

Judge upholds Utah's lewdness statute in case involving topless woman inside her own home

FOX13

Jan 21, 2020

<https://fox13now.com/2020/01/21/judge-upholds-utahs-lewdness-statute-in-case-involving-topless-woman-inside-her-own-home/>

SALT LAKE CITY — A judge has upheld Utah's lewdness statute in a case involving a West Valley City woman facing criminal charges for baring her breasts inside her own home.

In a ruling handed down on Tuesday, the judge struck down Tilli Buchanan's legal challenge to Utah's lewdness statute. She asked for her case to be dismissed and a portion of the law found unconstitutional. Buchanan's attorney and the American Civil Liberties Union of Utah cited a recent ruling by the 10th U.S. Circuit Court of Appeals that found anti-topless laws discriminated against women.

In her ruling, 3rd District Court Judge Kara Pettit upheld the statute.

"The Court agrees that the public indecency ordinance at issue in Free the Nipple-Fort Collins is significantly different from the lewdness involving a child law at issue in this case. The Fort Collins ordinance made it unlawful for an adult female to knowingly expose her breast below the top of the areola in a public place, or on private property if it could be viewed readily from ground level by another located on public property," Judge Pettit wrote. "The ordinance did not include any exposure that was unlawful for a male, did not require the presence of children, and most importantly, did not require any specific intent."

Buchanan was doing insulation work with her husband and they were stripping off itchy clothing when her step-children saw her. That ultimately led to the criminal charges being leveled against her last year. Buchanan's attorneys argued she did nothing wrong.

Tilli Buchanan

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In a statement, West Valley City Chief Prosecutor Ryan Robinson said they were pleased with the ruling and moving forward with the case.

"We support the court's finding in this case that 'the government has an important interest in enacting laws to protect the health, safety, welfare, and morality of children, and to prevent them from being exposed to lewdness,'" he wrote.

“We also highlight from Judge Pettit’s order: ‘The Court also agrees with WVC that the legislature’s express inclusion of female, but not male, breasts in the acts enumerated as lewd in reflects contemporary community standards as to what constitutes nudity.’ Her order cited other cases nationwide that have found that ‘public indecency law do not serve to perpetuate stereotype, but simply recognized physical difference between the sexes which has implications for the moral and aesthetic sensitivities of a substantial majority of the country.’”

The ACLU of Utah said it was reviewing the ruling and consulting with Buchanan before deciding whether to appeal or not.

The “Free the Nipple” ruling, which generated headlines nationwide, has slowly started to be utilized in Utah. Attorneys with clients facing lewdness charges are citing it. FOX 13 recently documented a group of women in St. George who went topless and faced no criminal repercussions from local authorities.