Ex-Inmate Settles Lawsuit Alleging Harsher Punishment Based on His HIV

The Michigan Department of Corrections will update its policies to reflect a modern understanding of HIV transmission risk.

November 19, 2018 By Trent Straube

A settlement has been reached in an HIV discrimination lawsuit filed on behalf of John Dorn, a former inmate living with HIV, against the Michigan Department of Corrections (MDOC). Dorn alleged that while incarcerated, he was disciplined more severely solely because of his HIV status. Specifically, when he and another man were accused of engaging in consensual sex, Dorn was moved from a facility with the lowest level of security to a higher-security prison and placed in solitary confinement for 21 months. The other man, who is HIV negative, lost his privileges for only 30 days.

Michigan Protection & Advocacy Service and Lambda Legal, an HIV and LGBT legal advocacy group, filed the lawsuit on Dorn's behalf.

As part of the settlement, Dorn will receive $150,000 and the MDOC will amend its policies so that incarcerated people living with HIV are not disproportionately punished without a proper reason. Notably, the policies will reflect the latest science concerning the realistic risks of HIV transmission.

For example, people with HIV who maintain an undetectable viral load by taking daily meds cannot transmit the virus sexually, a phenomenon known as "undetectable equals untransmittable" or "U=U."

"While this outcome has taken many years to achieve, it was worth the fight," said Dorn in a Lambda Legal press release. "I lost over 21 months of my life to solitary confinement for no good reason because of the prior MDOC policy directive. No human being should have to endure that type of punishment. In my case, the directive that led to nearly two years of isolation was based on old science. It was also based on a presumption that did not consider the actual risk of transmission. I am proud that I survived to tell my story. I am also satisfied that I was able to fight for changes in the system that will help other incarcerated people living with HIV in Michigan not experience what I, and others, have."

MDOC spokesperson Molly Kramer told MLive/The Grand Rapids Press, "All parties are satisfied

with the resolution.”

“The changes in medical treatment have really changed legal standing in a lot of ways,” Chris Davis, an attorney for Michigan Protection & Advocacy Service in Lansing, told the paper. He added that if Dorn’s risk of passing along HIV had been properly evaluated, “there never would have been a finding that he posed a significant risk of transmitting the virus.”

Richard Saenz, Lambda Legal senior attorney, added in the press release: “Today’s settlement sends a strong message that state departments of corrections that have policies singling out incarcerated people living with HIV must comply with federal disability law. Under the settlement, the MDOC must certify whether the prisoner’s behavior presented a significant risk of HIV transmission. We are pleased with the outcome, not only for Mr. Dorn, but also for other incarcerated people living with HIV in MDOC custody.”

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