

## Susan Finkelstein's Sex For World Series Tickets Conviction Overturned

Susan Finkelstein's March 2010 conviction of attempted prostitution related to her [Craigslist.org](http://craigslist.org) advertisement for 2009 World Series tickets has been overturned.

The Philadelphia Phillies were playing the New York Yankees in the World Series scheduled to begin on October 28. Finkelstein placed an advertisement on Craigslist on October 26, 2009 that read:

"Diehard Phillies fan – gorgeous tall buxom blonde – in desperate need of two World Series tickets. Price negotiable – I'm the creative type! Maybe we can help each other!"

Her ad was seen that same day a Bensalem Township Police Department officer monitoring Craigslist.org ads for possible prostitution advertisements. He emailed Finkelstein claiming to have World Series tickets and requested her photograph. After she sent him three topless photographs of herself the officer started up a highly sexual-

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cuit Court of Appeals [reinstated the claim](#) of Gonzalez, Taylor, Winslow and Dean that their rights to a fair criminal proceeding were violated by the reckless investigation and manufactured evidence that resulted in their convictions. The Court upheld the dismissal of their claim their guilty pleas were unconstitutionally coerced, and upheld dismissal of their claim against the county prosecutor on the basis he is entitled to absolute immunity.

White was the first person exonerated by DNA evidence in Nebraska, and the Beatrice Six are the largest number of defendants exonerated by DNA evidence in one case in the United States.

Read Justice Denied's article in [Issue 41 about the Beatrice Six](#).

#### Sources:

[Judge dismisses lawsuit over](#) wrongful Beatrice convictions, *Lincoln Journal Star*, August 4, 2011

[Judge dismisses lawsuit](#) against Gage County over wrongful convictions, *Beatrice Daily Sun*, August 4, 2011

[8th Circuit says Beatrice 6 lawsuits can go forward](#), *Beatrice Daily Sun*, October 15, 2012

[Thomas Winslow v. Richard Smith](#), et al., Case Nos. 11-2882, 11-2883, 11-2884 and No: 11-2903 (8th Cir. 10-15-2012)



Susan Finkelstein  
(Rikard Larma, Metro  
Philadelphia)

ly charged email exchange with her. He told her he only wanted to sell one of the tickets and [she responded](#). "So we would be going together? How cute." They agreed to meet that night at a local bar to discuss the tickets.

When she met the officer at the bar she allegedly told him she was married but had an open relationship with her husband. She was arrested based on the officer's claim she offered to have sex in exchange for one or both of the tickets he told her he had. She was charged with Prostitution and Criminal Attempt.

During Finkelstein's two day trial in March 2010 she denied offering sex for the tickets. She was acquitted of prostitution, but found guilty of attempted prostitution. She was sentenced to one year probation, 100 hours of community service, and to pay for the costs of her prosecution.

She appealed and on December 21, 2011 her conviction was overturned and she was acquitted by a panel of Pennsylvania Superior Court judges in, [Pennsylvania v Finkelstein](#), No. 1876 EDA 2010 (Superior Court, 12-20-2011). The Court's ruling states in part:

As we commence our discussion, we acknowledge the unusual cast of the events that underlie this case. ...

Because the proof required for Attempt was the same as that of the Prostitution offense of which she was acquitted, Finkelstein's conviction of Attempt cannot stand. In any event, our cases have made clear that the conduct in which Finkelstein engaged here does not fall within the ambit of Prostitution and, consequently, cannot be the subject of an Attempt conviction.

We have recognized accordingly that "the gravamen of the offense is not the sexual activity itself but the business of engaging in such activity for hire." *Commonwealth v. Danko*, 421 A.2d 1165, 1170 (Pa. Super. 1980). Thus, neither promiscuity and its moral implications, nor the sex act itself offer grounds for arrest and conviction.

As the foregoing commentary recognizes, the legislative objective in prohibiting prostitution is not to criminalize "private illicit sexual relations," but rather to curtail the deleterious effect of an open commercial sex trade on public

health and law enforcement, as well as to avoid the exploitation of women. *Id.* at 1169. None of the evidence in this case implicates these concerns and Finkelstein's conduct did not exceed the ambit of "private illicit sexual relations." Indeed, Susan Finkelstein appears as the embodiment of "a girl not generally engaged in commercial activity [who] nevertheless consents to have intercourse on a particular occasion in exchange for a promised reward." *Id.* at 1170. Under these circumstances, we conclude the Susan Finkelstein's conviction of Attempt exceeds the lawful scope of our statutory prohibition of Prostitution and cannot be sustained.

In other words, acting like a slut doesn't make a woman a prostitute, so even accepting the prosecution's case at face value Finkelstein didn't commit a crime.

During a press conference after Finkelstein's acquittal her lawyer William Brennan [told reporters](#), "I am certainly not referring specifically to Mrs. Finkelstein – she's a lovely lady – but I stand by the proposition that it is not illegal to be a slut. And the Superior Court more eloquently said the same – private, illicit sexual activity is not criminal."

Finkelstein [said about](#) the court's ruling: "It's a good feeling, although it is bitter-sweet. The past couple of years have been costly both financially, professionally and emotionally." She has already served her sentence.

The State has the option to appeal Finkelstein's acquittal to Pennsylvania's Supreme Court, but the appeal court's ruling was based on a detailed analysis of the applicable law so the State may forego an appeal, or if they do, the chances are likely slim that it will be successful.

#### Sources:

[Pennsylvania v Finkelstein](#), No. 1876 EDA 2010 (Superior Court, 12-20-2011)

[Susan Finkelstein beats sex-for-tickets rap](#), *Philadelphia Metro*, December 21, 2011

[Court overturns woman's sex-for-Phillies-tickets conviction](#), *The Intelligencer* (Philadelphia), December 21, 2011

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