

Sunday, December 18, 2005

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section - NYAV
Washington, D.C. 20530
Section Fax Number (202) 307-1198

Attn: Chief John L. Wodatch, (202) 307-0663

Subject: The Lady in Red

Dear Chief Wodatch:

I am herewith reporting a violation of ADA protections. Violations were against Mrs. Odelle Swiney, an 84-year old woman who is disabled. She needs a walker to walk; she is on a prescribed blood thinner due to one heart attack; last year she underwent several surgeries: knee surgery, back surgery, and double mastectomy. She suffers with arthritis. I am her daughter-in-law (61 years old). Her daughter (66 years old) and I are the only ones who can take her to visit her son (61 years old) who is in prison (incidentally for a crime that was scientifically proven in 2003 that he did not commit).

Yesterday, I drove Mrs. Odelle Swiney to visit her son (my husband). For 16 years she visited her son routinely until she could no longer drive and had to depend on others to take her to see him. For 16 years she has never been kicked out for any kind of prison rule violation. Yesterday she was kicked out for allegedly wearing a "jogging suit." Jogging suits are on the list of items that visitors are forbidden to wear.

Upon being accused of said dress code violation, Mrs. Swiney was victimized by employees of the institution, wherein she was caused undue pain and suffering. Here are the details of how she was treated.

Details:

1. Visiting hours on Saturday, December 17, 2005 were from Noon to 3 pm. Visitors are asked to arrive around 11:00 am so they may be checked in. We arrived at the front gate at 11:15 am and waited in line with the rest of the vehicles. At 12 noon, the gate guard began checking people in. We were vehicle #26. It was 12:30 pm by the time we drove through the front gate. I parked my vehicle in the handicapped space, got Mrs. Swiney's walker out of the vehicle, and helped her inside where she is allowed to sit while I stand in line outside. It was a little after 1 pm by the time I was allowed into the front office to sign us in. During that time, Mrs. Swiney's attire was in full view and none of the guards made any comments to the affect that she was in any sort of dress code violation.

2. After I signed us in, we walked through the metal detector and entered the private room where a female guard “shook us down”, meaning searched. The search includes (1) removing shoes and socks (I removed and replaced Mrs. Swiney’s shoes and socks because she cannot bend over to reach her feet without being in great pain); (2) shaking one’s bra (Mrs. Swiney, having had a double mastectomy, doesn’t wear a bra and this had previously been accepted by the guards after she had already explained the situation and even had to show them her bare chest to prove she was not lying); (3) turning pockets inside out; and (4) showing evidence that one is wearing under panties. During the search, the guard did not make any comments to the affect that Mrs. Swiney was in violation of any dress code.
3. After the search, Mrs. Swiney and I were given the go ahead to enter the visiting yard which consists of going through two locked gates surrounded by barbed wire and then slowly walking uphill approximately 50 yards to the visiting yard. Mrs. Swiney can hardly walk even with her walker and she has to rest after about 50 feet because her legs get painful easily. We finally made it to the visiting yard after several minutes.
4. I found a table, and got Mrs. Swiney seated and situated comfortably. She was exhausted from the walk, waiting time and searches. I left to get her a cup of coffee from the vending machine. While I was doing that, a guard approached Mrs. Swiney and was telling her she had to return to the office, per Lt. Mc Swain’s orders. Just then Mrs. Swiney’s son, Patrick Swiney, entered the visiting yard and at the same time, I arrived with the coffee.
5. Mrs. Swiney told the guard she could not make that walk because she was already in pain from just walking to the visiting yard. I told the guard the same thing, and I asked what the problem was. The guard told us that Mrs. Swiney had to return to the office so her clothes could be inspected. I asked what this was all about and the guard said, these were the orders and Mrs. Swiney had to go to the front office. I suggested that the officer wanting to inspect Mrs. Swiney’s clothes come up to the visiting yard to do that because Mrs. Swiney could not make that walk! Mrs. Swiney also said to the guard, “You don’t know what kind of pain you will be putting me through if I am forced to walk back to the front office right now. I just got here and I am already hurting! I need some time to rest before I can walk back down there.” The guard told Mrs. Swiney, “Sorry, you have to go down there right now!”
6. I got up to help Mrs. Swiney with her walker and walked with her to the visiting room door (a securely locked door at all times). The guard told me, “If you leave with her, he (pointing to her son) has to go back.” I told the guard, “Well someone has to walk with her to make sure she’s all right,” and the guard said she would walk with Mrs. Swiney.
7. I went back to visit with Mrs. Swiney’s son, my husband, who is very ill with heart problems having had 3 heart attacks, is on a beta blocker, and also suffers with inflammatory spinal arthritis and emphysema. He is quite disabled for those reasons. But he can walk.
8. When the guard returned, I walked over to her and asked what was going on. She told me that Mrs. Swiney was wearing a jogging suit. I said, “That’s ridiculous! She’s not wearing a jogging suit.” The guard said, “Yes she is.” I said, “Okay, tell

