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Achilles "Cookie" Capasso: Suing Bayley Seton Hospital for gender discrimination (photo: Cary Conover)

Posted June 8th, 2001 7:30 PM
 villagevoice.com exclusive

Case of Preoperative Woman Raped at Men's Homeless Facility Exemplifies City's Dilemma

No Shelter for Transsexuals

by Ginger Adams Otis

When preoperative transsexual Josephine Perez, 21, exited her homeless shelter on Wards Island on the evening of Friday, May 11, she was wearing a short skirt that fluttered around her knees and a shimmering silver-colored blouse. Fuchsia lipstick freshly applied, Perez says she was feeling good, happy to be going to Manhattan to hang out with friends. In hindsight she admits that perhaps wearing a skirt wasn't the best idea—but even though Perez was staying in a men-only homeless shelter, she couldn't have known she was about to be raped.

Perez, who's been in and out of homeless shelters since she was 15, was sent to an all-male facility by the city's Human Resources Administration (HRA) because even though she dresses and identifies as a woman, she was born Joseph Perez, a biological male, and her official identification lists her as male. Perez can't afford the surgery that would bring her sex into alignment with her gender identity, nor can she afford the hormone treatments that would give her breasts and slow the growth of facial hair. To most people, Perez is a five-foot-eight, 140-pound feminine-looking man who likes to wear women's clothing. But to Perez, she's a woman trapped in a man's body.

On the night of the attack, Perez says, she left the Charles H. Gay Shelter around 10, heading for the nearest bus stop. As soon as she walked out the front door, she sensed someone following her. It was a man she knew by sight, a fellow shelter resident who'd been pestering her since her arrival two days earlier. "He was always staring at me, making me uncomfortable," she recalls. "We have to share showers,



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Perez picked up her pace, not wanting to miss the Manhattan-bound bus she could see idling at the curb a few yards down the road. Then, she says, "He came up behind me real fast, and shoved me to the ground. When I tried to get up, he grabbed my hair, yanked my head back, and said, 'I want a piece of you.'" As her bus pulled away, Perez struggled to her feet and ran wildly after it. She says her attacker was hard on her heels, jabbing her in the back every few feet and driving her to her knees again and again. Realizing escape was impossible, she turned to fight. And then, says Perez, he grabbed her hair, wrestled her into a secluded area, and "he raped me. He pulled up my skirt and he raped me."

The entire incident took less than 10 minutes, but there was more humiliation to come. When her attacker released her—after threatening to "get you again tomorrow" if she complained—Perez wandered around in a daze, sobbing and bleeding until another bus arrived. She took it into the city and went directly to Harlem Hospital Center. Hospital records show she was treated for cuts and bruises, but that a full rectal exam couldn't be performed because the patient was "too tense." The attending doctor noted no "visible tears" to the anus.

Meanwhile, the police had been notified. Perez says that from the minute the cops showed up—first a group of uniformed men and later two detectives—they began belittling her version of the attack. "They kept saying, 'Come on, admit it, you weren't raped. Someone just roughed you up.'" Faced with a room full of doubting officers, Perez says she broke down. "I started crying. I was hysterical and could barely talk." One of the detectives asked her for identification, at which point Perez handed over two ID cards issued by Street Works, a nonprofit for homeless kids. One identifies her as Joey Perez and the other as Josephine Perez.

"The detective looked at both of them, and then stared at me like he was confused. I said, 'I'm a transgender woman,' and he made a face like he didn't know what that was." Then, according to Perez, the detective—who, she says, gave her his name and badge number—bent over and took a long look up her skirt. As he straightened, she claims, he mumbled that "anyone with a penis can't be raped."

Perez turned her information over to the Gay & Lesbian Anti-Violence Project, which is following up on her claims. Before she was released from the hospital, detectives informed Perez that the case would be listed as a sexual assault rather than a rape, despite her insistence that her attacker penetrated her.

The *Voice* made numerous attempts to verify her allegations with the New York Police Department, but could not contact any of the officers related to the case. Asked about the name and badge number Perez had been given, a spokesperson for NYPD Public Affairs responded, "I'm not here to verify employment for you."

The attitudes of the NYPD and the HRA don't surprise members of Manhattan's transgender/transsexual community—especially those

who have been guests of the city. They maintain that discrimination against gender benders is commonplace among city workers. Antidiscrimination activists agree. "I've heard caseworkers refer to transgenders as 'it' to their faces," says Jennifer Flynn, executive director of NYC AIDS Housing Network. "Transgenders are last in the pecking order; they have more trouble finding jobs, getting housing, getting health benefits than any other group." It's ironic, she adds, that agencies created to help people get back on their feet repeatedly knock down one of society's most vulnerable groups.

