

## JDI's *Amicus Curiae* Docket

*Lucy Amador, et al., v. Superintendents of the Department of Correctional Services (DOCS), et al., 08-2079 (2<sup>nd</sup> Cir.)*

In this federal civil rights lawsuit addressing rampant sexual abuse at two New York State women's prisons, the named plaintiffs sought class status, on behalf of all women incarcerated at these facilities. Without any consideration for the merits of the case, the district judge dismissed most of the claims and denied class status based on an overly narrow reading of the harsh procedural requirements of the Prison Litigation Reform Act (PLRA). JDI's brief focused on the unique dangers for survivors of staff-on-inmate sexual abuse to utilize the prison grievance system.

The appeal is still pending.

*Alexis Giraldo v. California Department of Corrections and Rehabilitation, et al., A119046 (Cal. Ct. App.)*

Alexis Giraldo, a transgender woman who was incarcerated in a California men's prison, sued the California Department of Corrections and Rehabilitation (CDCR) and CDCR officials after she was beaten and raped repeatedly by her cellmate at Folsom State Prison. The trial court dismissed the negligence claims, holding that there is no 'special relationship' between officials and inmates that would create a duty to protect from such abuse, as is required to establish negligence. JDI's brief focused on the federal and state laws – specifically the federal Prison Rape Elimination Act (PREA) and California's Sexual Abuse in Detention Elimination Act (SADEA) – which establish this relationship and corresponding duty.

In a published opinion, the Court of Appeal held that jailers have a duty to protect prisoners from foreseeable harm, and cited PREA and SADEA in its holding. The proceedings were remanded to the lower court for a new trial. Read the decision [hyperlink to <http://www.courtinfo.ca.gov/opinions/documents/A119046.DOC>

*Marilyn Shirley v. United States, 07-501 (S. Ct.)*

Marilyn Shirley sued the U.S. government after she was raped by the on-duty officer at the federal facility where she was incarcerated. The District Court had dismissed her case, holding that the officer's actions were outside his "scope of employment," which is required for a lawsuit under the Federal Torts Claim Act. In support of Ms. Shirley's petition for certiorari, JDI urged the Court that a nationwide uniform standard for "scope of employment" is needed that takes into account the unique authority granted to law enforcement officers.

The Supreme Court denied certiorari.

*Marilyn Shirley v. United States, Case No, 06-10654 (5<sup>th</sup> Cir.)*

Prior to requesting review by the U.S. Supreme Court (described above), Marilyn Shirley asked the U.S. Court of Appeals for the Fifth Circuit to reconsider its decision upholding the district court's dismissal of her case. JDI's amicus brief argued that a corrections official who abuses his job-created authority to sexually assault an inmate is acting within the scope of employment.

The Fifth Circuit denied reconsideration.