROM 8 BUILDING WHERE HE WAS PREVIOUSLY HOUSED INTO 7 BUILDING. I WAS VERY CONCERNED THAT K.H. WAS MOVED CLOSER TO ME, TO THE SAME BUILDING, WHICH MAKES IT MUCH EASIER FOR HIM TO GET ACCESS TO ME. K.H. SENT WORD THROUGH OTHER PEOPLE IN CUSTODY THAT HE IS "GOING TO COME" FOR ME "THE FIRST CHANCE HE GETS." I UNDERSTOOD THIS TO MEAN THAT HE WOULD COME TO SEXUALLY ASSAULT ME.

84. GOING INTO THE WEEKEND, I WAS CERTAIN THAT IF I REMAINED IN GENERAL POPULATION I WOULD BE FORCED

INTO UNWANTED SEXUAL ENCOUNTERS OR SEVERELY HURT AND POSSIBLY KILLED FOR TRYING TO RESIST. IT FELT JUST LIKE THE EVENING BEFORE THE RAZOR ATTACK WHEN TDCJ STAFF HAD REFUSED MY REQUEST FOR PROTECTION AND MOVED CLOSER TO THE PERSON FROM WHOM I HAD ASKED TO BE PROTECTED.

85. THERE ARE DELAYS, SOMETIMES SIGNIFICANT, BEFORE I CAN COMMUNICATE WITH MY ATTORNEYS. I INFORM MY ATTORNEYS WHAT IS HAPPENING BY LETTER, BUT I KNOW THAT DAYS AND SOMETIMES WEEKS PASS BEFORE THEY RECEIVE THE MAIL. WHILE SOMETIMES I AM ABLE TO CALL MY ATTORNEYS COLLECT, I CANNOT MAKE PHONE CALLS WHEN I AM IN LOCKUP, AND SOMETIMES, EVEN WHEN I AM IN GENERAL POPULATION, THE PHONE CALLS DO NOT GO THROUGH. I AM AFRAID THAT IF SOMETHING SERIOUS HAPPENS TO ME THAT DAYS OR EVEN WEEKS COULD PASS BEFORE MY ATTORNEYS CAN LEARN ABOUT IT.

86. I BELIEVE THAT I HAVE A MUCH BETTER CHANCE OF BEING PROTECTED FROM SEXUAL ABUSE IF I AM MOVED INTO SAFE KEEPING, THE STATUS SPECIFICALLY DEVELOPED TO PROTECT PEOPLE IN CUSTODY WHO ARE VULNERABLE TO ABUSE IN THE GENERAL POPULATION. GENERAL POPULATION CUSTODY LEVELS RANGE FROM G1 TO G5. I AM CURRENTLY CLASSIFIED AS G2 CUSTODY LEVEL, WHICH IS THE SECOND LOWEST CUSTODY LEVEL. SAFEKEEPING STATUS INMATES ALSO RANGE IN CUSTODY LEVELS FROM P1 TO P5.

87. THERE IS NOTHING IN MY DISCIPLINARY HISTORY THAT SHOULD PRECLUDE ME FROM BEING IN SAFEKEEPING. WHILE I HAVE RECEIVED DISCIPLINARY REPORTS FOR FIGHTING WITH OTHER PEOPLE IN CUSTODY, I HAVE NEVER STARTED A FIGHT, BUT HAVE ONLY TRIED TO DEFEND MYSELF FROM AGGRESSORS. I DO NOT THINK THAT IT IS FAIR TO DENY ME PROTECTION FROM ASSAULT WHEN MY DISCIPLINARY HISTORY IN TDCJ MOSTLY STEMS FROM TRYING TO PROTECT MYSELF FROM SEXUAL ABUSE AND ASSAULT THAT TDCJ STAFF THEMSELVES HAVE LEFT ME TO CONFRONT, AND WHEN TDCJ

STAFF HAVE TOLD ME TO FIGHT IF I DID NOT WANT TO BE FORCED TO HAVE SEX. I DO NOT WANT TO FIGHT OR ASSAULT ANYONE. I JUST WANT TO BE SAFE.

