

Americans with Disabilities Act protects transgender people, judge rules

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Transgender people are protected from discrimination under the Americans with Disabilities Act (ADA), a federal court of appeals judge ruled Tuesday.

The ruling stems from a 2020 lawsuit filed on behalf of Kesha Williams, a transgender woman who was incarcerated in a Virginia men's prison despite the fact that she had been receiving hormone replacement therapy for nearly two decades.

Williams was initially housed on the women's side of the Fairfax County Adult Detention Center, according to court documents, but was moved to the men's facility after she informed a nurse that she is transgender and had not undergone gender-affirming genital surgery.

Following her housing reassignment, Williams was regularly harassed by prison deputies and male inmates, who repeatedly misgendered her and made her fear for her safety. Prison officials also withdrew her hormone therapy for weeks at a time, causing her to experience significant mental and emotional distress.

Williams spent more than six months as a woman incarcerated alongside men, with whom she was forced to shower and subjected to body searches. She sued Fairfax County Sheriff Stacey Kincaid, as well as a prison nurse and a deputy, after her release in 2019, alleging that the prison had violated both the ADA and the Rehabilitation Act in failing to adequately treat her gender dysphoria.

The sheriff's office in responding to the complaint argued that gender dysphoria is not a "disability" under the ADA, in part because it is "an identity disorder not resulting from physical impairments."

The ADA, initially adopted in 1990, [specifies](#) that its interpretation of the term "disability" does not include "gender identity disorders not resulting from physical impairments," as well as "transvestism" or "transsexualism" – both of which are [outdated terms](#).

Attorneys for the defendants argued – and the district court held – that that exclusion of the statute applied to Williams' gender dysphoria, thus barring her ADA claim.

On Tuesday, the 4th U.S. Circuit Court of Appeals ruled to the contrary, arguing that gender dysphoria is not a gender identity disorder at all.

The American Psychological Association (APA) in a 2013 update of the Diagnostic and Statistical Manual of Mental Disorders – known as the DSM-5 – removed the diagnosis of gender identity disorder, replacing it with gender dysphoria – a diagnosis that did not exist when in 1990 when the ADA was adopted.

While the now-rejected diagnosis of gender identity disorder is characterized by a "gender incongruence," or an incongruence between a person's "experienced gender" and their sex assigned at birth, the newer gender dysphoria diagnosis focuses on the "clinically significant distress" that a person experiences because of the mismatch between their gender identity and their sex assigned at birth.

"In short, the gender dysphoria diagnosis recognizes that incongruence between a person's identity and

birth sex is not the problem in need of treatment—the clinically significant distress associated with that incongruence is,” attorneys for the GLBT Legal Advocates and Defenders (GLAD) wrote last year in an [amicus brief](#) in William’s case.

According to the DSM-5, discomfort caused by gender dysphoria may result in intense anxiety, depression, suicidal ideation and suicide.

“Reflecting this shift in medical understanding, we and other courts have thus explained that a diagnosis of gender dysphoria, unlike that of ‘gender identity disorder,’ concerns itself primarily with distress and other disabling symptoms, rather than simply being transgender,” Judge Diana Gribbon Motz [wrote in the opinion](#) published Tuesday.

Motz also sided with Williams on a second claim that even if gender dysphoria and gender identity were not categorically distinct, Williams would still be protected under the ADA because her gender dysphoria has a “known physical basis.”

According to Motz, when prison officials failed to provide hormone therapy to Williams, she experienced, among other things, “emotional, psychological, and physical distress.”

“Williams does not merely allege that gender dysphoria may require physical treatment such as hormone therapy; she maintains that her gender dysphoria requires it,” Motz wrote.