It's to counteract these attitudes that transgender activists recently introduced a bill in the City Council seeking to amend New York's human rights law. Currently the law protects against gender-based discrimination. If passed, INT 754 would expand the law so that discrimination based on a person's gender identity or perceived gender would also be illegal. While seemingly innocuous, the slight change in wording could have major legal ramifications for the transgender community. Armen Merjian, senior staff attorney at Housing Works, an advocacy group that has successfully litigated against the HRA several times over the city's failure to provide emergency housing for homeless people with HIV/AIDS, says INT 754 would be "instrumental in protecting the rights of transgender people in cases like Perez's."

But Mayor Giuliani refuses to support INT 754, and at present the bill is going nowhere. At the City Council hearing on May 4, a member of the Giuliani administration testified that transgender rights are adequately covered by the city's existing law and the amendment is "unnecessary."

Tell that to Achilles Capasso, a/k/a "Cookie," a preoperative 38-year-old transsexual woman living on Staten Island who switched genders at age 13. In April 2000 Capasso went to the city-run Bayley Seton Hospital on Staten Island for a routine check of her hormone levels. She was referred to Dr. Andrew Maran, who she says told her he wouldn't give her female hormones. Capasso says that after she made it clear that she only wanted blood drawn, Maran told her to lift her shirt. "He stared at my breasts for at least 30 seconds," she relates, "and then told me to pull down my pants. I figured he needed to do this before he could take my blood. I was uncomfortable, so I opened my pants up but didn't pull them all the way down."

Capasso, who's filed a gender-discrimination claim against Bayley Seton Hospital and Dr. Maran, stated in a deposition that Maran then "took his hand and put it between my legs and felt my private area. When he felt it, he told me to pull my pants up. Minutes later, her medical records in hand, Capasso was unceremoniously ushered out of his office. On her chart Maran had written, "I advised (patient) that I do not participate in transsexuals (sic). Will not prescribe female hormones." (Dr. Maran did not respond to repeated calls for comment. Ray Pohlod, a Bayley Seton spokesman, said that "since this was the first time the patient visited Dr. Maran, he needed to do a physical examination and work-up before responding to the patient's needs. The patient refused, and based on that, Dr. Maran could not continue. As we understand it, there was no inappropriate behavior in this case.")

Capasso's lawyer, Tom Shanahan, of Driggs & Shanahan, describes such attitudes as barbaric. "It exemplifies exactly why we need legislation like INT 754," he fumes, "and there's no excuse for not having human rights laws that are all-inclusive." Shanahan points out that as bad as the discrimination against transsexuals is in the public sector, it's often worse in privately owned companies. Shanahan is currently pursuing a case involving three preoperative male-to-female transsexuals who were chased out of a Toys "R" Us store in Brooklyn by bat-wielding employees last December. (In a letter to one of the claimants, Toys "R" Us expressed regret, but added, "As we are sure you can understand, the fact that an incident occurred on our premises does not automatically make us responsible.")

And then there's the issue of the NYPD's periodic sweeps of Manhattan's meatpacking district, where many transgender sex workers ply their trade. It's also the location of several community centers that work with transsexuals. According to Andrea Sears, co-chair of the Metropolitan Gender Network, police cruised the streets throughout May, arresting mostly transgender sex workers at a much higher rate than usual. Although Sears suggests several reasons for the random sweeps—gentrification being one—she doesn't think it's a coincidence that the arrests started just a few days before the City Council held its hearing on INT 754. "It was well-known that many transgenders were giving personal testimony at that meeting," she says.

The Metropolitan Gender Network is considering filing legal charges against the city because, says Sears, "regardless of what sparked the sweep, the police targeted transsexuals. They profiled sex workers based on gender-expression—it's the same principle as racial profiling." She pauses for a second and then adds heatedly, "Why don't they just list the charge as WWT—Walking While Trans?"

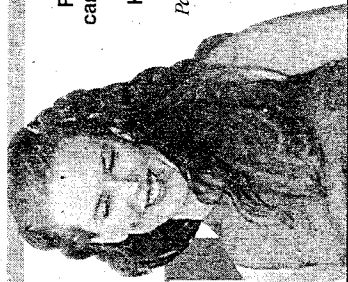
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Second Seton Hospital is sued by transsexual

■ Patient charges
Bayley Seton
doctor denied and
her treatment and
abused her

By KATI CORNELL SMITH
ADVANCE STAFF WRITER

A 38-year-old Staten Island woman who claims a doctor denied her medical treatment and abused her because she is transsexual is suing Saint Vincent's Catholic Medical Centers of New York for \$1 million.

Achilles (Cooke) Capasso of Tompkinsville said she was a victim of discrimination when an endocrinologist at Bayley Seton Hospital, Clifton, refused to draw her blood for a hormone test and then sexually assaulted her during a physical examination.

Dr. Andrew Maran, named as a plaintiff in the suit filed yesterday in state Supreme Court, St. George, allegedly told Ms. Capasso, "You need to go to a place where they treat people like you."

