

Monthly Communicator

Chris Christie, Governor
Kim Guadagno, Lt. Governor

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Essex County Correctional Facility and Community Education Centers, Inc. enter into Consent Judgments for Failure to Provide Accommodations to a Deaf Inmate/Resident

Submitted by Clara Smit Esq.

The Essex County Correctional Facility and Community Education Centers, Inc. have entered into consent judgments to provide widespread injunctive relief for all deaf inmates and residents incarcerated in their facilities. A deaf inmate/resident filed a complaint in federal court for the failure to provide interpreters, closed captioning and telecommunication devices during his incarceration at Essex County Correctional Facility (ECCF) and during his residency at Community Education Centers, Inc. (CEC), Delaney Hall. These facilities will utilize certain protocol to ensure that reasonable accommodation will be provided to future deaf inmates and residents under the Americans with Disabilities Act, New Jersey Law Against Discrimination and Rehabilitation Act. The consent judgments are believed to be among the most comprehensive agreements with correctional facilities and residency programs in the country.

Gerard Cadet was arrested in 2007 and incarcerated for two months, after which the charges were dismissed and he was released. After experiencing the terror, frustration and emotional anguish of being incarcerated, and without understanding much of what went on during his incarceration and residency, Mr. Cadet decided to sue ECCF and CEC so this would not happen to other deaf inmates and residents.

Accommodations such as an interpreter were not provided to Mr. Cadet during his arrest and questioning; and then during his subsequent incarceration when the jail performed his intake, classification, medical evaluation and follow-up counseling at the residency program, as well as many other situations requiring effective communication. Mr. Cadet was represented in the case by Clara R. Smit, an East Brunswick attorney who specializes in serving the deaf.

After almost a year and a half of litigation, ECCF and CEC have agreed to settle the case with payment of an undisclosed amount of monetary damages, attorneys' fees and injunctive relief in the form of consent judgments. These consent judgments provide for signage to be posted throughout both entities to alert both inmates, residents and staff alike to the facilities' responsibility to provide interpreters, closed captioning, TDD's and/or videophones to deaf inmates and residents who require same for effective communication.

In addition, the consent judgments mandate that the entities follow several steps to ensure all possible efforts are made to obtain an interpreter whenever required throughout the day or night. Training and policy changes, to implement the consent judgments that will become part of ECCF and CEC administrative policy, are also required as part of the consent judgments. Ms. Smit and Mr. Cadet are

extremely pleased and excited with the consent judgments and hope to see major changes in the policies and practices in correctional facilities and residency programs across the country, as more and more of these cases are brought forth.

Although the ADA, NJLAD and the Rehabilitation Act specifically require that correctional facilities and residency programs provide reasonable accommodations, such as interpreters, to the deaf when necessary for effective communication, it is only over the past several years that deaf people have begun to feel empowered to start bringing these lawsuits. Communication difficulties in the past created extremely limited access to the legal community and the courts in general for deaf individuals.

Clara R. Smit, who is fluent in American Sign Language and whose parents were deaf, is the first attorney in New Jersey to bring these suits. Ms. Smit has settled several other cases against correctional facilities and residency programs and currently has another case against Edna Mahan Correctional Facility for Woman, University Correctional Healthcare, UMDNJ, Post House, Department of Corrections & the State of New Jersey for failure to provide interpreters to a deaf inmate/resident.

For further information, please contact Clara R. Smit, Esq. at (732) 843-6600.

Hearing Loss Association of Ocean/ Monmouth Counties

Meetings are held at 198 Prospect St., Lakewood, NJ 08701 and are open to everyone. They are a rewarding way to spend a few hours socializing with other hard of hearing individuals who share your problems and concerns.

As always, light refreshments will be served. Feel free to bring your favorite dessert to share.

The following dates are on our monthly schedule (All dates and speakers are tentative and subject to change):

April 3 "Adjusting to Your Hearing Aid"
Speaker, Robert M. DiSogra, AuD/FAAA.
Director of Audiology, Associate of Freehold, NJ

May 1 May is "Better Hearing Month" Veterans and Hearing Loss
The War Veteran sharing experiences in getting hearing help and adjusting to war-related hearing loss.

Future 2011 Meetings: June 5; July 10, August, September 11, October 2, November 6, December 4.

Additional info: oceanmonmouthhla@yahoo.com