



PENNSYLVANIA INSTITUTIONAL LAW PROJECT

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Jury Finds That Berks County Discriminated Against Women Incarcerated At Berks County Jail

PHILADELPHIA, PA – In a trial beginning on November 12, 2019, a jury of eight people unanimously found that Berks County violated the constitutional rights of women incarcerated at the Berks County Jail by denying them the same access to furloughs as men. In addition, the jury awarded damages to one of the women who brought the lawsuit, finding that Berks County’s discriminatory treatment caused her harm. “We are pleased that the jury recognized that Berks County was refusing to provide equal opportunities to incarcerated women in connecting with their families and preparing for reentry back into society,” explained Su Ming Yeh, Deputy Director of the Pennsylvania Institutional Law Project.

On the afternoon of Friday, November 8, 2019, the last business day before trial, the Berks County Commissioners added an additional twist to the lawsuit when the county’s attorneys abruptly filed a notice with the Court, stating that they had moved all of the lowest security “trusty” status men housed in the Community Reentry Center (CRC), around which much of the case revolved, into cells at the Berks County Jail, seemingly without public input.

The Pennsylvania Institutional Law Project and Dechert LLP represented the plaintiffs Theresa Bohning (née Victory), Alice Velazquez-Diaz, and a class consisting of all current and future female Trusty prisoners in the Berks County Jail in the class action *Victory, et al. v. Berks County*, which challenged Berks County’s practice of housing incarcerated men with the lowest security “trusty” status in the Community Reentry Center, while the women with the same status were imprisoned inside Berks County Jail cells. The Community Reentry Center provided greater access to privileges, more freedom of movement, better visitation conditions, and more access to furloughs, and had been assisting men’s reentry into their communities for nine years. The decreased rate of recidivism as a result of this program saved the county money, according to one Berks County Commissioner who testified in an earlier court hearing.

While the judge, The Honorable Mark A. Kearney of the U.S. District Court for the Eastern District of Pennsylvania, had already found that Berks County violated the rights of the “trusty” status women by denying them the freedom of movement, access to showers and privileges, and visitation conditions provided to men with the same status, it was up to the jury to determine whether the differences in access to furloughs amounted to unconstitutional discrimination. In Berks County, individuals of the lowest security classification are granted additional privileges including being on work release and the ability to take furloughs, i.e. permission to leave the premises for specific hours during the day and



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then return to jail. This privilege is not granted lightly and requires both permission from the warden and the sentencing court.

The opportunity allows people to spend time reconnecting with their family support system, get IDs to prepare for release or work release, and complete other logistics that will allow them to successfully resume life within their community. One man testified that being permitted a furlough allowed him to reconnect and build a relationship with his son and to secure housing for after his release. “Our clients simply wanted the same access to furloughs as the men — to see their children, care for their loved ones, and prepare for their return home,” stated attorney Matthew A. Feldman of the Pennsylvania Institutional Law Project. “We were honored to represent Theresa Victory, and Alice Velazquez-Diaz who pursued the case on behalf of all trusty women in Berks County Jail, not for personal gain but because they believed incarcerated women deserve the same freedoms and privileges afforded to their male counterparts.”

Certain issues relating to what additional remedies, if any, should be ordered will be reviewed by Judge Kearney. The Pennsylvania Institutional Law Project and Dechert LLP are still determining whether the conditions of the men and women are "substantially equivalent" and are concerned about the potential for future inequities. “Closing the Community Reentry Center is an enormous setback for reentry services to all incarcerated people,” said Su Ming Yeh. “We are disappointed that Berks County would rather empty the Reentry Center, than provide robust reentry services equally for both men and women that would assist their successful return to society.”

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