

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

R.G., an individual; C.P., an individual by
and through her next friend, A.W.; and
J.D., an individual,

Plaintiffs,

v.

LILLIAN KOLLER, Director of the State
Department of Human Services, in her
individual and official capacities;
SHARON AGNEW, Director of the Office
of Youth Services, in her individual and
official capacities; KALEVE TUFONO-
ISOSEFA, Hawaii Youth correctional
Facility Administrator, in her individual
and official capacities; *et al.*,

Defendants.

CIVIL NO. 05-566 JMS/LEK

DECLARATION OF [J.D.]

EXHIBITS A-B [*REDACTED*]

DECLARATION OF [J.D] [REDACTED]

I, [REDACTED], hereby declare:

1. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

2. I was first sent to the Hawaii Youth Correctional Facility (HYCF) on July 17, 2004.

3. During the first couple of days at HYCF, my first roommate, [REDACTED], was wrestling with me and ended up on top of me behind me. I went to stand up, and he got turned on and told me to “give him head.” That night, when I was sleeping by the wall on a mattress on the ground, he got on the back of me again. After that, I was so scared that I was sleeping sitting up on the toilet at night to keep from being attacked in my bed.

4. After that happened, he started telling other wards, including [REDACTED], that I was gay and that I gave him head. [REDACTED] and [REDACTED] started talking about me with the wards in A module. That’s what started everything.

5. [REDACTED] and other wards verbally and sexually harassed me, physically assaulted me, tortured and abused me and threatened to rape me on a daily basis because they thought I was gay. The wards talked about me at

school, so everyone in the other modules was part of it too. HYCF employees did nothing to stop it, the guards would just sit there.

6. Wards made fun of me, calling me names, calling me gay, and calling me [REDACTED] instead of [REDACTED], my last name. Other wards would call me a “pussy,” which meant that I was like a girl.

7. Many of these incidents happened with YCOs around, but the YCOs just sat there and did nothing to stop the other wards’ behavior. Sometimes the YCOs were sleeping or watching TV or reading the paper, but when they heard stuff happening to me they never said or did anything to stop it. I remember seeing Koehler sleeping and also Puna when I was being harassed and abused by the kids.

8. On July 29, 2004, medical staff at HYCF gave me sleeping medication for depression and sleep difficulty. I had trouble sleeping because my stress from the harassment and abuse was so severe.

9. On August 2, 2004, I wrote a grievance to Kaleve Tufono-Iosefa explaining some of the verbal and physical harassment, sexual abuse, and threats of rape and other physical harm that I was suffering because other wards thought I was gay. A true and correct copy of that grievance is attached hereto as Exhibit A. I told her that my roommate, [REDACTED], had asked for anal and oral sex from me and had threatened to rape me, and other wards were

calling me gay, coming into the showers when I was showering, and getting next to me and rubbing up against me and touching me. I told Kaleve that I had not yet complained to the YCOs because I was afraid that the wards would retaliate against me and afraid that the YCOs would tease me and do something bad to me.

10. Even after I wrote my first grievance to Kaleve and named two of the main boys responsible for the abuse, staff at HYCF still did not discipline them. Nothing ever happened to [REDACTED] or [REDACTED].

11. Instead, they put me in a single cell during lock-down periods. The rest of the time when we were not in lock-down, other kids could still get to me, so the verbal, physical and sexual harassment and abuse continued.

12. I was supposed to be in a single cell, but some of the YCOs would still put other boys in my cell with me. That happened about three times. They would move wards from cell to cell and then the guards would put a guy with me, and the ward would be in there for a day or two and then the manager would find out and they'd switch around again to put me by myself.

13. The kids put in with me would ask, "oh, you really gay?" They would say "give me head," and when I'd say no, they would keep asking and say "come on, just do it." They just wouldn't stop.

14. Sometimes I would ask to go see medical staff to try to get out of the module and get away from the harassment and get a break. Some of the time when I asked to go talk to medical staff, the other staff, including YCOs Kimo and Phil Alasara, wouldn't let me and would say not to bother them or to stop being a pest.

15. On August 8, 2004, I wrote to Kaleve again to tell her that even in a single cell some of the time, the situation was getting worse instead of getting better. A true and correct copy of that letter is attached hereto as Exhibit B.

