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New York State Supreme Court Judge Orders NYPD To Reconsider Decision To Deny HIV-Positive Officer Disability Benefits

New York State Supreme Court Justice Rolando Acosta on Tuesday ordered the New York City Police Department to reconsider its decision to deny disability benefits to an unidentified officer who says she was infected with HIV while on the job, the [AP/Long Island Newsday](#) reports (AP/Long Island *Newsday*, 7/21).

The officer first applied for disability retirement in 2001, but the city's medical board said there was "insufficient evidence" to claim a disability the following year. The medical board again determined she was not disabled, although a police surgeon found her unfit for duty in 2003 (Gearty, *New York Daily News*, 7/21).

Acosta called NYPD's decision "irrational" and "perplexing" because city law states that an officer who contracts HIV is presumed to have been infected while performing his or her duties, not "as a result of his or her willful negligence, unless the contrary can be proved by competent evidence," according to the *AP/Newsday*. Acosta said that the officer had established that she contracted HIV when she was "bitten and punched in both eyes while placing a (suspect) under arrest," adding that the officer was in



"constant contact with bodily fluids of perpetrators in the subways and streets of New York City" (AP/Long Island *Newsday*, 7/21).

Lawyers for the NYPD said that the officer contracted HIV through sexual intercourse. According to the officer's lawyer, Jeffrey Goldberg, the officer -- a 12-year police veteran who was diagnosed with HIV in 1999 -- now has AIDS as well as kidney disease, a degenerative disease in her right foot, an ovarian cyst, a spinal disease and chronic fatigue.

City lawyers said they are considering whether to ask Acosta to vacate the decision and re-argue or to follow his ruling and have the medical board re-hear the case. Goldberg said he will oppose any motion to vacate Tuesday's decision (Maull, *Associated Press*, 7/20).

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