

[PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 20-11425

RONALD COX,

Plaintiff-Appellant,

versus

DEPUTY WARDEN BENJIE NOBLES,
OFFICER CRUMP,
WARDEN PERRY,
SERGEANT DAVIS,
WARDEN TED PHILBIN,
UNIT MANAGER HARRIS,

Defendants-Appellees.

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Appeal from the United States District Court
for the Southern District of Georgia

D.C. Docket No. 1:19-cv-00031-JRH-BKE

Before JORDAN, JILL PRYOR, and TJOFLAT, Circuit Judges.
JILL PRYOR, Circuit Judge:

Ronald Cox, a transgender woman, sued six Georgia Department of Corrections (“GDC”) officials, alleging that other prisoners sexually assaulted and physically attacked her¹ at three Georgia prisons. Invoking 42 U.S.C. § 1983, Cox alleged that the GDC officials, in failing to protect her, violated her constitutional rights under the Eighth Amendment. She further alleged that three of the six GDC officials exhibited deliberate indifference to the substantial risk of serious harm she faced as a transgender inmate by failing to comply with the Prison Rape Elimination Act (the “PREA”), 34 U.S.C. §§ 30301, *et seq.*

¹ Cox has been inconsistent in the use of self-referential gender pronouns. In the amended complaint, Cox used the pronouns “he/him/his.” In the reply brief on appeal, however, Cox uses the pronouns “she/her/hers.” Because Cox’s reply brief is the most recent of these filings, we assume Cox currently wishes to use the pronouns “she/her/hers.”

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The district court granted the GDC officials' motion to dismiss Cox's amended complaint on the ground that the GDC officials were entitled to qualified immunity. The district court determined that Cox failed to allege facts sufficient to establish that the GDC officials violated her Eighth Amendment rights. The district court also rejected Cox's claim against three of the defendants based on their alleged failure to comply with the PREA. Although our analysis differs from the district court's as to Cox's Eighth Amendment claim against one of the GDC officials, Unit Manager Harris,² we ultimately agree with the district court's conclusions. After careful consideration and with the benefit of oral argument, we affirm the district court.

I. BACKGROUND³

A. Factual Background

Cox was assaulted at three different prisons for male inmates: Austry State Prison, Central State Prison, and Augusta State

² Cox's amended complaint does not provide the first names for four of the GDC officials. She styles those four GDC officials as follows: "Unit Manager Harris," "Officer Crump," "S[er]g[ean]t Davis," and "Warden Perry." Doc. 16 at 2–3 ¶¶ 3–6.

³ When reviewing an order granting a motion to dismiss, we accept as true all well-pled allegations in the operative complaint and construe them in the light most favorable to the plaintiff. *See Hunt v. Aimco Props., L.P.*, 814 F.3d 1213, 1218 n.2 (11th Cir. 2016). We therefore recite the facts as Cox has alleged them.

Medical Prison. At each of these institutions, Cox received estrogen injections, causing her to present with female features. Doc. 16 at 4 ¶ 10. Cox’s identity as a transgender woman within these male prisons made her a target for sexual and other physical abuse she was forced to endure at the hands of other inmates. In this section, we review the allegations about each assault she suffered and then the procedural history of this case.

Cox’s story begins at Autry. After arriving at Autry, she filed a “P.R.E.A[.] complaint” with Benjie Nobles, a deputy warden at the prison. *Id.* ¶ 11. The amended complaint contains no information about the contents of this, or any other, PREA document Cox filed with any prison official. But after Cox filed it, Nobles “had [Cox] moved into a cell with Rashad Stanford,” another prisoner, who threatened Cox with a weapon and sexually assaulted her. *Id.*

Following the assault, Cox reported the incident to another officer, Crump.⁴ Crump took no action to separate Cox and Stanford, even though Cox notified Crump that Stanford “had a

⁴ Although Cox named Crump as a defendant in her amended complaint, she never served him with a copy of the complaint, and the district court dismissed her claim against him. *See* Fed. R. Civ. P. 4(m). Cox does not argue on appeal that the district court erred in dismissing her claim against Crump and thus has abandoned any challenge to the dismissal of that claim. *See Timson v. Sampson*, 518 F.3d 870, 874 (“[I]ssues not briefed on appeal . . . are deemed abandoned.”). Thus, we do not discuss further Cox’s claim against Crump.

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shank.” *Id.* at 5 ¶ 12. In addition to speaking with Crump, Cox “immediately filed a[nother] PREA.” *Id.* ¶ 13. Nobles investigated the incident but initially took no action to separate her from Stanford. Cox was then sent to the hospital for medical attention. Upon her return, she was “transferred out of the cell with [Stanford] and placed on lockdown for 30 days until [s]he was transferred to Central State Prison.” *Id.* ¶ 14.

After arriving at Central, Cox requested “PREA protection” from Perry, the prison’s warden. *Id.* at 6 ¶ 15. When Perry failed to grant this request, Cox “filed grievances about not being protected in accordance with PREA.” *Id.* After Cox filed these PREA documents, Benjamin Israel, another Central prisoner, attacked Cox from behind while she was watching television. Israel “hit [Cox] so hard that [s]he fell to the ground.” *Id.* He then “proceeded to kick [her] in the abdomen and punch [her] continuously.” *Id.* No prison official broke up the fight; Cox attributed this lack of response to Central’s being “short staffed.” *Id.* She alleged that there was only “one officer watching four pods.” *Id.* About four months after the attack, Cox was transferred to Augusta.

Upon arriving at Augusta, Cox requested that Ted Philbin, the warden there, provide her “PREA protection.” *Id.* ¶ 16. According to Cox, she was “not placed in a safe environment provided by PREA.” *Id.* She “filed grievances” to that effect. *Id.*

While at Augusta, Cox was assaulted twice by another prisoner, Terry Frasier. The first assault began after Cox entered the shower, where Frasier was masturbating. Thinking Cox was

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