

Judge Says Transgender Woman May Sue Drug Program for Bias

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A transgender individual who fled from a residential drug treatment program can sue the program for housing discrimination for failing to accommodate her special needs, a Brooklyn judge has held.

Acting Supreme Court Justice Debra Silber ([See Profile](#)) said Sabire Wilson can seek remedies ranging from injunctive relief to punitive damages against Phoenix House's drug treatment program and its director, Sydney Hargrove.

Silber, bemoaning the "considerable lack of understanding in the courts with regard to issues of concern" to the transgender population, said Wilson is entitled to her day in court.

Wilson, a 32-year-old, homeless, male-to-female transgender who was diagnosed with a gender identity disorder when she was 16, was arrested in 2008 for a drug crime, her first felony offense, according to court papers. She signed off on a plea bargain and agreed, as an alternative to incarceration, to enter the residential treatment program at Phoenix House in Brooklyn.

In her complaint, Wilson alleges she was directed to use the men's rest room and share a room with men because she remained biologically male. She also claims she was forbidden to wear her wig and high-heels even though women in the program were allowed to wear wigs and heels; was forced to sit with men during counseling sessions; was expelled from a gender-specific women's support group; and was ultimately told she would be transferred to a different residential program.

"Despite plaintiff's inquiries and requests, an alternative program that could 'meet her needs' was not located by Phoenix House, and plaintiff, angry and frustrated that they would not let her complete the treatment program, left Phoenix House without permission," Silber wrote, noting that Wilson was ultimately resentenced to 2 1/2 years in state prison.

Silber said a study has shown that transgender people are more likely to be neglected, harassed, humiliated and raped in prison, "and therefore programs such as defendants' are even more critical for them."

Wilson sued under the state and city human rights laws, alleging housing discrimination and disability discrimination based on the gender identity disorder. Phoenix House and Hargrove submitted a pre-answer motion to dismiss, but Silber allowed virtually all of the claims to proceed.

In a [46-page decision](#) dated Dec. 10, Silber traced the recent legal and societal history of transgender people and said that while "great strides" have been made in assuring legal equality for gay, lesbian and bisexual individuals, "with regard to transgendered and other gender nonconforming people, there has

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been far less progress."

"As our society evolves, the concept of gender is evolving from a 'coercive binary regime' toward a more fluid identification of one's gender, thus moving claims of gender identity disorder and any concomitant claims of disability into the realm of political unacceptability," Silber wrote. "But society is not there yet."

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