

Judge Halts Enforcement of Unconstitutional Nude Photo Law in Arizona

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PHOENIX – A federal court today permanently ordered Arizona state prosecutors to halt enforcement of a 2014 law restricting the display of nude images.

The order approved a joint final settlement between the Arizona attorney general and the coalition of Arizona booksellers, book and newspaper publishers, librarians, and photographers, who filed a federal lawsuit challenging the law. The order resolves all claims in the lawsuit, *Antigone Books v. Brnovich*, and states that plaintiffs are entitled to attorney's fees.

“This is a complete victory for publishers, booksellers, librarians, photographers, and others against an unconstitutional law,” said Media Coalition Executive Director David Horowitz, whose members include plaintiffs in the suit. “Now they won't have to worry about being charged with a felony for offering newsworthy and artistic images.”

The law, Arizona Revised Statute 13-1425, was initially passed with the stated intent of combating “revenge porn,” a term popularly understood to describe a person's malicious posting of an identifiable, private image online with the intent and effect of harming an ex-lover. But, as plaintiffs maintained in the lawsuit, the law wasn't limited to revenge and criminalized far more than offensive acts. It could have led to the conviction of someone posting a nude photo with no intent to harm the person depicted. This would include, for example, an artistic photographer who creates an anthology of his images of nudes — as well as the book's publisher, seller, or librarian.

Likewise, a person who shared a photograph could have been charged with a felony even if the person depicted had no expectation that the image would be kept private and suffered no harm, such as a photojournalist who posted images of victims of war or natural disaster. As a result, the law applied to any person displaying an image of nudity, no matter how newsworthy, artistic, educational, or historic.

“This is an important vindication of the First Amendment and a great resolution for our clients,” said ACLU Staff Attorney Lee Rowland, who, along with lawyers from the ACLU of Arizona and Dentons US LLP, represents the plaintiffs. “We commend the state for agreeing not to enforce a broad statute that chilled and criminalized speech unquestionably protected by the Constitution.”

Dan Pochoda, attorney for the ACLU of Arizona, added: “We always believed that it would be a waste of the Arizona taxpayers' money to continue defending this unconstitutional statute. We’re pleased that the court’s order means this law will not be enforced, all without additional and unnecessary litigation.”

Today’s order is at: mediacoalition.org/files/litigation/antigone-books-brnovich-final-decree.pdf

To learn more about the litigation, visit mediacoalition.org/antigone-books-v-brnovich/

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