me the definition of a jogging suit then.” She said, “Pants that are fleece-lined.” I said, “Her pants are not lined with fleece.” Then I asked, “What is the security risk of having pants that are fleece-lined?” She shrugged her shoulders and said sarcastically, “I don’t know! It’s just the rules.”

9. The female guard then told me that if Mrs. Swiney was wearing a jogging suit, she would have to wait down there until visiting was over. I returned to the table to speak with her son, my husband, knowing full well I could not leave her down there for 2 hours. We both knew we’d have to cut the visit short.
10. Approximately 5 minutes later, a male guard came to our table and told me, “You have to go get her (meaning Mrs. Swiney) and you both have to leave now. She is down there cursing and causing a ruckus.” Instantly, her son stood up and said to the male guard quite matter-of-factly, “She is not cursing.” Then I said, “No, she is not cursing, so we know that’s a lie.” In the 10 years I have known Mrs. Swiney I have NEVER heard a cuss word from her – never. The male guard was clearly lying.
11. The male guard ignored what we said and told me, “Sorry, you have to leave, and YOU! (pointing to Mr. Swiney as though he had committed a crime) have to go now!” We didn’t even get to say good-bye. I left the visiting yard, fearing there would be retaliation against Mr. Swiney for speaking up for his mother, to collect Mrs. Swiney in the front office.
12. As another female guard was returning our ID’s and my vehicle keys, I nodded over to the woman standing near the metal detector and asked, “Is that Lt. Mc Swain?” She confirmed that it was. Lt. Mc Swain is a nice looking black woman, appearing to be in her early 40’s. I asked the female guard if I might speak with Lt. Mc Swain. She said, “I wouldn’t do that if I were you.” I took that to mean it would be a useless effort to straighten this out.
13. I drove Mrs. Swiney home – we stopped to get something to eat, but she was too upset to eat. I stayed with her Saturday night at her house to make sure she was going to be okay. She was in a lot of pain and she was extremely stressed out which is not good for her with her heart condition. We were both worried about her son, my husband, because he is so ill. The telephones have been out at Donaldson since Thursday night so he cannot call to find out if his mother is okay and we cannot find out if he is okay.
14. The employees at Donaldson put Mrs. Swiney in harm’s way. She suffered needless pain and undue stress. The employees at Donaldson also put her son, my husband, under undue stress knowing he is so ill. I will not mention the undue stress that I have endured through all of this because I think it goes without saying that I am worried about both my 61-year old husband and his 84-year old mother who are BOTH DISABLED!

Given the chance, most people will do the right thing. The employees involved with this incident at Donaldson yesterday do not fall into the category of “most people”. These marching morons with badges cannot tell the difference between 50% cotton/50% polyester pants and pants lined with fleece. They make up their own rules as they go, changing them without any warning and the public has to pay the price.

The “fleece” restriction is not on the dress code rules at all. Restrictions for institutions are designed to prevent security risks. Color of clothing is designed to help the guards distinguish inmates from visitors. Inmates wear all white. Visitors may not wear white or anything resembling white. Yesterday, Fleece-lined clothes were against the rules but fur-lined clothes were okay. In summer, shorts are not allowed. Skirts must be below the knee, but peddle-pushers that are below the knee are not allowed. There is no rhyme or reason to the rules, but as long as they are on the rule list, visitors are expected to follow them. There is nothing listed for fleece-lined clothes. Denim jeans are fleece-lined; jackets are fleece-lined; but have not been not “illegal”, not even yesterday. Some visitors are allowed to wear these fleece-lined items but Mrs. Swiney is not allowed to wear non-fleece lined pants. This is inconsistent treatment of visitors.

