

INMATE WITH HIV/AIDS CLAIMS COURT DISCLOSURE
WAS CRUEL AND UNUSUAL PUNISHMENT

In a petition before the Supreme Court last year, the Petitioner asked the Court to consider the following two questions:

1. Should a convicted felon be subject to additional harassment above and beyond their prison sentence due to a Court's disclosure of their medical history?; and,
2. Is the disclosure of a Defendant's medical history/condition in a case history a violation of the Eighth Amendment's proscription against cruel and unusual punishment if it leads to harassment and is not relevant to the case in question?

The Justices denied the petition.

In Doe v. U.S., which was denied last year, the Petitioner states that he has suffered from verbal and physical abuse because his case on LEXIS/NEXIS--which is available to all inmates throughout the Federal Bureau of Prisons (B.O.P.), reveals his HIV status.

Doe presented evidence before the Court showing complaints and emails being placed at three different institutions where Doe has been housed, all asking prison staff for help due to the harassment he had received, and to ask if his case could be edited.

In a motion to the Court, Doe claims that he is both being

treated as a separate class, and further, that he is suffering cruel and unusual punishment in violation of the Eighth Amendment due to having his medical status disclosed in what he would respectfully suggest, "is wanton and completely unnecessary."

Doe has claimed that making his HIV status available to the general public and all prisoners throughout the B.O.P. serves no purpose whatsoever other than to bring a greater difficulty to him in serving his sentence--much greater than other inmates--and violates his rights of privacy and confidentiality.

Doe states that "there is no justification for a court to report a defendant's medical history--especially when it is not relevant or germane to their case in any way. To include references to a defendant [having HIV/AIDS] borders on sensationalism and is unworthy of a respected institution."

In many instances, it is illegal for certain companies or institutions to disclose a person's HIV status, and such disclosures often end up in court. This is due to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Courts, however, have often disclosed a person's HIV status in reporting a case on one of the many legal reporting agencies, such as LEXIS/NEXIS or PACER.

Doe states that he is locked in a prison environment where inmates are routinely physically or verbally harassed. To have an inmate's HIV status made available to all other inmates in a prison is setting him up for harassment.

Doe claims that he filed grievances with the B.O.P., whom

he suggests can--and often do--edit the information made available on their own in-house computer system, including information about some prisoners' legal cases.

The B.O.P. responded to Doe's complaints, stating that "the BOP does not have control over what the courts deem appropriate to publish."

According to Doe, he had appealed to numerous civil rights groups, HIV/AIDS rights groups, and attorneys for help or even a letter of support for his petition, but received no help and only one response, from Lambda Legal, dismissing it as a privacy issue.

Doe states that his petition was not merely a privacy issue; that he has been singled out from other inmates who merely have a sentence to serve, and that he has suffered a great deal of verbal and physical harassment and several transfers to different prisons due to the fact that the court chose "to treat his case like a supermarket tabloid."

Doe asked the Justices to consider that "[i]n certain circumstances, it is illegal for one party to divulge another party's medical status in relation to HIV/AIDS, specifically due to the fact that it causes harm to the second party."

Doe then asked the Court to consider the harm that same disclosure would cause an inmate in a prison environment "to have their medical status made available to all other prisoners with whom that inmate is housed."

Doe has stated that he is not the only inmate in this situation. "Many other inmates have their medical condition

reported in their case history, and I am not the only person this petition would have affected," he says. "I don't know why this issue is new or why no one is willing to support it."

Doe suggested that while it had been established by law that the disclosure of a person's medical history/condition by certain companies or institutions is a violation of the law and is subject to legal action, that "a respected Court of this country may disclose this same information with impunity and without any regard for the defendant's safety or well-being."

Doe states that the harassment he has been subject to as a result of his medical condition being disclosed "goes beyond the bounds of cruel and unusual punishment, and cannot be reasonably justified."

Doe adds that "the Court didn't even bother to mail me the denial. I found out about it on the prison's computer system myself."