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Wednesday, April 23, 2008

Prisoner Commissioner Richard F. Allen  
Alabama Department of Corrections  
301 S. Ripley Street  
P.O. Box 301501  
Montgomery, AL. 36130-1501

Subject: Discrimination Against the Disabled and the Elderly

Dear Commissioner Allen:

I am herewith reporting how your staff treated me at your facility at Donaldson Correctional Facility in Bessemer, Alabama when I went to visit my 63-year-old son on Sunday April 20, 2008, who has been at Donaldson since October 10, 2002.

**ADA VIOLATION:**

I am 87 years old and use a walker to get around; I am blind in one eye and half blind in the other; and I can no longer drive. About five years ago I had a double mastectomy (meaning I am now completely flat-chested – no breasts) and until three days ago, your staff always understood that with no chest remaining, there was no need for me to wear a bra in order to pass the security inspection.

However, three days ago (on April 20<sup>th</sup>) you had new staff doing security inspection. I must say that when all the guards (both male and female) stated that I could not get in this time to see my son because the rules say I have to wear a bra, regardless that I am as flat-chested as a man is, I was dumbfounded. I called for the warden; he was not in. I called for the deputy warden; he was not in. I called for whoever was in charge and they brought me the Lieutenant. The Lieutenant said I had to wear a bra because those are the rules. I even exposed my 87-year-old bare, scared from surgery and flat chest to him to prove I had nothing to put into a bra, and he still insisted that I could not get in to see my son because the rules say I have to wear a bra. My daughter-in-law, who drove 7 hours to pick me up to make this visit, informed the Lieutenant that if he refused to allow me to visit my son for this reason, she would immediately file a lawsuit in Federal Court under the Americans with Disabilities Act.

The Lieutenant said he had to make a phone call instructing us to step aside and wait. Honestly, if I were the Lieutenant (a grown man in authority who should at

this point in his life, be endowed with the faculties of common sense) I would have been embarrassed to even ask the question to my superiors. After he made the phone call, he returned and said we could go in. The harassment was unbearable for me and I suffered physically because of it, but at the same time, I was grateful to see my son for I do not know how many more visits the good Lord will allow me before it my time to die.

Now then, you have rules for security and I respect that. You have a rule that says “no medication, unless heart medication.” You have no rule that says “bras required for females, unless she has no breasts.” You don’t have a rule that requires men to wear a jock strap and if you did, it should say “jock strap required for men, unless he has no testicles.”

### **DISCRIMINATION AGAINST THE ELDERLY:**

My family and my son have asked for permission to allow my grand daughter to take the place of my daughter (her mother) who died, so that I do not have to rely on my daughter-in-law as my sole source of transportation to visit my son. You see, my daughter-in-law travels a lot; her job requires her to work 6-7 days a week at times, and this was the first chance she had to make the 7 hour drive since last December. Even with these explanations, your office refused our request, stating that only one female is allowed on my son’s visiting list unless the female is immediate family. I have another daughter who is on my son’s visiting list, but she is unable to carry me to visits. She remains on his list for emergency contact only. And even if she were removed from the list, my grand daughter cannot be added because she is “once-removed” in the food chain of what the DOC regards as immediate family.

This is discrimination against elderly inmates. As inmates get older, and members of their families die, you do not allow replacement by other family members and this perpetrates elderly inmates ending up with no visitors. That’s just not right.

The younger inmates who have large families of brothers and sisters, mothers and fathers, and children, can have crowds of visitors; yet my son can only have his mother, his wife, and one sister which is all that is left of the Department of Correction’s definition of “immediate” family plus one female “friend” (his wife). He used to have two sisters and a brother who were physically able to visit. His brother died; one sister died; and his other sister is unable, and I have no way to see my son more often unless my grand daughter is allowed to take me to visit.

The only way your rules would allow my grand daughter to visit would be for my son to remove his wife from his visiting list and then my grand daughter could be listed as a female friend. She’s not a “friend”; she is immediate family, especially given that my daughter (her mother – my son’s sister) has died, and she should be allowed to take her mother’s place.

There seems to be a problem with common sense in the DOC especially at Donaldson prison. Rules that are made to maintain security should be respected; rules that are utter nonsense designed to harass civilians are worthless and a waste of tax payer's hard earned money. Everyone knows where 99% of the drugs come from within the prison system and yet who does anything about that? Instead, it's apparently preferable to harass an old woman about wearing a bra when she's had a double mastectomy while at the same time discriminating against the elderly because members of their families have died.

May the Lord bless you richly.

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Odelle Swiney

Copies to:

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U.S. Department of Justice Civil Rights Division Attn: ADA Enforcement 950 Pennsylvania Avenue, NW Disability Rights Section - NYAV Washington, DC 20530	Office of Senator Richard Shelby 1800 5th Avenue North 321 Federal Building Birmingham, Alabama 35203
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