Michigan City Settles Federal HIV-Discrimination Lawsuit

Shalandra Jones was ticketed for not disclosing her HIV status to a Dearborn police officer during a traffic stop. As a result, she sued.

September 11, 2015 By Todd Heywood

Shalandra Jones had filed a civil rights lawsuit against the city of Dearborn, Michigan.

The city of Dearborn, Michigan, has settled a federal discrimination lawsuit brought by Shalandra Jones, a woman living with HIV, although details of the settlement are currently confidential.

“The case has been settled on terms that were satisfactory to both Ms. Jones and the city of Dearborn,” says Joshua Moore of Detroit Legal Services, which represented the plaintiff, Shalandra Jones, in the lawsuit. “The city of Dearborn was committed to ensuring that a fair settlement was reached.”

While the agreement contains confidentiality clauses preventing either party from discussing the settlement terms, Michigan law requires such agreements to be released in full under the Freedom of Information Act. A formal request for the agreement has been submitted to the city.

The settlement was hailed by HIV activists.

“Sero applauds any person with HIV who is able to stand up and assert their right to equal treatment under the law,” says Sean Strub, executive director of Sero Project and founder of POZ. “The stigma Ms. Jones faced was wrong, even if driven by ignorance more than malice, but unfortunately is what people with HIV face all the time, if not every day.”

The lawsuit stems from an August 3, 2012, traffic stop. Jones and her then-fiancé were stopped by Dearborn police officer Eric Lacey. Lacey stopped the couple because the vehicle allegedly had a burned-out brake light. As he discussed the situation with the couple, he claimed to smell marijuana. Jones produced a small amount of marijuana, and Lacey requested and received permission to search the vehicle.

During his search, Lacey found Jones’s HIV medications. Dashcam video of the incident shows Lacey telling Jones that she should disclose her HIV-positive status whenever a police officer asks

her to step out of a vehicle. In the video, Lacy also says he was “pissed” that Jones hadn’t disclosed her status before he searched the vehicle, and he tells the couple: “Honestly, if it wasn’t for that, I don’t think I would have wrote anybody for anything. But that kind of really aggravated me, you know what I mean? You got to tell me right away, ‘I’ve got this. I’ve got that.’ ’Cause at that time, I wasn’t wearing any gloves.”

Experts say there is no legal obligation in Michigan for a person with HIV to disclose his or her status to a police officer.

Jones was ticketed for marijuana possession, a criminal misdemeanor. City officials attempted to prosecute Jones for the marijuana possession despite her qualifying for a medical marijuana defense. Officials repeatedly offered to drop the criminal charge if Jones would sign a waiver of civil rights and agree not to sue the city, Moore said at the time.

Lacey made repeated statements expressing his fear of being infected with HIV or other diseases after coming in contact with the woman’s earrings, which were in her purse, during his search of the couple’s vehicle. At other points, however, he seemed to say that he understood that he was not at risk for contracting HIV. He expressed concerns about the possibility of being exposed to contaminated needles in the course of his search, but he did not find any needles in the vehicle. He also said he was worried about taking diseases home to his family.

“What happened to Ms. Jones by officer Lacey was horrific,” Moore says. “The discrimination in this incident affected every person living with HIV and only fed the stigma, fear and ignorance against people with HIV. No person living with HIV should have to endure what Ms. Jones had to endure.”

While Jones won the lawsuit, the process of getting there significantly set back the privacy of people living with HIV. Jones originally sought to bring civil action against the city of Dearborn for releasing the video of the traffic stop, and as a result revealing her HIV status, which violates Michigan’s HIV confidentiality law. That law makes it a civil violation or a criminal act to release a person’s HIV status except under specific legal frameworks. But a federal district court judge ruled that the law does not apply to government entities, and dismissed the allegation.

“We are disappointed that the District Court, in effect, has gutted Michigan’s HIV confidentiality law,” Moore says. “Under this ruling, government entities, which are most likely to possess the names of people living with HIV, are not subject to criminal sanctions if they identify a person with HIV. That’s dangerous for people living with HIV, and it’s important Michigan’s legislature address this immediately.”

Jay Kaplan, staff attorney for the LGBT Project of the ACLU of Michigan, says he was disappointed with the federal ruling, but he notes that some government agencies might still have to protect that information under other privacy laws.

“It is disappointing that the court finds that Michigan’s confidentiality law does not pertain to governmental entities,” Kaplan acknowledges. “However, a governmental entity could still be held

liable for releasing medical information and information about a person's HIVs status under both HIPAA [Health Insurance Portability and Accountability Act] and the constitutional guarantees of privacy (in the instance of the booking sheet), particularly where the facts demonstrate that the aggrieved individual has not publicly disclosed their HIV status."

Kaplan is not alone in expressing concerns about the impact of the ruling.

"If this ruling leaves government agencies in Michigan not responsible for protecting the privacy of HIV status, or even of those getting tested for HIV, it is a huge concern," Strub says. "Not only would this put Michiganders with HIV at tremendous risk—this is the kind of information that costs people their jobs, custody of their children, housing, standing in their communities, even at risk of violence—but it also will inevitably make the Michigan epidemic worse because those at risk will be afraid to get tested and have government agencies in control of the test results."

For POZ's previous coverage of this case, including the dashcam recording of the incident and video interviews with Jones, her family and her attorneys, read "Woman Sues City of Dearborn for HIV Discrimination by Police."

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