

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

KATHERINE STAVELY SCHWAB

Defendant.

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: Case No. 1:21-cr-50-CRC
: The Hon. Christopher R. Cooper
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DEFENDANT KATHERINE SCHWAB'S MOTION FOR RECOMMENDATION OF ALTERNATIVE DESIGNATION

COMES NOW the defendant, Katherine Schwab, by and through counsel, Jeffrey Zimmerman, and moves this Honorable Court to recommend an alternative designation. Ms. Schwab has been instructed by the Federal Bureau of Prisons to report to FMC Carswell on February 7, 2023. This is an inappropriate designation and a very dangerous place for her. Defense counsel is concerned for her life and safety.

I. PROCEDURAL HISTORY

On August 18, 2022, Defendant Katherine Schwab pled guilty to one count of Disorderly and Disruptive Conduct in a Restricted Building, in violation of 18 USC §1752(a)(2), related to her actions on January 6, 2021. See Plea Agreement [ECF 82] at 1. On December 9, 2022, this Court sentenced Ms. Schwab to a period of imprisonment of 45 days, followed by a 12-month period of supervised release. See Judgment [ECF 96] at 2-3. The Court further recommended "Placement at a facility near her home." Id. at 2. On January 20, 2023, Ms. Schwab received a notice from the Probation Office directing her to report to FMC Carswell on February 7, 2023.

II. FMC CARSWELL HAS A LONG AND RECENT HISTORY OF “HORRORS” INCLUDING CORRUPTION, RAMPANT SEXUAL ASSAULT, AND HIGH NUMBERS OF COVID-RELATED INFECTIONS AND DEATHS

FMC (Federal Medical Center) Carswell is an administrative security medical center with an adjacent minimum security satellite camp located in Fort Worth, Texas. *See Federal Bureau of Prisons, FMC Carswell.*¹ It is not clear from the designation letter which facility is going to house Ms. Schwab, but we subsequently learned that she was **not** designated to the camp. The only other option at Carswell is the administrative security medical center. According to the BOP: “Administrative facilities are institutions with special missions, such as the detention of pretrial offenders; the treatment of inmates with serious or chronic medical problems; or the containment of extremely dangerous, violent, or escape-prone inmates.”² This is not an appropriate designation for Ms. Schwab and may well put her in significant danger.³

¹ <https://www.bop.gov/locations/institutions/crw/>

² https://www.bop.gov/about/facilities/federal_prisons.jsp

³ One of the factors used by the BOP are Management Variables (MGTVs), which can override a defendant’s security score. *See* Alan Ellis, *Securing a Favorable Federal Prison Placement*, THE CHAMPION (July 2015) at 32. The BOP will sometimes assign an inmate to an institution that is close to her “release residence” even though the inmate’s score would require an institution with a lower security level. *Id.* Because FMC Carswell is the closest BOP women’s facility to Ms. Schwab’s home, the BOP presumably has used this MGTV to designate her to a facility that houses extremely violent and dangerous individuals even though she should be at a minimum security camp. It is not known why the BOP is designating her to the high-level administrative security facility at Carswell and not the adjacent camp. While even the camp designation at Carswell raises serious concerns for her safety, *see infra*, it is alarming and inappropriate that Ms. Schwab is going to be housed at the administrative facility.

Moreover, across the facilities at FMC Carswell, reports of gross medical neglect and rape by prison guards date back to at least 1999. *See* ACLU Texas, *Hospital of Horrors (Federal Medical Center Carswell Prison)* (Oct. 19, 2005).⁴ In 2020, Andrea Circle Bear, who was an inmate at Carswell, became the first woman to die in federal custody from COVID-19. *See* Kaley Johnson, *Women’s Prison in Fort Worth Rife with Corruption, Cover-ups, Whistleblower Says*, FORT WORTH STAR-TELEGRAM (July 15, 2022).⁵ In July 2022, the union president at FMC Carswell laid out accusations of “corruption, misconduct and malfeasance” at the facility, noting in a letter to state and federal leaders that upper management covers up misconduct by supervisors and retaliates against staff who file complaints. *Id.*

