

Opinion: Sex Workers Win Major Decision in Federal Court

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Sex workers have been waiting for our day in court for over 100 years. And finally, we're going to get it. On January 24, sex workers and their allies won a significant victory in our ongoing constitutional challenge to FOSTA/SESTA, a federal law that attempts to erase the oldest profession from the Internet.

The U.S. Court of Appeals for the D.C. Circuit ruled that the plaintiffs' case can proceed to trial, where a federal judge will decide whether FOSTA/SESTA interferes with the constitutional rights of website operators and their users. If you use the Internet, this law affects you. And if people's health and safety is important to you, you should be siding with the sex workers in this case.

FOSTA/SESTA, enacted in 2018, imposes severe criminal penalties for web site operators that allow discussions of prostitution. The law is being broadly interpreted to include massage therapists, harm reduction service providers, and sex worker rights activists.

Sex workers who had been using websites to schedule and screen their clients have since resorted to more dangerous tactics, soliciting on the street or relying on third parties, such as pimps. Some are using offshore platforms on the dark web that, unlike Backpage and Craigslist, do not cooperate with law enforcement.

Prohibition doesn't work. The more we push the sex industry underground, the more dangerous it becomes. A meta-analysis reviewing 30 years of data published by the

London School of Hygiene & Tropical Medicine and John Hopkins University found overwhelming evidence that repressive policing of prostitution causes less health and safety among sex workers. We cannot help people we are trying to eradicate.

FOSTA/SESTA attempted to erase places on the Internet that sex workers had been using to mitigate the risks of our trade for years. Immediately after this law took effect, the St. James Infirmary in San Francisco reported a 700% increase in street-based prostitution. Sex workers and harm reduction advocates have reported a marked rise in homicides, suicides, overdoses, and desperate people doing desperate things to survive.

Studies show that when Craigslist Erotic Services allowed adults to negotiate consensual sex with each other from the privacy of their homes, the female homicide rate dropped by 17%. When sex work was decriminalized in Rhode Island from 2003 to 2009, reported rapes dropped by 30% and gonorrhea by 40%.

Allowing sex workers to find and negotiate with potential clients online before exposing ourselves to risk reduces violence and STDs. This is not conjecture or theory – studies prove what sex workers have been saying for a century.

On January 25, 1917, 300 prostitutes in San Francisco marched in the street to protest the imminent eviction of the brothels where they lived and conducted their work. They told the moral reformers and politicians that eviction would only make their lives worse and their work more dangerous. They were right. And on January 24 – 103 years later – federal judges gave sex workers and our allies the chance to make our case in court.

—Kaytlin Bailey, Director of Communications for Decriminalize Sex Work