

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF JEFFERSON

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In the Matter of, :
 :
DEANNA LETRAY, :
 :
 : Petitioner, :
 :
 :
-against- :
 :
NEW YORK STATE DIVISION OF HUMAN :
RIGHTS, CITY OF WATERTOWN, POLICE :
DEPARTMENT, and JEFFERSON COUNTY, :
SHERIFF’S OFFICE, :
 :
 : Respondents. :
 :
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Index No. _____

VERIFIED PETITION

PRELIMINARY STATEMENT

1. This petition challenges the refusal of the State Division of Human Rights (“the Division”) to investigate a complaint alleging discriminatory conduct by police and corrections officers in violation of the New York State Human Rights Law. The Division issued a determination summarily rejecting the complaint not based on any analysis of its merits, but rather “because the respondent police and corrections agencies are not public accommodations under the New York State Human Rights Law.”

2. The determination of the Division is wholly inconsistent with the text of the statute. Police departments, which provide myriad services to the public at large, fall squarely within the Human Right Law’s expansive definition of “public accommodations.” While this appears to be an issue of first impression in the New York State courts, the plain text of the statute, controlling Court of Appeals precedent, federal case law addressing the Human Rights Law, and decisions

from other state courts interpreting similar statutes all support the common sense conclusion that the Human Rights Law's protections apply to discriminatory acts by police. Corrections agencies that manage and operate buildings that house inmates – including jails and other correctional facilities – fall squarely within the Human Rights Law's definition of "housing accommodation," a separate applicable provision that the Division's order of dismissal did not address. Although also a matter of first impression in the New York State courts, the express terms of the statute require this conclusion.

3. By refusing to take jurisdiction over complaints of discrimination by police and corrections agencies, the Division unlawfully denies New Yorkers access to a vital administrative mechanism for vindicating their rights under the Human Rights Law – a mechanism created in large part to alleviate the burdens and complications of litigation in the courts and to ensure that the most vulnerable New Yorkers can access antidiscrimination protections even if they cannot afford to hire a lawyer and initiate litigation.

4. Petitioner Ms. LeTray¹ is just such a New Yorker. Ms. LeTray filed a complaint with the Division on September 27, 2018 alleging multiple acts of unlawful discrimination by the Watertown Police Department and the Jefferson County Sheriff's Office on the basis of sex, gender identity, and disability. As the agency tasked with enforcing the Human Rights Law, the Division was obligated to accept her complaint and investigate the allegations. Instead, the Division abdicated that responsibility and, based on an erroneous interpretation of the Human Rights Law, dismissed her complaint for lack of jurisdiction. Through this special proceeding pursuant to Executive Law § 298, Ms. LeTray seeks an order reversing the Division's dismissal of her

¹ Ms. LeTray's former name was Anthony Campanaro.

complaint for lack of jurisdiction and requiring the Division to fulfill its obligations to process her complaint.

VENUE

5. Venue in Jefferson County Supreme Court is proper pursuant to Executive Law § 298 and 22 N.Y.C.R.R. § 202.57 because the unlawful discriminatory behavior underlying Petitioner LeTray's administrative complaint occurred in Jefferson County. A copy of the Division's Determination and Order of Dismissal for Lack of Jurisdiction dated October 5, 2018 is attached as **Exhibit A** to this Petition.

PARTIES

6. Petitioner DeAnna LeTray is a resident of Jefferson County, New York and was the complainant in Case No. 10197194 before the New York State Division of Human Rights. In that complaint, she alleged discriminatory conduct by the City of Watertown through its police department and the County of Jefferson through its sheriff's office.

7. Respondent New York State Division of Human Rights is the state agency tasked with enforcing the New York State Human Rights Law pursuant to Executive Law § 293. The Respondent, by its Commissioner Helen Diane Foster, issued the October 5, 2018 Determination and Order of Dismissal for Lack of Jurisdiction giving rise to this Petition.

8. Respondent City of Watertown is a municipal corporation organized under the laws of the State of New York. The Watertown Police Department is a department of the City of Watertown created and authorized pursuant to § 44 of the City of Watertown Charter. The City of Watertown, Police Department was named as a respondent in DeAnna LeTray's administrative complaint (Case No. 10197194) before the Division of Human Rights and is a party to this proceeding by virtue of 22 N.Y.C.R.R. § 202.57.

