

7 Title	Miscellaneous: Working Conditions; Homeless Persons
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Abstract	<p><i>New York v. Ortiz</i>, N.Y.L.J. p. 24, col. 4 (N.Y. Sup. Ct. Feb. 16, 1990)—A New York trial court, citing issues of justice and fairness, ordered the dismissal of an indictment against a defendant in an advanced stage of AIDS. A medical expert testified that the defendant, charged with selling drugs, had a life expectancy of 60-90 days.</p> <p><i>United States v. Johnson</i>, 30 M.J. 53 (C.M.A. 1990)—A military appeals court affirmed a conviction of assault with means likely to produce death or grievous bodily harm against a sergeant with HIV who attempted to have unprotected anal intercourse. The court held that the charge was not unconstitutionally vague, citing similar assault convictions of military personnel who engaged in unsafe sexual acts that could lead to HIV transmission. See <i>United States v. Womack</i>, 29 M.J. 88 (C.M.A. 1989), 14 MPDLR 185. These cases gave Johnson adequate notice that he could be held criminally liable for assault, regardless of whether his partner consented to sex, if he did not take precautions to prevent HIV transmission. Johnson had been told during post-diagnosis counseling about the risk of transmitting HIV if he engaged in unprotected sexual activities. The evidence was sufficient to sustain Johnson's conviction because it showed he had attempted intercourse. It was not necessary that Johnson actually engage in intercourse or transmit HIV. Rather, the conviction was valid as long as the chance of transmission was more than a remote possibility.</p> <p><i>Wilson v. Franceschi</i>, 735 F. Supp. 395 (M.D. Fla. 1990)—A Florida district court republished its opinion dismissing a prisoner's lawsuit against two prison physicians, holding the physicians had qualified immunity against claims that their delay in prescribing treatment with zidovudine (AZT) for AIDS-related complex (ARC) constituted cruel and unusual punishment. See <i>Wilson v. Franceschi</i>, 730 F. Supp. 420 (M.D. Fla. 1990), 14 MPDLR 365. The republished opinion contains the magistrate's report and recommendations, upon which the court based its ruling.</p>