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Transsexual Denied Drugs in Prison

Federal Judge Rules in Transsexual's Favour

by Bill Wallace, San Francisco Chronicle - Friday, 24th October, 1997

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A Transsexual who was formerly a state prison inmate will receive damages from the State Department of Corrections for arbitrarily cutting off her hormone therapy when she was transferred between two state prisons.

... the defendants denied, delayed and intentionally interfered with proper treatment of her serious medical need ...

Under an order issued in U.S. District Court in Sacramento last week, Torey South, 37, will return to court for a jury trial to determine the amount of the damages she will receive from the California prison system.

In granting South's request for a summary judgement of her civil lawsuit against the corrections department, U.S. District Judge David Levi ruled that prison officials had "acted with deliberate indifference to her serious medical need.

In making that determination, Levi echoed the earlier findings of Federal Magistrate Judge Dale Drozd, who concluded that prison officials had violated South's constitutional right to be free of cruel and unusual punishment by deliberately withholding necessary medical care.

"The record reflects that the defendants denied, delayed and intentionally interfered with proper treatment of (South's) serious medical need," Drozd wrote in a recommendation to the court adopted by Levi.

South, a transsexual who has lived most of her adult life as a woman and had been taking female hormones since she was a teenager was an inmate at the California Medical Facility in Vacaville and the California Men's Colony in San Luis Obispo while serving a three-year prison sentence for robbery.

When South entered the prison system at the Northern California Reception Centre at San Quentin, she was found to be a transsexual who was suffering gender identity dysphoria. No medication for her condition was prescribed during the two months she was at San Quentin, but when she arrived at the medical facility in Vacaville, the diagnosis was again transsexualism, and South was placed on female hormones.

South continued to receive the medication for eighteen months until she was abruptly transferred to San Luis Obispo for administrative reasons. Although she pleaded with medical professionals to give her the hormones, they refused.

Once she was taken off the medication, South suffered hot flashes, dizziness, vomiting, stretch marks, a loss of breast volume and the disfigurement of her breasts.

Law students at the University of California at Davis King Hall Civil Rights Law Clinic sued on South's behalf in federal court and won a temporary court order, requiring the prison system to give her the hormones while the issue was adjudicated.

State prison officials appealed the ruling, but a three judge panel of the U.S. Court of Appeals in San Francisco found that the judge had acted properly.

Last year, South was released on parole. Meanwhile, her federal lawsuit continued to make its way through the system.

In February, Drozd recommended that South be awarded a summary judgement against the state and that the case continue to jury trial to determine the amount of money she should receive as compensation.

In a final ruling on the case last week, Levi concurred with Drozd's recommendation. South, who is now living in the Bay Area, could not be reached for comment yesterday.

However, Susan Christian, the attorney at the King Hall Civil Rights Law Clinic who supervised the students who worked on South's lawsuit, hailed the federal court's ruling.

"We're very proud of the students work," she said. "This was very legally challenging and it was quite an accomplishment, not only on behalf of our client but potentially for other transsexuals in the California prison system."

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