

Stepmom in Utah Could Still Go to Jail for Hanging Drywall Topless in Her Own Home

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A Utah judge stood by the state's lewdness statute Tuesday after a local woman was criminally charged for going topless in front of her stepchildren.

The woman, Tilli Buchanan, challenged the law's constitutionality after she was charged for taking her shirt off while hanging drywall with her husband in their Salt Lake City-area home a couple years ago, according to the Salt Lake Tribune. When her three stepchildren walked in and saw her breasts, Buchanan explained she was a feminist and wanted to "make a point that everybody should be fine with walking around their house or elsewhere with skin showing," according to court filings.

But the children's mother eventually reported the incident to child welfare officials, and Buchanan was charged in February under a state law that prohibits lewd behavior in front of kids. She could face jail time on top of a requirement to register as a sex offender for a decade.

Her husband, who was also not wearing a shirt while drywalling, was not charged with a crime.

"I was devastated," Buchanan told the Salt Lake Tribune in September. "Because the moment I took to teach the kids, it was kind of smashed. Like you can't teach kids this. In fact, you're going to be charged for even bringing this up."

Buchanan's legal team — including lawyers from the American Civil Liberties Union of Utah — argued the lack of charges against her husband showed the law unfairly discriminates against women and sought to have the charges dismissed. In their arguments, they pointed to a previous ruling out of the 10th Circuit Court of Appeals, which effectively made female toplessness legal in six Western states, including Utah. That ruling determined cities can't legally ban women from showing their breasts while allowing men to go topless.

But prosecutors said the charges weren't brought against Buchanan because of sexism, but because she was allegedly under the influence of alcohol. They also allege said she'd only put her shirt back on if her husband showed his penis.

Prosecutors also said the children were already involved in a child welfare investigation unrelated to Buchanan when they found out about the incident.

On Tuesday, Third District Judge Kara Pettit agreed with prosecutors. She said Buchanan was charged under a law that more specifically prohibits lewd behavior from both men and women in front of children if the person exposing themselves knows it would cause “affront or alarm” or would “arouse or gratify sexual desires.” And, the law struck down by the 10th Circuit applied only to women and didn’t mention intent, Pettit wrote in her decision.

It wasn’t immediately clear whether Buchanan intends to appeal Tuesday’s ruling. If she doesn’t, the case will move to trial, according to the Guardian. The ACLU told the Salt Lake Tribune it was “disappointed” but still reviewing the case.