



Written by [Raven Clabough](#) on May 5, 2015

California Officials Appeal Order to Provide Sex Change Surgery to Prison Inmate

Officials in California are appealing an order by an appellate court for the California corrections department to provide sex reassignment surgery to a transgender prison inmate. On Monday, state officials also filed a request for a stay with the Ninth U.S. Circuit Court of Appeals.



U.S. District Judge Jon Tigar has already denied the state's request for a stay last week, stating that the inmate, Michelle-Lael Norsworthy (Jeffrey Bryan Norsworthy), would likely win the case.

According to Judge Tigar in his 38-page order last month, Norsworthy's Eighth Amendment rights, protecting him from "cruel and unusual punishments," are being violated, and Norsworthy is suffering psychologically and emotionally.

Norsworthy, who was convicted of second-degree murder in April 1987, "has presented compelling evidence suggesting that prison officials deliberately ignored her continuing symptoms of gender dysphoria and the recognized standards of care," Tigar wrote.

The American Psychiatric Association defines gender dysphoria as a condition in which a person does not identify with their own gender.

Tigar also wrote that Norsworthy had attempted other treatment options but continues to suffer from "excruciating pain and frustration," resulting from gender dysphoria, and Norsworthy's current hormone replacement therapy has caused liver malfunction. "She is seeking access to the medical treatment prescribed by her treating provider and denied for administrative, rather than medical, reasons," Tigar added.

Reuters reports that Norsworthy began identifying as a transgender woman in the mid-1990s. According to ABC News, Norsworthy is among 22 transgender men and 363 transgender women currently living in California prisons.

The sex reassignment operation Norsworthy is requesting would be the first in state prison history and could cost as much as \$100,000, notes California Corrections Health Care Services spokeswoman Joyce Hayhoe. But though this may be the first time California taxpayer dollars will pay for an inmate's sex change surgery, it would not be the first time taxpayers have paid for sexual reassignment surgery. In 2013, 74-year-old [Denee Mallon](#) of New Mexico began a fight against Medicare's ban on sex change surgeries — a fight that Mallon won. When Mallon underwent sexual reassignment surgery in January of this year, it was paid for by Medicare.

If Tigar's order stands, Norsworthy would be the first inmate to receive sex reassignment surgery in California.

In the state's request to the higher court, the state argued that Norsworthy has been receiving



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substantial gender-related treatment over the years. “Although the district court rested its ruling on a purported violation of the Eighth Amendment’s proscription against cruel and unusual punishment, the record shows that Ms. Norsworthy has received extensive medical and mental-health treatment for her gender dysphoria for over 15 years,” according to the request. The state also argued that “no treating physician has ever determined that reassignment surgery is medically necessary.”

“Evidence showed that there was no medical or psychological need for immediate sex-reassignment surgery,” the state added.

Fox News reports that Judge Tigar is not the first judge in the nation to order a state prison system to provide this type of surgery.

In 2012, a federal judge in Boston was the first to order a state’s prison system to pay for sex change surgery. U.S. District Judge Mark Wolf ruled in favor of sex reassignment surgery for Michelle Kosilek, who is serving a life sentence for murder. That ruling was overturned by a federal appeals court in December. The case was then appealed to the Supreme Court, which let the rejection stand on Monday.

The rulings in favor of states paying for sex change operations for prisoners, because the prisoners are under extreme emotional distress, should cause one to wonder if other prisoners suffering acute mental distress should get similar consideration. Should prisons simply release prisoners with claustrophobia or agrapophobia, which is the fear of sexual abuse? Too, with this as precedent, shouldn’t every heterosexual sex addict be provided with members of the opposite sex on a daily basis lest they “suffer”? Also, since a lot of the prisoners are surely suffering from severe depression and anxiety from being separated from friends and family, shouldn’t they get to serve their sentences at home?

They should if the system is fair and rational.



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