

Utah judge considers whether to strike down lewdness statute involving topless women

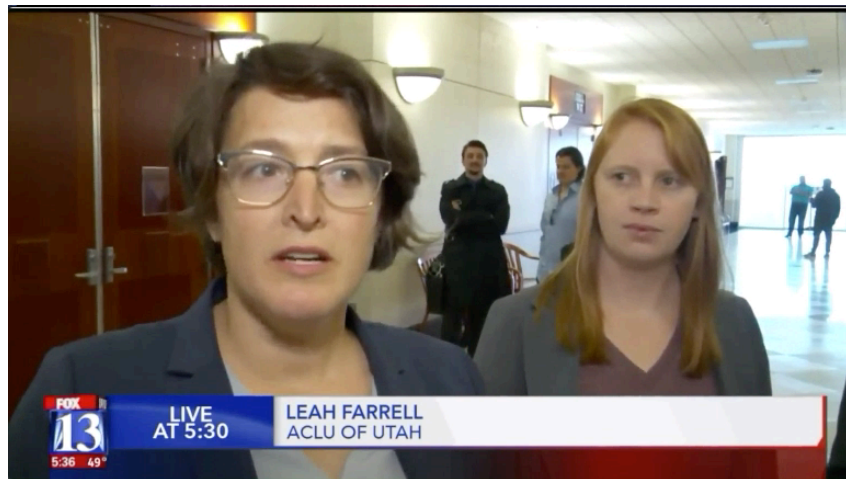
By Ben Winslow

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SALT LAKE CITY -- A judge is considering whether to strike down a portion of Utah's lewdness statute dealing with topless women. Tilli Buchanan is facing three misdemeanor charges of lewdness involving a child stemming from an incident in her home. On Tuesday, her attorney and the ACLU of Utah asked for the case to be dismissed and a portion of Utah's lewdness statute to



be struck down citing a recent ruling by the 10th U.S. Circuit Court of Appeals that found anti-topless laws discriminated against women.

Buchanan left court saying she felt "hopeful" that Judge Kara Pettit would side with her.

"Especially with, given it was in the privacy of my own home, my husband was right next to me, in the exact same manner that I was and he's not being prosecuted," she told reporters.

The West Valley City woman 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 earlier this year. Buchanan's attorney argues she did nothing wrong.

"If we are to lose this, she's on the sex registry with child rapists and things of that nature. The magnitude of the penalty on this is enormous," said Buchanan's attorney, Randy Richards.

The ACLU of Utah has also intervened in the case on Buchanan's behalf. In court on Tuesday, ACLU staff attorney Leah Farrell argued that particular portion of Utah's lewdness statute discriminates against women.

"There's part of it that says this part of a woman is found inherently obscene and this part of a man isn't," she told reporters outside court. "That really sets up an unequal and unfair dichotomy. And Tilli's case is something none of us would expect to happen."

The ACLU cited the "Free the Nipple" ruling that found anti-topless ordinances violated the 14th Amendment right of equal protection under the law. The 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.

West Valley City prosecutors argued to the judge that the "Free the Nipple" ruling was much more narrow than the ACLU would like it to be. They also insisted that the legislature has a right to make laws based on a morality.

"We see our job is to represent the laws of the state of Utah and we've made our argument that's now on the record," chief West Valley City prosecutor Ryan Robinson told reporters as they left court. "We're looking forward to seeing what the judge decides."

Judge Pettit said she expected to issue a ruling within a couple of months.