16. I told Kaleve about some of the harassment and assaults and asked her to do something to stop it and to protect me from harm. I even suggested that she put me on the girls' side because it was so hard to have to keep living with the boys who had been harassing me.

17. After I wrote my first grievance, things just got worse. [REDACTED] had exposed himself to me a number of times and would hang his testicles out of his shorts telling me look at his 8-pack. When I was playing pool, [REDACTED] would hang his testicles in front of my eyes. Another time, I was standing with my hands behind my back and [REDACTED] put his testicles in my hands. He also put pubic hairs on my head or body a bunch of times.

18. Another day, which I think was a Sunday because it was visitation day, I asked [REDACTED] for a banana and he replied, "You are one banana [REDACTED]." Then he pulled out his penis and told me to "suck on this, don't use your teeth." The YCO, Stanley Sue, heard all of this but did absolutely nothing.

19. Another ward, [REDACTED], opened the door after his shower and exposed his penis to me and told me to come into the shower with him. He also rubbed semen onto my face once when he was coming out of the bathroom. [REDACTED] would often rub my neck and say things like "baby, honey, bitch, gay fucker, head and dick sucker." He grabbed my ass and rubbed against me a few times, once when I was in the shower.

20. While at recreation one day, I was playing outside by myself, [REDACTED] from C module yelled from the kitchen door "eh you, Head! Yeah You. You suck dick yeah." I flipped him off.

21. [REDACTED] threatened to have someone kick my ass or do it himself. When he came in my module in the mornings to get the water cans he would call me names like "faggot" and "mahu" through my door.

22. Some kids would touch me by rubbing up on my ass or dick, grab my ass and tell me "you like that, huh?"

23. Other wards told me to “give them head” or be their “bitch” (meaning have anal sex with them), in some cases while exposing themselves to me. One time, [REDACTED] had a banana and sucked it and then he told me to suck on the banana and said, “you’re going to do me like that.”

24. One time I was locked in my room by a group of other wards. They were calling me names, like “gay motherfucker” and other stupid stuff.

25. I never saw anyone at HYCF tell the wards to stop what they were doing to me, and as far as I know they never got in trouble for it either.

26. Nothing changed after my second letter.

27. The harassment and abuse just kept going like that. It’s hard to remember examples or name all the wards or what YCOs were there because the same things were happening over and over again.

28. People like to take the sleep medication, Remeron, so lots of the kids would tell me I had to check it and give it to them or they would do stuff to me.

29. One time, [REDACTED] wanted my meds but I wouldn’t give them to him. He called me a “fucking gay bitch” or something like that. He was slamming on the window and yelling at me.

30. On August 9, 2004, I talked to medical staff about the harassment in my module and the risk that I would start considering suicide if the situation did not improve.

31. Around that time I also started complaining to my social worker, Laurie Terakawa. She asked me if I wanted to file another grievance but I said no because the grievances did not do anything to help.

32. On August 12 or 13, 2004, they put me in a holding cell in Central Control. I called the manager, Scotty Rosetti, after a couple of hours and asked why I was in there. He called Kaleve and told me she said the judge said I had to be isolated.

33. I was in Central Control with a mattress, sheets, pillow, blanket and clothes and a towel. I had some hygiene stuff. But that was it. I didn't have anything to do or anybody to talk to so it was very lonely and made me even more depressed. I was cutting up my Remeron into pieces and taking it a little bit at a time so I could sleep all day. I was probably awake about 4 hours a day.

34. The isolation cell was completely bare. The only small windows to the outside were painted from the outside so I could not get any light. The cell had four walls, no bars – it was solid all around except for the door and a couple of inside windows. The only windows that I could see out of were the

ones that looked out on to the guards' station in Central Control. The cell had a toilet and a sink but no shower. I had one book with me, *Servant of the Bones*, that Linda, one of the nurses, gave me, and the Bible, which I brought in from the other holding cell because it was the only book there.

35. I was allowed to leave for about an hour in the morning for recreation time in the gym by myself and then for a shower at about 8 p.m. after all the other boys were done showering. I wasn't allowed to make any phone calls or write letters while in isolation. I wanted to call or write to my sister. I asked Scotty Rosetti, a Youth Corrections Supervisor who managed Central Control, and he said no.