A pre-operative transsexual who takes female hormones, Ms. Capasso said she regularly receives medical care at Bayley Seton. Staff there always treated her fairly until the April 10, 2000, visit to Dr. Maran, she said.

Referred to the endocrinologist by her regular physician, the patient asked Dr. Maran to draw blood and check her progesterone and estrogen levels, court papers said. But the doctor refused to do

these tests — saying he doesn't deal with transsexuals — and agreed only to checking her thyroid.

"He's treating me like a freak, like a nobody," Ms. Capasso said in a phone interview. "I told him, 'Yes, I was born a male. Do you have a problem with that?'"

In the presence of an intern, the doctor felt the patient's neck and then asked her to lift her blouse and "stared at her breasts," the lawsuit alleged. He then told her to pull down her pants. Ms. Capasso said she felt afraid, but reluctantly complied, and the doctor sexually assaulted her by placing his hand on her genitals.

"When he felt I had male parts, he said, 'All right, pull them up.' From there I felt embarrassed, humiliated, violated," Ms. Capasso said, adding that the intern looked

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PAGE A15



Achilles
Capasso

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like she was trying not to laugh.

Ms. Capasso's lawyer, Thomas Shanahan, said, "The scope of the examination really exceeded what she was there for." Shanahan said the doctor wrote in Ms. Capasso's medical file, "I advised patient that I do not participate in transsexuals."

"Those words really confirm... the discrimination, the homophobia that took place in that examination room that day," said Shanahan, a former Islander now practicing in Manhattan.

Ms. Capasso said formal complaints to hospital administrators were systematically ignored.

A Staten Island spokesman for Saint Vincent's Catholic Medical Centers told the Advance the hospital system would not comment, due to patient/physician confidence.

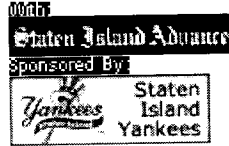
tiality.

Ms. Capasso, saying she felt extremely upset after the alleged incident, contacted a social worker she knew and the following day began treatment for posttraumatic stress disorder. "It is typical in these cases for victims to feel like they're at fault... to feel guilty," Shanahan said.

Her first lawyer sat on the case for more than a year and failed to file a claim. This spring, Ms. Capasso hired Shanahan on a referral from the Gay and Lesbian Anti-Violence Project.

The suit seeks \$1 million in damages, including \$500,000 for assault and battery and \$500,000 for the discrimination under human rights laws. "They cannot pick and choose who they treat," Shanahan said.

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Wrongdoing denied in treatment of transsexual

Dr. Andrew Maran of Bayley Seton Hospital reacts to charges made by Achilles (Cookie)

Thursday, August 30, 2001

By KATI CORNELL SMITH
ADVANCE STAFF WRITER

A Staten Island doctor who is being sued for allegedly denying routine medical treatment to a transsexual patient denies any wrongdoing.

The plaintiff, Achilles (Cookie) Capasso, claims she was a victim of discrimination and is suing endocrinologist Dr. Andrew Maran and Saint Vincents Catholic Medical Centers of New York for \$1 million.

The 38-year-old Tompkinsville resident alleges the doctor refused to draw her blood for a routine hormone test and conducted an inappropriate physical examination during an office visit in Bayley Seton Hospital, Clifton, in April 2000.

The hospital declined to comment, citing patient-confidentiality concerns.

But Dr. Maran yesterday adamantly denied the allegations. "That version of events is not true. It's a twisted version of events," he said. The doctor declined further comment, saying, "You can follow what happens in the courts."

Ms. Capasso is a pre-operative transsexual who takes female hormones. Her regular physician referred her to Dr. Maran last year to have her progesterone and estrogen levels checked.

According to the suit, filed earlier this week in Staten Island Supreme Court, St. George, Dr. Maran refused to do these tests, but after a brief physical examination he agreed to check her thyroid.

The suit accuses the doctor of making derogatory comments to the transsexual patient -- telling her "to go to a place where they treat people like you" -- and subjecting her to "unwanted physical touchings" that

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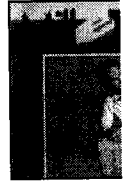
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reached the level of assault and battery.

A notation by the doctor in Ms. Capasso's Bayley Seton file says, "I advised [patient] that I do not participate in transsexuals."

The suit also alleges that Bayley Seton and Dr. Maran gave Ms. Capasso unequal treatment "based on [her] sex, gender, gender identity and/or perceived sexual orientation."

She claims that formal complaints to hospital administrators were systematically ignored.

Ms. Capasso's first lawyer sat on the case for more than a year and failed to file a claim. This spring, Ms. Capasso hired Manhattan-based attorney Thomas Shanahan, a former Islander, who was recommended by the Gay and Lesbian Anti-Violence Project.

The suit seeks \$1 million in damages, including \$500,000 for the alleged assault and \$500,000 for the discrimination under human rights laws.

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