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Federal Appeals Court Condemns Shackling Of Pregnant Prisoners In Labor (10/2/2009)

ACLU Client Shackled During Labor In Arkansas

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NEW YORK – Ruling in the case of an Arkansas woman who was shackled to her hospital bed while in labor in 2003, a federal appeals court today said that constitutional protections against shackling pregnant women during labor had been clearly established by decisions of the Supreme Court and the lower courts. This is the first time a circuit court has made such a determination. The full Eighth Circuit Court of Appeals made the ruling today in the case of ACLU client Shawanna Nelson.

"This is a historic decision by a U.S. Court of Appeals that affirms the dignity of all women and mothers in America," said Elizabeth Alexander, Director of the American Civil Liberties Union's National Prison Project. "Correctional officials across the country are now on notice that they can no longer engage in this widespread practice."

Nelson was a 29-year-old non-violent offender who was six months pregnant with her second child when she was incarcerated by the Arkansas Department of Corrections (ADOC) in June 2003. Three months later, after going into labor, she was taken to a local hospital where correctional officers shackled her legs to opposite sides of the bed. Nelson remained shackled to the bed for several hours of labor until she was finally taken to the delivery room.

The shackles caused Nelson cramps and intense pain, as she could not adjust her position during contractions. She was unshackled during delivery, but was immediately re-shackled after the birth of her son. After childbirth, the use of shackles caused her to soil the sheets of her bed because she could not be unshackled quickly enough to get to a bathroom.

"Restraining a pregnant woman can pose undue health risks to the woman and her pregnancy," said Diana Kasdan, staff attorney with the ACLU Reproductive Freedom Project. "Today's decision reaffirms that pregnant women in prison do not lose their right to safe and humane treatment."

Nelson filed a federal civil rights lawsuit against ADOC and several ADOC officials, and a federal district court judge ruled that a jury should decide whether her treatment violated the constitution. A three-judge panel of the Eighth Circuit Court of Appeals, however, dismissed Nelson's case by ruling that her shackling was not unconstitutional. The ACLU represented Nelson in a subsequent hearing before the full Eighth Circuit Court which found that legal precedent clearly establishes the constitutional protections against shackling pregnant women in labor, paving the way for Nelson's lawsuit to go to trial.

"Shackling pregnant women is not only dangerous it is inhumane," said Rita Sklar, Executive Director of the ACLU of Arkansas. "The importance of this decision cannot be overstated."

The National Perinatal Association, American College of Nurse Midwives, American Medical Women's Association, the Rebecca Project for Human Rights and dozens of other public health and advocacy organizations that are dedicated to protecting the health and rights of women and their children also opposed the prison's shackling of Nelson.

A copy of today's ruling by the Eighth Circuit is available online at:
www.aclu.org/prison/medical/412321gl20091002.html

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