

SFGate.com**Inmate raped by cellmates can sue prison guards**

Bob Egelko, Chronicle Staff Writer

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(02-11) 19:10 PST San Francisco -- The state Supreme Court allowed a transgender former prison inmate on Wednesday to proceed with a lawsuit accusing prison guards of failing to protect her from being raped and beaten by her cellmates.

In her suit, Alexis Giraldo said she was being held at Folsom State Prison for shoplifting and a parole violation in January 2006 when a cellmate began assaulting and raping her on a daily basis. She said prison staff ignored her complaints until March 2006, when she was transferred to segregated housing after a second cellmate attacked her with a box-cutter. She was paroled in July 2007.

Prison officials denied failing to protect Giraldo, who was housed at the all-male prison because she had not undergone surgery. A San Francisco jury rejected her emotional-distress claim against six prison employees in August 2007 after the trial judge dismissed her claim of negligence, ruling that guards have no legal duty to protect inmates from harm.

The First District Court of Appeal in San Francisco overturned the judge's ruling last November, saying a jailer who takes a prisoner into custody must take reasonable steps to protect that prisoner from foreseeable injuries. California's high court denied review of the state's appeal Wednesday, allowing Giraldo to pursue her claim that negligence by prison employees was a cause of the assaults.

E-mail Bob Egelko at begelko@sfchronicle.com.

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