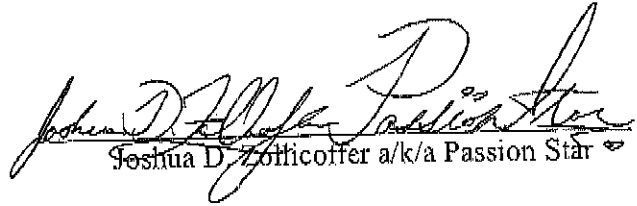
88. BECAUSE SAFEKEEPING IS NOT AVAILABLE IN CLEMENTS, I WILL NEED TO BE TRANSFERRED TO A NEW UNIT TO BE HOUSED IN SAFEKEEPING. THERE IS SAFEKEEPING IN THE BOYD UNIT, AND THIS UNIT IS CLOSE TO MY FAMILY. MY MOTHER IS VERY ILL WITH LUPUS, AND ALTHOUGH SHE WOULD LIKE TO VISIT ME, SHE HAS BEEN UNABLE TO MAKE THE TRIP TO AMARILLO. I WOULD LIKE TO BE TRANSFERRED INTO SAFEKEEPING AT THE BOYD UNIT SO THAT I AM CLOSER TO MY FAMILY.

89. IF I AM LEFT IN THE GENERAL POPULATION AT CLEMENTS, LIKE PREVIOUS UNITS WHERE I HAVE BEEN HOUSED, I BELIEVE THAT I WILL BE SEXUALLY OR PHYSICALLY ASSAULTED AND POSSIBLY KILLED IF I RESIST. I ALSO DO NOT WANT TO BE LEFT IN ISOLATION BECAUSE IT IS TORTURE, AS DESCRIBED ABOVE.

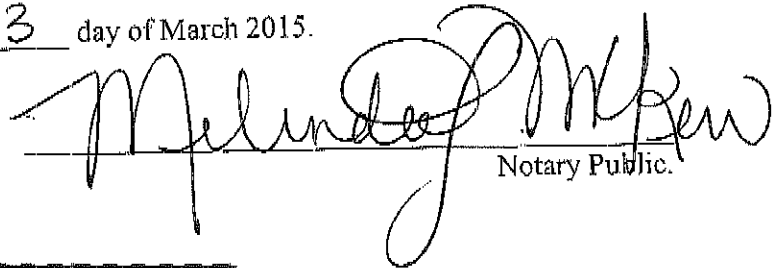
90. I AM EXTREMELY AFRAID THAT THE SCC OR OTHER RELEVANT DECISION MAKERS WILL REQUIRE ME TO REMAIN IN THE GENERAL POPULATION IN CLEMENTS OR PUT ME IN GENERAL POPULATION ON A NEW UNIT WHERE THE CYCLE OF BEING TARGETED, SEXUALLY HARASSED AND ASSAULTED WILL REPEAT ITSELF YET AGAIN. IF I AM SENT INTO THE GENERAL POPULATION IN ANOTHER UNIT, I WILL ALSO BE AT RISK FOR ATTACK BECAUSE I WILL BE IDENTIFIED AS FEMININE BECAUSE THE WORD WILL SPREAD TO MEMBERS OF THE CRIPS GANG ON THE NEW UNIT THAT THEY SHOULD KILL ME, AND BECAUSE THE SCARS ON MY FACE AS RESULT OF THE RAZOR ATTACK MARK ME AS A VICTIM. I AM TERRIFIED THAT IN THE GENERAL POPULATION OF ANY UNIT I WILL NOT HAVE ADEQUATE PROTECTION FROM TDCJ, ITS OFFICIALS, OR ANYONE ELSE - DESPITE MY NUMEROUS REQUESTS FOR PROTECTION.

91. THIS AFFIDAVIT IS MADE UNDER PENALTY OF PERJURY.
FURTHER AFFIANT SATH NOT.

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Joshua D. Zollicoffer a/k/a Passion Star

Subscribed and sworn to before me this 3 day of March 2015.


Notary Public.

My commission expires:

[seal]