As recently as a few months ago, in August and September of 2022, the Fort Worth Star Telegram published the results of its investigation of abuse and misconduct at FMC Carswell. That investigation found that Carswell had the highest number of sexual assaults against women — and the highest rate of sexual assaults against women — by staff of any federal prison for the period reviewed (2014-2018). *See* Kaley Johnson, *Congressman Calls for Federal Investigation into “Horrors” at Fort Worth Women’s Prison*, FORT WORTH STAR-TELEGRAM (Sept. 7, 2022).⁶ In response to his investigation, United States Representative Michael Veasey urged the House Committee on the Judiciary to hold a hearing to investigate the sexual assaults and cover-ups at Carswell. *Id.* “We have an obligation to protect the health, rights, and safety of all incarcerated individuals in our nation’s prisons,” wrote Rep. Veasey in a letter to the House Committee. “But

⁴ <https://www.aclutx.org/en/press-releases/hospital-horrors-federal-medical-center-carswell-prison>

⁵ <https://amp.star-telegram.com/news/local/fort-worth/article263401898.html>

⁶ <https://www.star-telegram.com/news/local/crime/article265391831.html>

that has clearly not been the case at the FMC Carswell facility in the district I represent...where there have been reports of rampant sexual assault and abuse of women prisoners by staff.”⁷



The Star-Telegram interviewed numerous former and current inmates at FMC Carswell, as well as prison staff and experts familiar with the investigative process at the Bureau of Prisons. See Kaley Johnson, *Fort Worth Carswell Women’s Prison Plagued by Sexual Abuse, Cover-ups*, FORT WORTH STAR-TELEGRAM (Sept. 2, 2022).⁸ They also reviewed hundreds of pages of incident reports, federal records, and court documents. *Id.* This investigation revealed a pattern of sexual assault of inmates by staff that is the worst in the BOP. *Id.* The problem is very likely even worse than reflected in records as inmates feared retaliation for reporting abuse and even when reported by staff members, they suffer retaliation and get fired. *Id.*

⁷ <https://veasey.house.gov/media-center/press-releases/rep-veasey-urges-house-judiciary-committee-to-investigate-bureau-of>

⁸ <https://www.star-telegram.com/news/local/crime/article264613401.html>

The article described the case of Chantel Dudley, who was sexually assaulted multiple times by her case manager while she was incarcerated at Carswell in 2016. *Id.* The trauma she faced while at Carswell has left her emotionally scarred far beyond the sentence she received. *Id.* “Not one person that had that authority over me helped me or tried to help me, even after what had happened,” Dudley said. “After that, I was scared for women who are incarcerated. Because you have no say-so. You don’t have any rights.” *Id.* Rape of inmates at Carswell has not been limited to guards and case managers. A chaplain at FMC Carswell raped two inmates at the facility. *See* Bryon Okada, *Priest Gets 2-Year Sentence in Inmate Sex-Abuse Case*, FORT WORTH STAR-TELEGRAM (May 5, 2008).⁹

Not only has Carswell been stonewalling regarding the rampant sexual abuse by staff at the facility, but management reportedly promotes those against whom there are reports of misconduct and retaliates against staff whistleblowers. *See* Kaley Johnson, *Bureau of Prisons Continues to Evade Questions About Sexual Abuse at Fort Worth Prison*, FORT WORTH STAR-TELEGRAM (Oct. 27, 2022).¹⁰ According to Jennifer Howard, the president of Carswell’s staff union, “Management officials are able to operate with impunity, in blatant disregard for federal law, executive orders, judicial orders, and BOP policy. Nothing happens to Management officials for these violations; in fact, they are often moved and promoted, resulting in toxic practices being rewarded and continued within the Agency.” *Id.* Howard noted that investigations into misconduct by staff are untimely, “yet retaliatory investigations against staff who report misconduct are conducted promptly.” *Id.*

⁹ https://www.bishop-accountability.org/news2008/05_06/2008_05_05_Okada_PriestGets.htm

¹⁰ <https://www.star-telegram.com/news/local/fort-worth/article267324297.html>

Katie Schwab, as this Court is aware, is a rape survivor. At age twelve, she was raped by a friend of one of her brothers. *See Presentence Investigation Report* [ECF 89] at 17 ¶ 85. Two years later, while seeking to get into modeling, she was raped by a fashion designer. *Id.* All of these experiences resulted in anxiety, major depressive disorder, PTSD and various other diagnoses and mental health challenges. *Id.* at 17-19 ¶¶ 85-90. Ms. Schwab started receiving mental health counseling, as well as various medications, beginning as early as 2007 (when she was 19 years old). *Id.* It has taken many years, but she is doing better. It is concerning that she has been designated to a facility with a long – including very recent – history of rape against inmates as well as corruption and cover-up of those sexual assaults.