There is no rational motive for Lt. Mc Swain’s actions and the actions of the surrounding guards. These actions were mean-spirited and harmful to a disabled woman whose only motive for being there was to visit her son. Given her age and her health problems, and given her son’s health problems, this might even be the last time she gets to see her son.

The guards at Donaldson have not been trained to deal with handicapped people and therefore they are doing more harm than good. Their actions could be life-threatening and they don’t even know it, or if they do, they just do not care.

I am asking for an investigation under the ADA into this matter and I am also seeking corrective action to be taken with the employees involved who were “just following orders” from Lt. Mc Swain.

Further, I am demanding strong disciplinary action against Lt. Mc Swain who caused all of this pain and suffering.

Mrs. Swiney who is on blood thinner medication gets cold easily. She has to wear warm clothes even in summer. Yesterday the temperature was 46 degrees F. She color-coordinated her pants and shirt to display Christmas cheer for her son and whoever else she might encounter in the visiting yard. So she wore a pair of warm red pants and a red Christmas shirt that isn’t even the same shade of red. The pants do not qualify as “jogging” pants because they do not have any elastic at the bottom: they are straight-legged. They are not lined with fleece: they are not lined at all! They are made of sweatshirt material. Visitors are not allowed to wear jackets that go below the waist, no matter how cold it is outside. Because of this restriction, Mrs. Swiney wore a red sweatshirt jacket (so she had 3 different shades of red on yesterday). I wore a sweatshirt jacket too (green with green pants but I had a black t-neck sweater on to break up the color). We wear sweatshirt jackets because it’s difficult to find SHORT-enough winter jackets. Mrs. Swiney has worn that jacket to several visits. She has worn those pants to several visits. They are not ONE outfit – they don’t even match. The problem is that Mrs. Swiney just never wore the two red items together before but she wore them yesterday because it was the closest visit to Christmas and she wanted to express her Christmas cheer. Lt. Mc Swain made sure no cheer was going to happen for the

Swiney's this year but rather pain and suffering instead – and for no other reason than to be mean.

As they say at this time of year, "Peace on Earth and good will toward men." It's a disgrace that Lt. Mc Swain and her followers live by an opposite rule toward men. It is also cruel and unusual punishment for both Mrs. Swiney and her son, Patrick Swiney, who are both Americans with disabilities and are entitled to be protected under the Americans with Disabilities Act.

Please let me know if you require additional information regarding this matter.

Respectfully,

Sherry Swiney
P.O. Box 1891
Alabaster, AL 35007
Tel: 205-621-7699

Copies to:
Warden Kenneth Jones, Donaldson Prison,
100 Warrior Lane, Bessemer, AL 35023

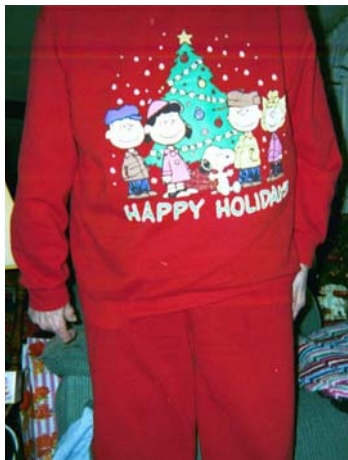
Commissioner Donal Campbell
101 So. Union Street
Montgomery, AL 36130-1501

Enclosures:
Photo of fleece with definition
Photos of Mrs. Swiney's attire
Copy of Donaldson dress code requirements

Email copies to Human Rights
Organizations



Sample of fleece-lined garments. Notice the texture. Note: sweatshirt material does not contain fleece.



Mrs. Swiney's attire. Notice the texture of the cotton/polyester blend (sweatshirt material). Also notice the reds do not match because they are "color coordinated" rather than bought as a "set". In fact the top and the pants are not even the same material.