Former Student Sues State University of New York Over HIV Discrimination

The lawsuit claims Buffalo State University suspended the student and expelled her from campus housing because she is living with HIV.

September 20, 2024 By Trent Straube

A former student at Buffalo State University, part of the State University of New York (SUNY) system, filed an HIV discrimination lawsuit against the school. Upon learning of her HIV status, the university suspended her and expelled her from campus housing, leaving her at a bus stop, after which she stayed at a homeless shelter, alleges the lawsuit.

The school said its actions were due to "health and safety incidents" and a "health and safety violation," according to the complaint.

The plaintiff, referred to by the pseudonym Betty Jones to protect her identity, was an 18-year-old freshman in 2022 when the incidents are alleged to have taken place. She's represented by Anna Marie Richmond, Esq., and lawyers from Legal Action Center (LAC) and Housing Works.

In 2022, Jones was aware of her HIV status. She took medication and maintained an undetectable viral load, which means that she can lead a long and healthy life and cannot transmit HIV sexually, a fact referred to as Undetectable Equals Untransmittable, or U=U.

According to the legal complaint:

> "At all times relevant to this complaint, Ms. Jones took her antiretroviral treatment
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> every day, and she remained virally suppressed. In other words, she was managing her HIV disease responsibly. While she was sexually active, she was very careful to ensure that she did not put her sexual partners at risk, and given that she was virally suppressed, she could not transmit the illness to a sexual partner as a matter of medical fact.

> "Ms. Jones wanted to tell a student she was dating that she was living with HIV but, knowing the pervasive stigma against people living with HIV, she worried a great deal about his reaction. When she gathered the courage to disclose that she was living with HIV, her worst fears were realized. The student was verbally abusive and told her he wanted terrible things to happen to her.

> “Afraid for her safety, Ms. Jones visited the campus police office and told them that she had disclosed her HIV status to her sexual partner. She expressed fear for her safety.
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> “Buffalo State’s response from this moment onward was based on stigma about Ms. Jones’ disability and lacked any medical, scientific, or rational basis. Defendants used emergency procedures to quickly evict Ms. Jones from her residence hall, suspend her, and prohibit her from setting foot on the campus without conducting an individualized assessment of Ms. Jones and her circumstances
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> “In February 2023, Buffalo State permanently dismissed Ms. Jones from the college.”

“I told them I wasn’t a threat, that I couldn’t hurt anyone because I had an undetectable viral load, but they still kicked me out without any justification and left me at a bus stop just outside the campus,” Jones said in an LAC press release about the case. “I had worked hard to get into college. I enjoyed the classes I took in the summer before school started and had earned some credits and gotten good grades. I was devastated. I lost my belongings and had to make my way to a homeless shelter in New York City, feeling very sad and not knowing if I would ever be able to go back to school.”

“Tragically, HIV-based discrimination is not a thing of the past. Misinformation is pervasive, stigma remains severe and this case is a painful reminder of that,” added Jen Sinton, litigation director at LAC. “Despite extraordinary gains in HIV prevention and treatment, far too many people act on the basis of outdated and stigmatizing assumptions about HIV. For a college like Buffalo State to ignore science is particularly shocking. The school’s actions not only harmed our client, but they also run counter to public health strategies to eliminate HIV.”

Jones is seeking monetary compensation and to have the notation “judicial dismissal” removed from her transcript.

In related news, see our POZ cover story “Defying Discrimination,” about taking legal action against stigma and discrimination. It includes tips on filing an HIV lawsuit.

The Americans with Disabilities Act (ADA) prohibits HIV discrimination; for more information, visit ADA.gov/HIV. You can file an ADA complaint with the Department of Justice online and by mail. For more information about the ADA, visit ADA.gov, or call 800-514-0301 or 800-514-0383 (TDD). For disability discrimination, you may also visit https://www.eeoc.gov/disability-discrimination.

To read about similar HIV cases, click #Discrimination. You’ll find articles such as “Military Can’t Ban All Americans With HIV From Joining,” “Nashville Agrees to Rewrite Policies Disqualifying HIV-Positive Police Candidates” and “Woman With HIV Sues Arizona Rehab Center for Wrongful

Eviction.”

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