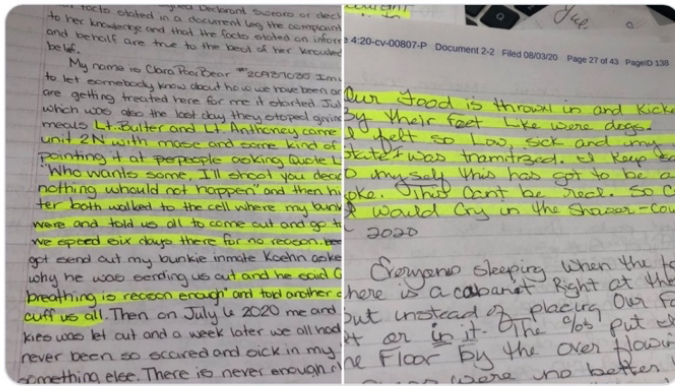
In addition, Carswell is a place where people get sick and often die from COVID-19, in far greater numbers than other facilities. In 2020, Reality Winner, who was imprisoned at Carswell for leaking government secrets, tested positive for COVID-19 and reported that guards were mocking infected prisoners. *See Jonathan Franklin, NSA Whistleblower Reality Winner Tests Positive for COVID-19 in Prison, THE GUARDIAN* (July 20, 2020).¹¹ Winner noted inadequate cleaning and isolation procedures at Carswell. *Id.* Fort Worth Star-Telegram Reporter Kaley Johnson, who would later author the previously discussed articles exposing rampant prison rape at cover-up at Carswell, tweeted in 2020 about the absolutely horrific conditions inside Carswell. Seventy-three women and some of their lawyers wrote of their experiences, including rotten food, being treated like dogs, locked in cells where they have to go to the bathroom on themselves, and left to die in chains.

¹¹ <https://www.theguardian.com/world/2020/jul/20/nsa-whistleblower-reality-winner-positive-covid-19>



Kaley Johnson @KaleyAJohnson

Rotten food. Threatened with riot guns and pepper spray. Quarantine where they were "treated like dogs." Through interviews & more than 200 pages of written testimony, 73 women wrote about their experiences inside the country's only federal medical prison for women; FMC Carswell

