



COURT HOLDS CASE CHALLENGING TDOC'S FAILURE TO ACCOMMODATE DEAF PRISONERS CAN PROCEED

Affirms the Role of Disability Rights Tennessee in the Case

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NASHVILLE, TN - In an important decision for the enforcement of disability rights in Tennessee, the Middle District of Tennessee held that Disability Rights Tennessee (DRT), the state's Protection & Advocacy (P&A) organization, has standing to file a lawsuit to protect the civil rights of individuals with disabilities. On November 12, 2020, Federal District Court Judge Aleta A. Trauger issued an opinion in the case of *Trivette & Disability Rights Tennessee v. TDOC*, recognizing DRT's plaintiff status and affirming DRT's ability to bring claims on behalf of its constituents in order to vindicate their rights. DRT, as Tennessee's P&A, has been mandated by Congress to protect and advocate for the rights of people with disabilities.

DRT and Ernest Kevin Trivette filed a lawsuit in the Middle District of Tennessee on March 30, 2020 based on the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act. The suit alleges that the Tennessee Department of Corrections (TDOC) is failing to provide D/deaf inmates with effective communication, including sign language interpreters and videophones, so that they can have equal access to TDOC's programs and services. For example, Mr. Trivette was unable to get his GED because TDOC did not provide him with a sign language interpreter who would interpret the course, which was taught in English, into his primary language of American Sign Language (ASL). TDOC filed a Motion to Dismiss, claiming, in part, that DRT lacked standing to bring suit on behalf of D/deaf inmates in TDOC custody. DRT has long advocated for TDOC to provide effective communication to D/deaf and hard of hearing inmates as required by law.

In a decisive opinion, Judge Trauger rejected TDOC's Motion to Dismiss and held that DRT can bring suit on behalf of D/deaf inmates in TDOC custody. Judge Trauger stated in her opinion:

Both DRT's allegations and the statutory P&A structure support the conclusion that DRT

is an organization that represents and is accountable to the state's disabled population in a manner akin to membership . . . Advocating for greater support for deaf and hard-of-hearing individuals in TDOC facilities is plainly consistent with DRT's mission, and, because DRT is challenging broad, policy-level failures by TDOC regarding its lack of language supports, DRT can pursue these claims without the direct participation of each individual affected.

"We welcome the Court's decision which allows DRT to pursue claims on behalf of its other associational members and Mr. Trivette. It is the Protection & Advocacy system's job to uphold these rights and this decision will further our work," says Jack Derryberry, DRT's Legal Director.

Judge Trauger also rejected TDOC's Motion to Dismiss filed against Mr. Trivette, holding that his damages claim is not barred by the statute of limitations, and granted the Plaintiffs' Motion to Amend the Complaint to add in two Deaf inmates currently in TDOC custody who are experiencing the same barriers to communication as Mr. Trivette did.

"We are pleased with this ruling and hope this case ultimately results in systemic changes to ensure effective communication for all D/deaf inmates in TDOC custody. It is critical that D/deaf inmates have communication access equal to that of hearing inmates," said Martie Lafferty, Director of the Accessibility Project at Civil Rights Education and Enforcement Center.

View this press release in ASL at: <https://youtu.be/6oSVUOYiy-o>

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Disability Rights Tennessee (DRT), formerly Disability Law & Advocacy Center of Tennessee, is the designated protection & advocacy agency for Tennessee. DRT provides free legal advocacy services to protect the rights of Tennesseans with disabilities. For 40 years, DRT has served over 50,000 people through direct services, education, and systemic advocacy.

<https://www.disabilityrightstn.org/>

Civil Rights Education and Enforcement Center (CREEC) is a nonprofit membership organization whose goal is to ensure that everyone can fully and independently participate in our nation's civic life without discrimination based on race, gender, disability, religion, national origin, age, sexual orientation, or gender identity. <https://creeclaw.org/>.