9. Respondent Jefferson County is a municipal corporation existing under the laws of the State of New York. The Jefferson County Sheriff's Office is a department of Jefferson County and is supervised by the Jefferson County Sheriff, an elected official. Jefferson County, Sheriff's Office was named as a respondent in DeAnna LeTray's administrative complaint (Case No. 10197194) before the Division of Human Rights and is a party to this proceeding by virtue of 22 N.Y.C.R.R. § 202.57.

The State Division of Human Rights' Broad Mandate under the New York Human Rights Law

10. The State Division of Human Rights was created with the broad and expansive mandate to eliminate unlawful discrimination by, amongst other means, investigating and adjudicating complaints alleging violations of the Human Rights Law.

11. New York's Human Rights Law was enacted "to assure that every individual within this state is afforded an equal opportunity to enjoy a full and productive life" by "eliminat[ing] and prevent[ing] discrimination in employment, in places of public accommodation, resort or amusement, in educational institutions, in public services, in housing accommodations, in commercial space and in credit transactions[.]" Exec. Law § 290(3). The law prohibits discrimination on the basis of certain protected characteristics, including race, creed, national origin, sexual orientation, sex (including gender identity),² and disability, amongst others.

12. In prohibiting discrimination in public accommodations, the Human Rights Law's scope explicitly extends to places of accommodation owned and operated by a state or local government entity.

² 9 N.Y.C.R.R. § 466.13. The Division also recently released guidance explaining that unlawful discrimination on the basis of gender identity includes refusal to use a transgender person's preferred pronouns and bullying a person because of their gender identity.

13. The Human Rights Law also protects against discrimination in housing accommodations. Housing accommodations are broadly defined to include “any building, structure, or portion thereof which is used or occupied or is intended, arranged, or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings.” Exec. Law § 292(10).

14. The Division of Human Rights complaint process was designed as an alternative to the court system. Complainants do not need an attorney to file a complaint or participate in the hearing process in the event the Division determines there was probable cause that an act of discrimination occurred.

15. During a hearing, complainants are assisted by staff of the Division of Human Rights free of charge.

Police and Sheriff Services

16. Police and law enforcement agencies are broadly tasked with preserving public safety, including by ensuring order in public places and responding to civilian requests for assistance in relation to a wide variety of situations, such as accidents and emergencies. As the Court of Appeals has noted, “the very nature of their occupation . . . requires that police officers and firefighters confront emergencies on behalf of the public.” *Ciervo v. City of New York*, 93 N.Y.2d 465, 469 (1999).

17. As explained in the Watertown Police Department’s mission statement, its mission is “to preserve the rights of citizens and reduce fear in the community through prevention of crime, protection of persons, property and the maintenance of order in public places and to anticipate and respond to events that threaten public order and the protection of life and property. It is essential all members remember that in the execution of their duties they act not for themselves, but for the

good of the public. They shall respect and protect the rights of individuals and perform their services with honesty, zeal, courage, discretion, fidelity and sound judgment. Police officers must seek and preserve public confidence by demonstrating impartial service to law and by offering service and trust to all members of the public.”

18. The Jefferson County Sheriff’s Office has twenty-six deputy sheriffs and five sergeants assigned to law enforcement duties. As explained on the Sheriff’s Office website, “[t]he deputy sheriffs act as the agency’s first responders to all crimes and accident scenes and investigate misdemeanor crimes as well as some felonies. They also present a deterrent to criminal activity; maintain safe highways through aggressive vehicle and traffic law enforcement and strict enforcement of DWI laws.”

19. The Jefferson County Sheriff’s Office “provides year-round services for approximately 120,000 summertime residents of Jefferson County and 111,000 year around residents.”

20. Police departments are housed in a precinct or multiple precincts that are open to the public throughout the day and evening either in person or by telephone. Community members are able to enter a precinct or call a precinct to make a complaint or seek assistance with accidents or emergencies.

21. Police officers and sheriff’s officers provide training in schools and other public institutions to inform the public about federal, state and local laws.

22. Police officers and sheriff’s officers ensure there are safe traffic conditions and respond to accidents for the purpose of writing up an official report and coordinating other forms of public assistance, such as contacting medical personnel.

