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Transgender Woman's Healthcare Bias Case Teed Up For Trial

By **Kelcey Caulder**

Law360 (April 1, 2024, 9:29 PM EDT) -- A Georgia federal judge has said a behavioral health facility cannot escape claims brought against it by a transgender woman who alleges she was mocked and denied critical treatment during a stay there in 2019, teeing up the case to head to a jury trial.

On March 27, U.S. District Judge William Ray II refused to free Riverwoods Behavioral Health LLC from a suit brought against it by Samantha Jolley, who says she was discriminated against, strip searched by male nurses against her will and temporarily denied access to needed medications after being admitted to a behavioral health hospital owned and operated by the company for suicidal ideation.

Jolley, who filed suit against Riverwoods in February 2021, claims that after being admitted to Lakeview in February 2019, she was forced to undergo an invasive "contraband search and skin assessment" or "strip search" performed by male nurses. She says she objected to male nurses performing the search but was told Riverwoods' policy required it to be performed by nurses of the same sex as the patient. She adds that she was mocked by the nurses, who allegedly asked whether she had a penis before patting down the sides of her breasts, her sides and her upper thighs.

Jolley asserts she was also temporarily denied access to prescription medication needed to relieve severe migraine headaches and prescription hormonal medication during her stay at Lakeview, even though a patient advocate could have gotten them for her more quickly and had done so in the past for patients who were not transgender.

Riverwoods argues in its motion for summary judgment that Jolley's claim for sex discrimination under the Patient Protection and Affordable Care Act could not stand because she failed to show the company acted with "deliberate indifference" to her federal rights, but Judge Ray disagreed in his **order**, saying there was "some evidence to suggest that plaintiff was denied healthcare benefits (medication) on the basis of her transgender status."

Though Riverwoods explains its policies give resident physicians 24 hours to meet with patients after they have been admitted and require staff members to wait to administer medications until they have been prescribed by one of its physicians, Judge Ray said Jolley presents evidence showing a patient advocate could have called the physician directly to get Jolley her medication sooner and had "regularly done so in the past for non-transgender patients."

Jolley also provides evidence, Judge Ray said, that Riverwoods' staff was informed she identified as a transgender woman and had undergone hormonal therapy to develop female breasts before she was strip searched. That, he said, undercuts its argument that the search was only performed by male nurses because Jolley's medical records indicated she was assigned male at birth.

The judge said Jolley's negligent training and supervision claim could also stand despite Riverwoods' contention that it provided its employees with training on patients' rights to be free from discrimination.

"Evidence fails to show that such training also included a policy addressing the rights of transgender patients," the judge said. "Plaintiff provides evidence, however, that nurses did not receive training on how to perform body searches on transgender patients, including the appropriate sex of the nurse who should perform the search."

Judge Ray likewise upheld Jolley's claim for punitive damages, saying it will be up to a jury to decide whether Riverwoods knew the conduct of male employees who "touched [Jolley] unnecessarily during an invasive search, delayed her opportunity to receive required medication, and failed to adhere to policies meant to prevent the foregoing conduct" posed a risk to patients and acted with "conscious indifference" to the potential consequences.

Attorneys Milinda Brown and Drew Beal, who represent Jolley, told Law360 they are pleased with Judge Ray's decision and expect the case will head to trial in the fall.

The case is particularly important, Brown said, as anti-discrimination claims brought under the ACA are "fairly new for our circuit" and could lead to better treatment for patients across Georgia.

"It's still a very new statutory claim that is still being developed in case law so to be able to be a part of the initial workings and play a piece in that is huge," Brown said. "We all need to be treated fairly when we go to receive medical treatment and if that's not something everyone is able to get, then there are problems in our healthcare industry that need to be addressed."

As they prepare for trial, Beal said they are hoping for "open-minded and caring people" to serve on the jury.

"We're just going to show exactly what happened to Sami, and we think the jury should be able to respond pretty quickly," Beal said. "We don't think there will be a ton of extraneous evidence. We'll put up what happened to Sami and a little bit of additional testimony surrounding it, and we'll let the jury decide what they think about the behavior."

Counsel for Riverwoods did not respond immediately to requests for comment.

Jolley is represented by Drew Beal and Milinda Brown of Beal Sutherland Berlin & Brown LLC.

Riverwoods Behavioral Health LLC is represented by Eric M.A. Wilder and Daniel J. Huff of Huff Powell & Bailey LLC.

The case is Jolley v. Riverwoods Behavioral Health LLC, case number 1:21-cv-00561, in the U.S. District Court for the Northern District of Georgia.

--Editing by Kristen Becker.