

# Transgender prisoners have fundamental right to appropriate care

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**Editor's note:** *In a victory for transgender patients and the physicians who treat them, the 9th U.S. Circuit Court of Appeals in late August upheld a trial court opinion and ruled that not providing adequate care to a transgender inmate, including gender confirmation surgery when necessary, is cruel and unusual punishment. In the opinion, justices detailed medical understandings of gender dysphoria and noted that the lower court went to great lengths to determine the prisoner had a serious medical need.*

*“We apply the dictates of the Eighth Amendment today in an area of increased social awareness: transgender health care,” the decision says. “We are not the first to speak on the subject, nor will we be the last.”*

Prisoners have a fundamental right to access necessary and effective medical care, and that includes the full range of treatments for gender dysphoria. So argues a strongly worded friend-of-the-court brief filed by the AMA and other medical and mental health professional organizations.

The state of Idaho is fighting federal court-ordered gender-reassignment surgery for Adree Edmo—formerly Mason Edmo—a transgender female inmate who filed a civil rights lawsuit to get the gender dysphoria care that she was refused in prison.

In December 2018, a federal district court ruled in favor of Edmo, citing Eighth Amendment protections against cruel and unusual punishment—in this instance, withholding needed medical care. The state appealed a court ruling in the case, *Edmo v. Idaho Department of Correction, et al.*, sending it to the U.S. 9th Circuit Court of Appeals, where the AMA brief was filed.

If the lower-court ruling is upheld, the procedure would be the first inmate gender-reassignment surgery in Idaho and reportedly only the second in the nation. The first surgery was performed on a California inmate, also following a lawsuit.

The amicus brief was submitted in support of Edmo and other inmates to receive appropriate treatment and to clarify for the court key issues when medical intervention is warranted for transgender individuals. The brief does not recommend a specific course of medical care.

The brief underscores that there are internationally recognized treatments for gender dysphoria, following individual diagnosis and assessment. The AMA brief is joined by the American Medical Student Association, the Endocrine Society, GLMA: Health Professionals Advancing LGBTQ Equality, and the World Professional Association for Transgender Health (WPATH).

## Dysphoria at the heart of case

“Transgender individuals have a gender identity that is incongruent with the sex they were assigned at birth,” explains the brief. Medical treatment may be urgently needed when gender dysphoria enters the picture.

The brief provides a detailed, six-point criteria from the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders. It also quotes a description from the World Health Organization’s International Classification of Diseases, which states “gender dysphoria is ‘characterized by a persistent and intense distress about assigned sex, together with a desire to be (or insistence that one is) of the other sex.’”

The brief goes on to warn that “if untreated, gender dysphoria can contribute to debilitating distress, depression, impairment of function, substance use, self-mutilation to alter one’s genitals or secondary sex characteristics, other self-injurious behaviors, and suicide.”

The district court noted in its ruling that “Ms. Edmo has twice attempted self-castration resulting in significant pain and suffering,” and that it was persuaded “that without surgery, Ms. Edmo is at serious risk of life-threatening self-harm.”

## Well-recognized treatments

One party to the brief is WPATH, which developed the nationally recognized, Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People (Version 7). The district court cited this guide in its decision.

The brief sums up the essential points: “While each patient requires an individualized treatment plan that accounts for the patient’s specific needs, the recommended treatments for people experiencing gender dysphoria include assessment, counseling, and, as appropriate, social transition, hormone

therapy, and surgical interventions to bring the body into alignment with the patient’s gender identity.”

The brief makes clear it is the dysphoria that is the problem, not identifying as a transgendered individual. “It is now well-understood that being transgender implies no impairment in a person’s judgment, stability, or general social or vocational capabilities,” the brief says.

As noted several times throughout the brief, over the past 50 years the medical community has evolved greatly in its understanding of the issues related to transgender issues, including when treatment is warranted and what is effective. “The appropriate medical treatments remain the same both in and out of prison: those set out in the WPATH Standards of Care including, when necessary, surgical intervention.”