23. Police officers and sheriff's officers provide security at public events and in public areas through patrol duties.

24. Police officers and sheriff's officers are called upon to mediate disputes that may threaten public safety or investigate reports of nuisance or other problematic activity.

25. Police officers and sheriff's officers investigate crimes by speaking with witnesses, victims, and the accused.

Corrections Agencies

26. Corrections agencies manage and operate jails and other correctional facilities, which are buildings and structures designed to house people.

27. Corrections agencies are responsible for providing all necessities for people housed in jails or correctional facilities, such as beds, blankets, pillows, water, and food, and facilities such as bathrooms and showers.

28. The Jefferson County Correctional Facility is a 196 bed direct supervision facility designed to "lawfully detain and house inmates."

29. The Jefferson County Correctional Facility also includes a "36 bed dormitory style housing unit[.] . . . This dormitory consists of 18 double bunks on the perimeter of the unit with six 6-man tables in the common day area."

30. The Jefferson County Correctional Facility is operated by officers in the Correctional Division of the Jefferson County Sheriff's Office.

31. Corrections agencies also oversee rehabilitation and education services.

32. For instance, the Jefferson County Correction Facility website states that "[r]ehabilitation, education, and human treatment are the hallmarks of this facility."

*Ms. LeTray's Complaint of Discrimination by the
Watertown Police Department and Jefferson County Sheriff's Office*

33. Ms. LeTray filed an administrative complaint with the Division of Human Rights on September 27, 2018. In summary, she alleged:

- (1) On September 28, 2017, Watertown police officers, responding to a call about a domestic disturbance, made derogatory and harassing statements about Ms. LeTray's gender identity, including calling her a man and asking "How long have you done that?" and "How long have you dressed like that."
- (2) Refusing to credit her version of events relating to the domestic dispute because of her gender identity, the officers decided not to let her leave the scene and instead arrested her and brought her to the precinct.
- (3) Ms. LeTray experienced more discrimination and abuse at the precinct. Police officers violently grabbed and ripped her hair off of her head by force – for no reason other than to target her for her gender identity and expression. Ms. LeTray's hairpiece is a central part of her gender identity and expression. The officers then tied her feet together and her hands together in a position often referred to as being "hogtied."
- (4) Upon being removed to the Jefferson County Correctional Facility, male officers forced Ms. LeTray to strip naked while she was being observed by a number of male officers through the window of the room in order for them to determine what genitals she had. She was subjected to an invasive and unnecessary manual body cavity search during which male officers fondled her genitals and repeatedly probed her anus.

34. On October 5, 2018, the State Division of Human Rights entered a determination and order of dismissal for lack of jurisdiction over Ms. LeTray's complaint.

35. In whole, the Division of Human Rights concluded that

The Division does not have jurisdiction over the Respondents because the respondent police and corrections agencies are not public accommodations under the New York State Human Rights Law. The New York State Division of Human Rights lacks jurisdiction over these entities in regard to their performance of their functions.

**FIRST CAUSE OF ACTION
UNDER EXECUTIVE LAW § 298**

36. Executive Law § 298 provides that a complainant aggrieved by an order of the Division of Human Rights dismissing a complaint may obtain judicial review of that order in a special proceeding.

37. Based on all of the forgoing allegations, the Division's dismissal of DeAnna LeTray's administrative complaint was in violation of the Human Rights Law and the Division in fact has jurisdiction to accept and process Ms. LeTray's administrative complaint.

38. This Petition is timely under Executive Law § 298 as it is filed within 60 days of the service of the order of dismissal.

39. No previous application for the relief requested herein has been made.

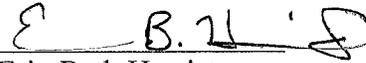
REQUESTED RELIEF

WHEREFORE, the petitioner seeks judgment:

(1) Reversing the Respondent State Division of Human Rights October 5, 2018 Determination and Order of Dismissal for Lack of Jurisdiction of Petitioner's September 27, 2018 administrative complaint against the City of Watertown, Police Department, and Jefferson County, Sheriff's Office and remanding to the Division for a determination of the complaint's merits;

- (2) Awarding reasonable attorneys' fees and litigation costs as allowed under CPLR Article 86;
- and
- (3) Granting such other relief as the Court deems just and proper.

Respectfully Submitted,



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Counsel for Petitioner

**Admission to the New York bar pending*

Dated: December 3, 2018
New York, NY

