



# San Diego City Attorney Jan I. Goldsmith

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## NEWS RELEASE

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### **HIV Transmission Case Ends in “No Contest” Plea** *Defendant was charged with willful exposure of another*

A San Diego man who willfully exposed a sex partner to the HIV virus pleaded “no contest” today to a violation of the state health code.

Thomas Miguel Guerra entered the plea on the day trial was to begin. He had previously pled not guilty. Guerra faces a potential penalty of six months in custody and a \$1,000 fine.

Guerra is charged with one count of Health and Safety Code section 120290, which states: “Except as provided in Section 120291 or in the case of the removal of an afflicted person in a manner the least dangerous to the public health, any person afflicted with any contagious, infectious, or communicable disease who willfully exposes himself or herself to another person, or any person who willfully exposes another person with the disease to someone else, is guilty of a misdemeanor.”

This case is the first prosecution of willful HIV transmission in San Diego County. The City Attorney’s Office found no previous successful prosecution of this kind in the 20 years since the Legislature adopted this statute.

The case began in August 2013 when Guerra’s victim filed a complaint with the San Diego Police Department. The victim told police that:

- He and Guerra were in a romantic relationship for several months in 2013.
- Guerra claimed to be HIV negative and the two had unprotected sex at Guerra’s urging.
- The victim learned he was HIV positive in May 2013 after previously being tested negative.
- After the relationship ended, the victim learned that Guerra knew he was HIV positive before the relationship began.

The City Attorney’s Office was prepared to prove that Guerra knew he was HIV positive and that he willfully and unlawfully had unprotected sex with the victim without disclosing his HIV status.

**“I hope this case helps to educate people that it is a crime to willfully expose someone to an infectious disease,” San Diego City Attorney Jan Goldsmith said. “The law is designed to protect the public and, in this case, enforce the right of one’s partner to know the truth.”**

Sentencing is scheduled for Monday, April 13.

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