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Transgender guard sues corrections department



Patrick Breen / The Arizona Republic

Prison inmates stand in the yard Saturday at Arizona State Prison-Kingman.

November 27, 2015 7:54 pm • By [Howard Fischer Capitol Media Services](#)

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PHOENIX — A transgender prison guard is suing the state Department of Corrections saying he has been the victim of discrimination.

The lawsuit filed by attorney Stephen Montoya says the guard, who is not named, “has been subjected to severe and pervasive discriminatory harassment by his co-workers and supervisors based on his status as a transgender male.” Montoya wants a federal judge to order the harassment to stop and for the state to provide him with unspecified monetary damages.

But Department of Corrections spokesman Andrew Wilder, who said he is familiar with the case, said there is no legal basis for the lawsuit.

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“The department employs numerous transgender staff who serve happily and proudly, and rightly so,” Wilder said.

Montoya tells a different story.

He said that his client’s supervisors and co-workers have repeatedly referred to him as a “he/she,” a “she/he,” and “it,” and a “whatever.” Montoya also said that his client was told that other correctional officers were “offended” by his status as a transgender male.

And Montoya said inmates have told his client that other guards have said he is not safe at the agency and that they would not respond to any emergency calls they got from him.

Wilder, however, said that the employee, who already was working for the agency, “transitioned openly from female to male” and continued to work at the department.

“His allegations were promptly and thoroughly investigated and there was no evidence to support his contention that his life is or ever was in danger,” Wilder said. And he also dismissed the claim that the guard was in fear for his life.

“In numerous discussions with senior executive staff, he never expressed any concern for his

physical safety," Wilder said.

But Montoya cited one incident where he said that one of his client's tires was slashed in a Department of Corrections parking lot after co-workers learned of his client's transgender status.

Montoya said his client had to "take an otherwise unwanted transfer and suffer lost income." The lawsuit does not spell out where the guard was working and Wilder said he cannot provide details.

The officer had previously filed a complaint with the federal Equal Employment Opportunity Commission.

In a letter to Montoya, an assistant attorney general said her agency would not be able to investigate the charges within six months. That cleared the way for Montoya to bring suit in federal court.

On Twitter: @azcapmedia

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