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Commonwealth Court blocks lifetime ban on nursing home work for those convicted of some crimes

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By Karen Langley / Post-Gazette Harrisburg Bureau

HARRISBURG — The Commonwealth Court has blocked Pennsylvania from enforcing a lifetime ban on work in nursing homes and other health care facilities for people convicted of certain crimes.

The court found last week that a lifetime employment ban in the state's Older Adults Protective Services Act violates the due process protections of the Pennsylvania Constitution.

The prohibition applied to a list of convictions, including violent crimes, such as homicide and rape, but also drug-related felonies and offenses such as theft and forgery.

The ban had been challenged by five people with long-ago criminal convictions and also by Resources for Human Development, a Philadelphia-based nonprofit social service organization that wanted to decide which workers could best serve its clients.

In their opinion, the judges of the Commonwealth Court said "it defies logic" to suggest that every person who has ever been convicted of one of the listed crimes "presents a danger" to those in facilities covered by the law.

"Act-covered facilities should not be required to employ a person with a criminal record, but they should have the opportunity to assess the situation and exercise their discretion to employ an applicant found to be sufficiently rehabilitated and a good fit for the job," says the court's opinion, written by Judge Mary Hannah Leavitt.

Tad LeVan, attorney for the petitioners, said that job applicants still have to submit a criminal records check, and that nothing prevents the General Assembly from crafting "a more reasoned law" aimed at disqualifying people convicted of certain crimes.

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Mr. LeVan said that he understands the importance of protecting vulnerable people but that the law went too far by failing to examine the circumstances of individuals.

“If we were all convicted of stupid things we did as a teenager, and three decades later we couldn’t possibly get a job, I think we would have a different view of the fairness of this absolute prohibition,” Mr. LeVan said.

Dennis Roberts, associate director of Resources for Human Development, said the law was “well-intended but overly broad.”

“It denied really any consideration of rehabilitation by an individual,” he said.

The Commonwealth Court lawsuit cited the case of Tyrone Peake, who had been convicted of attempted theft after riding in a stolen vehicle in 1982, when he was 18.

He said Monday that he was glad to hear of the court’s decision.

“It will give many people a vision of hope that you can go on to live a successful life after making mistakes,” he said.

The lifetime ban previously had been found unconstitutional, but only as it applied to the particular petitioners who brought that case.

Jeffrey Johnson, spokesman for Attorney General Kathleen Kane, said the office is reviewing the opinion and has not decided if it will appeal.

Jeffrey Sheridan, spokesman for Gov. Tom Wolf, said in a statement: “The Wolf administration is aware of the issues regarding employment bans, and all relevant state agencies are reviewing their statutes to identify methods for addressing these issues.”

Karen Langley: klangley@post-gazette.com or 717-787-2141 or on Twitter @karen_langley

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