



COMMONWEALTH OF MASSACHUSETTS
THE GENERAL COURT
STATE HOUSE BOSTON 02133-1058

September 6, 2012

Commissioner Luis S. Spencer
Massachusetts Department of Correction
DOC Central Headquarters
50 Maple Street, Suite 3
Milford, MA 01757

Dear Commissioner Spencer,

We write this letter in response to the recent decision from the United States District Court in the case of *Kosilek v. Spencer*. We are greatly troubled by the Court's finding that the Eighth Amendment requires the state and the Department of Correction to provide sex reassignment surgery to a convicted murderer. We urge you and the department to vigorously pursue every available appellate option to reverse the Court's mistake.

Michelle Kosilek is imprisoned for life for murdering his wife, Cheryl McCaul. The nature of his punishment—life imprisonment without the possibility of parole—sheds light on the heinousness of the crime. The defendant strangled his wife with a wire and left her body in a car at a local shopping mall.

Since his imprisonment for murder in the first degree Kosilek has argued and now successfully convinced a court that he is at high risk of serious harm if he does not receive sex reassignment surgery. We find such a suggestion to be unjustifiable, against the better judgment of the citizens of this state, and offensive to the family of Cheryl McCaul. We urge you to continue your appropriate stand against such a procedure until every option of appeal has been pursued.

The Court's decision, if left standing, will compel an absurd action by your department. Clearly the Eighth Amendment provides important protections when a person enters our prison system, but it cannot be fairly said to require the state to accommodate every last need and want

of convicted murderers. A decision that suggests the failure to provide sex reassignment surgery to a first degree murderer equals an "unnecessary and wanton infliction of pain" is a decision that must be overturned and therefore must be subjected to appellate review. We ask that you seek that review.

Sincerely,

Bruce Tarr,
Senate Minority Leader

Bradley H. Jones Jr.,
House Minority Leader

Michael Knapik,
State Senator

James Timilty,
State Senator

Colleen M. Garry,
State Representative

David T. Vieira,
State Representative

Marc Lombardo,
State Representative

Christopher M. Markey,
State Representative

James Dwyer,
State Representative

Susan W. Gifford,
State Representative

Todd M. Smola,
State Representative

Stephen DiNatale,
State Representative

**Shaunna O'Connell,
State Representative**

**David Torrissi,
State Representative**

**Richard J. Ross,
State Senator**

**George T. Ross,
State Representative**

**Angelo D'Emilia,
State Representative**

**Keiko Orrall,
State Representative**

**Richard T. Moore,
State Senator**

**Geoffrey G. Diehl,
State Representative**

**F. Jay Barrows,
State Representative**

**Linda Dean Campbell,
State Representative**

**Robert L. Hedlund,
State Senator**

**Paul Adams,
State Representative**

**Anne Gobi,
State Representative**

**Nicholas A. Boldyga,
State Representative**

**Mark Cusack,
State Representative**

**Joyce Spiliotis,
State Representative**

**Elizabeth Poirier,
State Representative**

**Michael J. Rodrigues,
State Senator**

**Kevin J. Murphy,
State Representative**

**Thomas A. Golden,
State Representative**

**David M. Nangle,
State Representative**

**Gale D. Candaras,
State Senator**

**Brian Ashe,
State Representative**

**Kimberly Ferguson,
State Representative**

**Michael Moore,
State Senator**

**Bruce J. Ayers,
State Representative**

**James Lyons,
State Representative**

**Robert Koczera,
State Representative**

**Donald F. Humason, Jr.,
State Representative**

**Barry Finegold,
State Senator**

**Russell E. Holmes,
State Representative**

**Peter Durant,
State Representative**

State Representative

James Miceli,
State Representative

Viriato deMacedo,
State Representative