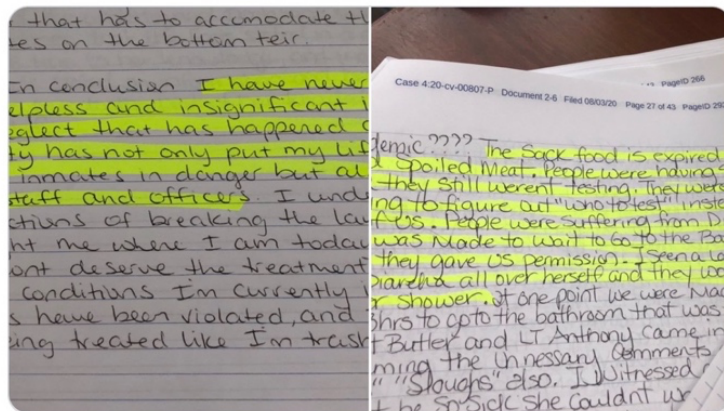


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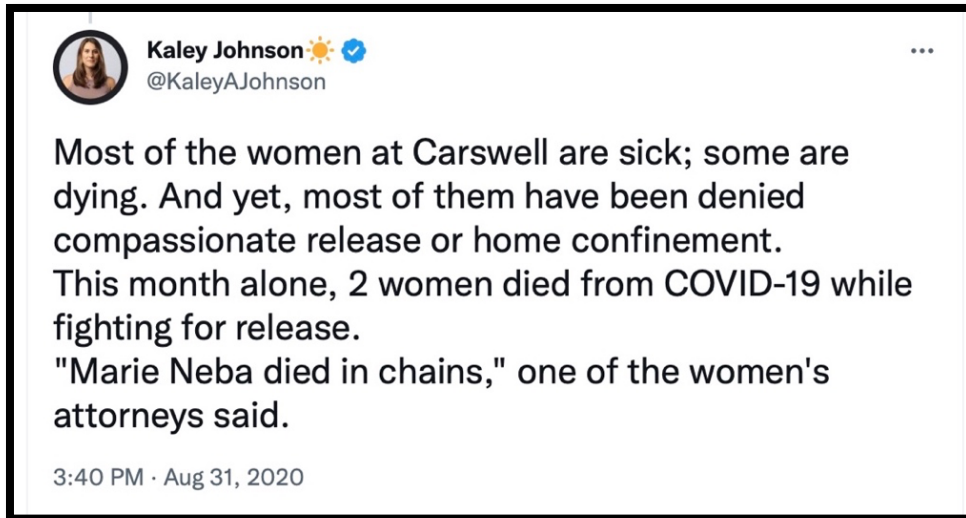


Kaley Johnson @KaleyAJohnson

As COVID-19 spread through the prison in Fort Worth, women said they were left in infected units to catch the virus and received inconsistent care. Women said they went to the bathroom on themselves bc they weren't allowed to leave their cells. Six women have died at the prison.



3:40 PM · Aug 31, 2020



Even by the BOP's own current statistics — which likely understate the problem at Carswell due to cover-ups and fear of retaliation by both inmates and staff — Carswell is an extremely dangerous place. The BOP notes that eight inmates at Carswell have died and 776 inmates have been infected and recovered. *See Federal Bureau of Prisons, COVID-19 Cases.*¹² These are unusually high numbers in comparison with most other BOP facilities.

III. AN ALTERNATIVE DESIGNATION IS WARRANTED IN THE INTERESTS OF JUSTICE, FAIRNESS, AND SAFETY

Katherine Schwab, who has no prior criminal history, stands convicted of a misdemeanor. She has been in full compliance with the conditions of her release for years. She is not a security risk. There is no reason to incarcerate her at FMC Carswell. More significantly, in light of the recently exposed problems of rampant sexual assault, cover-ups, as well as the high level of COVID infections and deaths at Carswell, defense counsel has grave concerns regarding Ms. Schwab's life and safety at that facility.

¹² <https://www.bop.gov/coronavirus/>

We respectfully move the Court for a recommendation that the BOP designate her to FPC Bryan or a different facility that is security-level appropriate and safe and for such other relief as the Court deems just. *See, e.g.*, 18 U.S.C. §3621(b)(4)(B) (requiring the Bureau of Prisons, when determining a designation, to consider “*any statement by the court that imposed the sentence... recommending a type of penal or correctional facility as appropriate*”) (emphasis added).¹³ Note that co-defendant Jenna Ryan served her prison sentence at FPC Bryan, a minimum security camp in Bryan, Texas. *See Simone Carter, Already Behind Bars: Capitol Rioter Jenna Ryan Went to Federal Prison Days Before Christmas*, DALLAS OBSERVER (Dec. 28, 2021).¹⁴ Unlike FMC Carswell, Federal Prison Camp Bryan has had no reported COVID deaths,¹⁵ a low COVID infection rate and, does not have a history of prison rape and corruption.

Alternatively, particularly in light of her full compliance with the conditions of her release for nearly two years, we move the Court to allow her to serve her time on house arrest.

Respectfully Submitted,

KATHERINE STAVELY SCHWAB
By Counsel

¹³ The same statute requires the BOP to place an inmate “to the extent practicable” in a facility within 500 miles of her primary residence. *See* 18 U.S.C. §3621(b). FMC Bryan is well within this range, approximately 200 driving miles away from Ms. Schwab’s home. While FMC Carswell is closer to her residence (approximately 55 driving miles), that should not be the primary consideration. Moreover, we submit that nearly *any camp* — even one outside this range — is a far more appropriate designation than the administrative security medical center at FMC Carswell or even the camp at that facility.

¹⁴ <https://www.dallasobserver.com/news/frisco-real-estate-broker-and-capitol-rioter-jenna-ryan-surrenders-to-federal-prison-13098960>

¹⁵ *See* <https://www.bop.gov/coronavirus/>

