

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

WOODHULL FREEDOM FOUNDATION,)
HUMAN RIGHTS WATCH, ERIC KOSZYK,)
JESSE MALEY, A/K/A ALEX ANDREWS,)
AND THE INTERNET ARCHIVE,)

Appellants,)

v.)

THE UNITED STATES OF AMERICA AND)
WILLIAM P. BARR, IN HIS OFFICIAL)
CAPACITY AS ATTORNEY GENERAL)
OF THE UNITED STATES,)

Appellees.)

No. 18-5298

DECLARATION OF SUSAN WRIGHT

Pursuant to 28 U.S.C. § 1746, I, Susan Wright, hereby declare as follows:

1. I am the Chairperson for the National Coalition for Sexual Freedom (NCSF), a nonprofit 501(c)(4) membership organization, and the NCSF Foundation, a charitable 501(c)(3) tax-exempt organization based in Baltimore, MD.
2. NCSF was founded in 1997 and is committed to creating a political, legal and social environment in the US that advances equal rights for consenting adults who engage in alternative sexual and relationship expressions.
3. The NCSF has, in recent months, become informed of numerous instances in which innocent organizations and individuals have been deprived of access to

information on websites operated by providers of interactive computer services who have deleted content provided by third parties in fear of potential criminal prosecution under the Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA). This information has become available to NCSF in two ways:

4. First, this information has become available to NCSF because NCSF is a membership coalition of 81 Coalition Partner organizations and 68 Supporting Member organizations, all of which are involved with sexual freedom issues and rely on interactive computer service providers that carry on their services a wide range of data of a sexual nature. Thus, when such a member organization is harmed by the inability to access such information, that constitutes harm to NCSF.
5. Among the reports we have received from Coalition Partners and Supporting Members, which we would be willing to share confidentially in full with the Court, are:
6. NCSF Coalition Partner members have had their contracts with their host hotels canceled since FOSTA/SESTA was made law.
7. In one example, in May, 2018, a religious political extremist group sent emails to the host hotel of a kink event and threatened the hotel with a negative social media campaign that would falsely claim the event was encouraging sex trafficking. The hotel canceled the contract for the event, fearing the negative

repercussions of a social media campaign. Previously this event had been held for a number of years without any problems with local law enforcement.

8. Since FOSTA became law, NCSF Coalition Partner members have also experienced issues with payment processing.
9. One example was reported at NCSF's Coalition Town Hall Meeting on June 10, 2018, by a member group whose educational kink event was removed from EventBrite. EventBrite changed its TOS to exclude events that constitute or promote "explicit sexual activity" on April 3, 2018. The benefit of EventBrite is that they release a portion of the funds from tickets sold prior to the event, which enables nonprofit groups to pay an advance deposit for their venue space. Without EventBrite ticketing, nonprofit groups may be unable to meet the advance deposit required by many contracts.
10. Second, NCSF operates a nationwide Incident Reporting & Response program in which we are regularly contacted by allied organizations and persons about harmful incidents that they have encountered that relate to nontraditional sexual practices and situations. Among the reports we have received recently about harm caused by FOSTA about which we would be willing to share details with the Court in confidence, are:
 11. NCSF has received reports from allied persons who have had their Patreon.com accounts shut down starting in June, 2018.

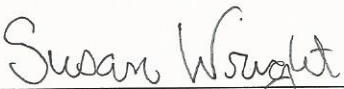
12. For example, one Patreon page was home to rope art how-to videos that contained no nudity and no sexual activity, and resulted in the loss of potential income of hundreds to several thousand dollars a month. Another Patreon page that was shut down featured a web cam artist who focused on kink.
13. NCSF has also received reports on social media censorship since the passage of FOSTA which interferes with professionals' and organizations' ability to publicize their educational and therapeutic services.
14. For example, licensed marriage and family therapists and sex therapists have reported to NCSF that their Facebook and Google ads have been declined post-FOSTA because they included "sexual content" simply for mentioning the words "sex therapist." These were ads that had been previously been running for months/years.
15. Nonprofit fraternal groups have also reported that their Facebook ads for events have been denied for having "sexual content" in them, despite clear descriptions about the educational, non-profit nature of the workshops and that the audience is for consenting adults only.
16. Sex educators have reported censorship of their content, including a sex educator whose 5-year-old video was removed from YouTube for "sexual content" even though it was an educational tutorial about gags.

17. NCSF has also received reports from therapists about the needs of their patients, and how they've been stretching their practices to offer more support since FOSTA.
18. For example, one therapist reported that around a quarter to a third of their clients are sex workers, and every single one of them is suffering due to this legislation. All symptoms (e.g., related to depression, anxiety, and PTSD, and suicidal ideation) are exacerbated, relationships are being affected, and resources are being stretched thin to nonexistent. Their clients are worried about eating and having a place to live, and are subsequently lowering their screening practices out of necessity, putting themselves at greater risk of assault or worse. Many of these clients don't have health insurance.
19. Lastly, NCSF experienced social media restrictions on its own Facebook page in January and February 2019, when we tried to post about an essay contest focusing on sex and adult industry workers' personal experiences eight months after the FOSTA/SESTA bill became law. The website sponsoring the contest features escorts and adult entertainers, and they contacted NCSF via email asking us to help spread the word because they were having difficulty reaching out on social media. When we tried to post a link directly to the essay contest page on the sponsor website, Facebook wouldn't let it be posted. The post finally was accepted when we instead inserted a link to the NCSF Blog

containing the announcement and link to the essay contest. There was no notice from Facebook explaining why the post wasn't allowed.

20. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19th day of February, 2019 in Phoenix, AZ.



Susan Wright
Chairperson