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By Mary Anne Pazanowski

Documents

- Decision
District court docket

- Trans woman produced evidence of offensive search, care denial
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By Mary Anne Pazanowski 2024-03-29T10:30:36000-04:00

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A transgender woman can proceed to trial in lawsuit alleging that a behavioral health-care facility discriminated against her in violation of Section 1557 of the Affordable Care Act, a federal court said.

Samantha Jolley raised disputed questions of fact that must be decided by a jury, including whether the staff at Riverwoods Behavioral Health LLC deliberately discriminated against her by conducting an offensive strip search and by withholding care they allegedly would have provided to a cisgender person, the US District Court for the Northern District of Georgia said Thursday.

Judge William M. Ray II previously rejected Riverwoods' claim that there's no private right of action for alleged violations of Section 1557. Although the statute doesn't expressly provide a means for people to sue, and expressly says they can file a complaint with the US Department of Health and Human Services' Office for Civil Rights, a right to sue can be implied because Section 1557 references and incorporates other federal antidiscrimination statutes that permit private suits, he said.

Jolley was admitted to the defendant's Lakeview Behavioral Health Hospital on Feb. 14, 2019, after telling her psychiatrist that she was experiencing suicidal thoughts. Jolley's records at the facility identified her as male, and two male nurses were assigned to perform a contraband search upon her admission, despite her protests that she is female.

The male nurses patted down the sides of Jolley's breasts and touched her upper thighs near her genital area, Jolley alleged. She was assigned a male roommate, again over her objections, she said.

Jolley also alleged that the staff refused her requests for a prescription migraine drug and delayed her prescription hormone medication. The staff frequently made derogatory comments about her gender identity, she said.

Jolley sued for sex discrimination. Riverwoods moved for summary judgment, saying Jolley didn't have evidence that it was deliberately indifferent to her needs.

Deliberate indifference is only one way to prove intentional discrimination, the court said. Jolley could establish her claim by showing that Riverwoods treated her differently and denied her medical care because she's transgender, it said.

The evidence submitted on summary judgment demonstrated the existence of a factual dispute over whether Jolley was denied or excluded from receiving health-care benefits for discriminatory reasons, the court said.

In short, there was evidence that Riverwoods knew she was transgender, that its employees often made derogatory comments about her gender identity, made her undergo an unnecessarily invasive search in which nurses violated policy by touching her, unnecessarily delayed providing her medication, and ignored Jolley's reasonable requests for an accommodation, the court said.

Ray also allowed Jolley to proceed on claims for negligent hiring and supervision, punitive damages, and attorneys' fees.

Beal, Sutherland, Berlin, and Brown LLC represents Jolley. Huff, Powell & Bailey LLC represents Riverwoods.

The case is Jolley v. Riverwoods Behavioral Health, LLC , N.D. Ga., No. 21-cv-561, 3/28/24 .

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