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Sentence in Rape Hoax Appealed

AP

A woman who falsely accused a man of raping her appealed today to the Nebraska Supreme Court her perjury sentence, which requires her to pay for advertisements apologizing to the man.

The appeal, filed in Dawson County District Court, contends that Elizabeth Irene Richardson's sentence violates her constitutional rights to free speech, due process and protection from cruel and unusual punishment. The suit also contends that the sentence is an improper delegation of judicial authority and not a permissible condition of probation.

Ms. Richardson, a 24-year-old former Lexington resident, accused Gary Nitsch, 44, of Overton, of raping her in September 1988. He was arrested and charged with sexual assault. Ms. Richardson testified that Mr. Nitsch raped her, but the case was dropped for lack of physical evidence.

Sentenced to Buy Advertisements

Word later reached the authorities that Ms. Richardson told friends the rape was a hoax. She was convicted of perjury last February. John Marsh, the county attorney, said the woman's motives centered on trying to get the attention of her husband, a truck driver who was often away from home.

A judge ordered Ms. Richardson, who now lives in Overton, to apologize to Mr. Nitsch in a half-page advertisement in every newspaper and a prime-time advertisement on each radio station in this county of 22,000 people in central Nebraska. The advertisements were expected to cost about \$1,000. She was also sentenced on June 8 to 180 days in jail and was placed on two years of probation.

Ms. Richardson's lawyer, Tod McKeone, said he has found no precedent to support the appeal. "We've got a long way to go," he said. "Since we had to file the appeal 30 days after the sentence, there was not enough time to dig in and find favorable precedent. You just have to hope you run into some things, too, that will help. And I guess it's too unusual of a sentence to determine what will happen anyway. There's not enough precedent to know. I think we're treading on new ground here."

A panel of state civil liberties union lawyers who reviewed the case said the sentence may violate Ms. Richardson's rights under the First, Eighth and 14th Amendments.

A hearing has been set in county court July 17 before the same judge who sentenced Ms. Richardson. She will ask District Judge John Murphy to suspend her sentence and allow her to remain free on bail until the Nebraska Supreme Court rules on her appeal.

Mr. McKeone said it could take up to two years for the appeal to be heard by the court. The Nebraska Supreme Court automatically hears all appeals filed because the state has no intermediate appellate court.

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