36. After a few days, I couldn't handle being by myself so much and asked them to let me go back to the module. When the harassment was happening after that, I would go be in my cell by myself and go to sleep, but at least then I could be around other people some of the time. Even though the harassment was just as bad as before, it still wasn't as bad as being in isolation.

37. The harassment from wards and the failure of anyone other than the medical staff at HYCF to take it seriously and stop the abuse, made me angry, depressed, and hopeless.

38. I didn't really have trouble sleeping until after I went to HYCF. I was taking Remeron because everybody at the program I was in was taking it, and I wanted it too. But after a week or two at HYCF, I had really serious trouble sleeping because I was so afraid and so upset from the abuse.

39. When I first got to HYCF I was grinding (eating plenty), but after a couple of weeks I lost my appetite and was only eating a few times a week.

40. Before I got to HYCF I had pushed aside some of the feelings about my mom (my great-aunt) who had just died, so I was doing ok and wasn't all that depressed. But the harassment and abuse really got to me. I got really depressed. I felt like shit. I felt bad about myself. The other wards were labeling me and acting like I was gay and not worth anything.

41. When I knew the staff at HYCF were not going to do anything to protect me, I just made myself numb to it, so I wouldn't have to think about it or feel anything.

42. My public defender, [REDACTED], filed lots of motions to try and get me out of HYCF because no one was doing anything to stop the harassment and abuse. [REDACTED], [REDACTED] filed a motion to reconsider my sentence to HYCF. [REDACTED]

[REDACTED]

[REDACTED]

43. On or about [REDACTED], 2005 I had to have x-rays for my foot because I kicked the cell door because I was mad. I was angry because one of the staff told me to go into my cell and he slammed the door in my face.

44. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

45. [REDACTED]
[REDACTED]

46. Another time, I don't remember when, some of the boys were saying in front of some YCOs and Laurie Terakawa that I should give them head. After that Laurie finally started acting like she believed me.

47. As new kids were coming in, the old kids would tell the new kids and the harassment would just keep going. The harassment never got any better the whole time I was there.

48. I got out of HYCF [REDACTED], 2005 and went to an independent living facility.

49. [REDACTED]
[REDACTED]

50. I got sent back to HYCF on [REDACTED], 2005 after I told the judge I wasn't complying with the rules of my program and didn't want to be there because they were going to make me stay there until I was 19 years old.

51. I was supposed to be put in Ho'okipa for short-termers, but Scotty Rosetti took me to my old module instead. Some of the same kids were there from before, so the harassment and abuse just started again. Especially [REDACTED], a fat kid in the module, who right away was telling people that I called him Daddy and that I gave him head. Other kids picked it up and stuff like that just kept happening.

52. About a week after I got there, [REDACTED] grabbed my ass and said "luscious" when I leaned over to pick something up. Robert, a big fat guy who works in C and always wears a hat was there, but he was sleeping.

53. I didn't bother to tell any of the staff because I was already in a single cell, and I knew from before that they wouldn't do anything else to protect me except send me to isolation. Dr. Bidwell was off island most of that time, so I didn't see him until a couple of days before I left. When wards

were bothering me, I basically just brushed them off and tried to stay numb because I knew I was getting out soon. [REDACTED]

[REDACTED].

54. [REDACTED]

[REDACTED] for taking YCO Mr. Kim's cell phone back in October of 2004 when I was at HYCF the first time. I took the phone so that I could call a friend. Before that court date I was terrified that they would send me back to HYCF. I didn't get sent back to HYCF after that, but according to the court's order, I have to meet all the terms of my probation or I could get sent back until I'm 19 years old. If I do anything wrong, even miss a call to my parole officer, they can send me back to HYCF immediately and I will have to stay there until I'm 19.

55. Everything that happened to me at HYCF still bothers me. A few weeks ago, I saw [REDACTED] on the bus and got off at the next stop because I didn't want to see him again.

56. The worst thing about it though is that I am still numb so much of the time. I hate having to keep worrying that I will be sent back to HYCF and have to face the same stuff happening all over again.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this ____ day of September, 2005 at Honolulu, Hawaii.

[J.D.] _____