

August 16, 2021

ATTORNEY GENERAL RAOUL: APPELLATE COURT REAFFIRMS RIGHTS OF TRANSGENDER INDIVIDUALS UNDER ILLINOIS HUMAN RIGHTS ACT

Chicago — Attorney General Kwame Raoul today announced an Illinois appellate court’s opinion in Hobby Lobby v. Sommerville that reaffirms the rights of transgender individuals under the Illinois Human Rights Act.

The 2nd District Appellate [Court issued the opinion](#) in response to Hobby Lobby’s appeal of a previous Illinois Human Rights Commission’s determination. The commission had found that Hobby Lobby violated the Illinois Human Rights Act when it denied Meggan Sommerville, a transgender woman, use of the women’s bathroom at the store where she works. The court affirmed the commission’s determination that Hobby Lobby violated articles two and five of the Human Rights Act, which prohibit discrimination based on gender identity in the terms and conditions of employment and in the provision of facilities in a place of public accommodation. The commission had awarded Sommerville \$220,000 in damages and required Hobby Lobby to grant Sommerville access to the women’s bathroom.

“Nobody deserves to be discriminated against or feel unsafe in their workplace due to their gender identity,” Raoul said. “I applaud the court for reaffirming the Illinois Human Rights Commission’s determination and the rights of transgender individuals in Illinois. Discrimination of any kind has no place in our society, and I will continue to protect the rights of transgender individuals and fight to hold all employers accountable for following antidiscrimination laws.”

Sommerville, a transgender woman, has worked at Hobby Lobby’s East Aurora, Illinois location since the early 2000s. In 2007, she began transitioning from male to female. In early 2010, she legally changed her name, began presenting as female at work, and formally informed Hobby Lobby of her transition and her intent to begin using the women’s bathroom at the store where she works. Hobby Lobby refused to allow Sommerville to use the women’s bathroom.

In February 2013, Sommerville filed complaints with the Illinois Human Rights Commission alleging she had been discriminated against on the basis of her gender identity. In its appeal of the commission’s determination, Hobby Lobby argued that its policy of regulating bathroom access based upon the users’ “sex” – which, it contended, references users’ reproductive organs and structures – does not violate the Illinois Human Rights Act. Hobby Lobby also argued that the damages awarded by the commission were excessive.

The Attorney General’s office represented the Illinois Human Rights Commission and argued that the commission’s determination was correct because Hobby Lobby’s refusal to allow Sommerville to use the women’s bathroom because she is a transgender woman – which resulted in her being treated differently from other women in the store based solely on her gender identity – falls within the Illinois Human Rights Act’s definition of “unlawful discrimination.” As Raoul explained, the law defines “sex” as “the status of being male or female,” and does not draw distinctions based on reproductive organs, genetic information, or the sex marker used on a birth certificate. Raoul also argued that Hobby Lobby could stigmatize Sommerville by requiring her to use a single-occupant, unisex bathroom that, during the litigation, was built at the store where she works.

Supervising Attorney Evan Siegel handled the matter for Raoul’s Civil Appeals Bureau.

Attorney General Raoul encourages individuals to report instances of discrimination or harassment by calling his Civil Rights Hotline at 1-877-581-3692.