
Hughes Hubbard & Reed

Hughes Hubbard Wins Discovery Bid for Transgender Inmate

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Hughes Hubbard & Reed won an early tactical victory in a pro bono case for a transgender inmate who is suing Suffolk County, New York for refusing to provide her medically prescribed hormone therapy treatment.

On June 14, 2016, U.S. District Judge A. Kathleen Tomlinson signed off on Hughes Hubbard's motion to compel discovery, which will force defendants to reveal documents from their personal computers and email accounts.

In August 2013, Sunderland filed suit in a New York federal court against Suffolk County and certain Suffolk County Correctional Facility employees. Sunderland alleged that, within months of her arrival at that prison facility, doctors denied her hormone therapy despite knowing that she had been regularly taking this medication prior to being incarcerated.

Sunderland claimed that this denial violated her Eighth and Fourteenth Amendment rights based on the defendants' deliberate indifference to her serious medical needs and that the County maintains a custom or practice of failing to provide transgender inmates with basic and required medical care.

In January 2016, Hughes Hubbard served discovery requests on Suffolk County and the individual defendants for gender dysphoria-related emails and documents that may show bias or animus by the defendants toward transgender inmates. But defendants took the position that, though they would search the Suffolk County computer system for responsive materials, they would not search the individual defendants' computers and emails. Hughes Hubbard moved to compel a search of the documents and emails in the possession of the individual defendants, arguing that they were parties to this case and that the requests were likely to produce relevant evidence.

Judge Tomlinson ruled in favor of Sunderland. "Plaintiff has the right to pursue emails and other correspondence the individual defendants may have created/saved on their personal computers or sent from their personal email accounts which reference plaintiff or discuss issues related to gender dysphoria," she wrote. "This information falls within the broad scope of relevant discovery under Federal Rule of Civil Procedure 26(b)."

Judge Tomlinson further found that Hughes Hubbard's discovery requests were not unduly intrusive or burdensome. Finally, Judge Tomlinson held that counsel for the defendants must turn over to the court for in camera review any documents or emails they refuse to produce on "privacy" grounds.

The ruling made headlines in Bloomberg BNA.

Fara Tabatabai, Andrew Schwenk, Ryan Kim and Dayo Oshilaja are working on this matter with supervision by Seth Rothman. Hughes Hubbard alum David Shanies, now a solo practitioner, is co-counsel for Sunderland.

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