

PSWH Attorneys Successfully Represent Mistreated Transgender Woman in Appeal Against New Jersey Department of Corrections

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Pashman Stein Walder Hayden attorneys Roger Plawker and James W. Boyan III served as appellate co-counsel with ACLU-NJ, representing Sonia Doe, a transgender woman, in an appeal of disciplinary sanctions imposed upon her while in the custody of the New Jersey Department of Corrections (DOC).

Despite having put the DOC on notice that she is a woman, Doe was housed in an all-male prison. On April 30, 2020, Doe filed a request to be transferred to Edna Mahan Correctional Facility for Women. While that request was in process, on May 12, 2020, Doe filed a grievance because she felt threatened in her then current housing assignment. On May 24, she was escorted to an office for an interview regarding her grievance. After asserting her female gender during a pat-down by a male officer, and after alleged inappropriate touching by the officer, a physical altercation between Doe and the officers ensued. Doe sustained physical injuries. Doe was subsequently charged with disciplinary infractions, found guilty, and sentenced to 270 days of administrative segregation (isolated confinement), among other sanctions.

Doe filed an appeal, and on June 3, 2020, the Appellate Division ordered that her sanctions be reconsidered in recognition that Doe was a “member of a vulnerable population” under the Isolated Confinement Restriction Act, which provides that isolated confinement should not be used against such populations. The Act defines a “member of a vulnerable population” to include any inmate who “is perceived to be lesbian, gay, bisexual, transgender or intersex.”

Although the Act has not yet taken effect, the Court stayed the sanctions until its effective date of August 1, 2020 and remanded for reconsideration of Doe's sanctions at that time, effectively preventing the DOC from imposing isolated confinement. Doe has been transferred to an all-women's prison.

In response to the decision, Plawker said, "We are pleased with the Court's decision and its sensitivity to Sonia Doe's status as 'member of a vulnerable population.' This decision is an important step in achieving more humane treatment of vulnerable populations in the NJDOC system consistent with the legislative intent of the Act."