

Top Freedom Court Cases: December 2019



Tilli Buchanan photo taken from television broadcast on KUTV, Salt Lake City.

This Utah Woman Is Charged for Being Topless in Her Own Home

Late last year, Tilli Buchanan and her husband had been installing insulation in their garage and had stripped off their clothes just inside their home to get the itchy materials off their skin. That's when the step kids — a 13-year-old boy, a 10-year-old girl and a 9-year-old boy — saw her without her top on.

The children were a little embarrassed at the sight — but Buchanan told them they shouldn't treat her differently because she was a woman. They aren't uncomfortable seeing their dad's chest, she told them, so it shouldn't be different for her. "This isn't a sexual thing," she recalled telling the children. "I should be able to wear exactly what my husband wears. You shouldn't be embarrassed about this."

But Utah state officials didn't have the same view. After the kids told their mother (the ex-wife), she told the police. Social Services got involved and in February the local District Attorney filed criminal charges against the 27-year-old woman for being shirtless in her own home, while her husband, who was also in the same state of undress, was not charged.

If convicted, Buchanan faces three counts of lewdness involving a child — a class A misdemeanor. If convicted, Buchanan could land in jail and stay on the sex offender registry for the next 10 years.

The case was heard on Nov. 19, and the Salt Lake Tribune reported her attorney asked the judge to find that Utah's lewdness statute is unconstitutional because it discriminates against women. Judge Kara Pettit was quoted as saying it was "too important of an issue" to decide immediately but that she "plans to rule in the coming months."

Much of his argument leans on a recent 10th Circuit Court ruling, where the appeals court sided with two Colorado women who sued Fort Collins over the city's ban on top free women, citing the equal protection clause of the 14th Amendment.

U.S. Circuit Court of Appeals rulings are not binding outside the circuits in which they were issued. In fact, because Ft. Collins decided to drop their case, there really is no case precedent available to Buchanan, but her attorney went ahead and argued for equal justice anyway.

Meanwhile, Towns in Oklahoma Overreact to Appeals Court Ruling

10/1/19 - After the feeling of the 10th Circuit court were made known in favor of the women of Ft. Collins suing under the Equal Protection clause of the US Constitution, the city fathers in **Sand Springs, Oklahoma** passed an emergency ordinance that changed the law so men can't be topless either. (We are waiting for the first lawsuit you just know is coming.)

In **Tulsa Oklahoma**, the District Attorney said the city would continue to enforce its law against women being top free in public. His reasoning, which is judiciously correct, is that the Tenth Circuit decision only addressed the preliminary injunction in Ft Collins. Because it was a very narrow case that never was decided at the lower court, therefore, he reasoned, he will keep enforcing the ban in his city.

The Utah Attorney General, which is why the Buchanan case is proceeding, issued a similar opinion as the Tulsa D.A. It seems a new case (perhaps Buchanan's?) will have to come before the Appeals Court before the written sentiments of the Tenth Circuit judges will have any judicial weight.

On the Other Hand, A Town in Kansas Votes to Allow Women to Go Top Free

10/19/19 - The **Manhattan** City Council has unanimously decided to amend the city code to allow females to go topless. However, property owners and businesses may still require their patrons to wear shirts.

The Manhattan Mercury newspaper reports City Attorney Katie Jackson recommended the change to avoid potential lawsuits. Jackson cited a federal ruling in February 2017 that blocked Fort Collins, Colorado, from enforcing a law against women going topless. Fort Collins is in the 10th Circuit Court of Appeals, as is Kansas.

She said the government could still prosecute a topless woman who is acting in a lewd manner, which is against state law.

Colorado Town Awards \$50K To Top Free Woman

Efrosini "Effie" Krokos, 20, has been paid \$50,000 and had all charges dropped in the city of Loveland, Colorado after she was cited for playing Frisbee topless in her front yard on Sept. 26, reports KDVR Denver.

City officials were quoted saying they thought they could not win after the recent 10th Circuit Court of Appeals ruling.

Krokos says her actions weren't calculated. "I didn't do this for the money," she explains. "I did it just because I thought I was equal to a guy."

Loveland has an ordinance prohibiting the exposure of breasts in public, but police will suspend enforcement until city council can review it, KDVR reports.

The \$50,000 settlement is the first damage claim paid to a woman wrongfully charged for being topless in the U.S.