



The Supreme Court of Canada confirms the constitutionality of certain *Criminal Code* offences related to sex work.

This appeal is about whether certain provisions of the *Criminal Code* relating to sex work violate the right to security of the person protected by section 7 of the *Canadian Charter of Rights and Freedoms*. The question is whether these provisions are too broad and prevent sex workers from taking measures to protect their own safety.

The Supreme Court previously ruled on the constitutionality of sexwork in *Canada (Attorney General) v. Bedford*, 2013 SCC 72. In that case, the Court declared several criminal offences unconstitutional because they prevented sex workers from taking safety measures to protect themselves from violent clients, such as selling sex from fixed indoor locations and hiring drivers and bodyguards.

The following year, in response to *Bedford*, Parliament enacted Bill C-36, the *Protection of Communities and Exploited Persons Act*. This legislation made purchasing sex a crime, as opposed to selling it, and created new offences that were added to the *Criminal Code*. These included making money from someone else's sex work (section 286.2 — the material benefit offence) and helping arrange sex work for money (section 286.3 — the procuring offence).

Mikhail Kloubakov and Hicham Moustaine, who worked as drivers for an escort business, were convicted of those new offences. However, the trial judge found that the offences deprived sex workers of the ability to take the safety measures contemplated in *Bedford*, and therefore violated their rights under section 7 of the *Charter*. She entered a stay of proceedings (meaning she stopped the case). The Alberta Court of Appeal overturned that decision, restored the convictions, and referred the case back to the trial court for sentencing. Messrs. Kloubakov and Moustaine then appealed to the Supreme Court.

The Supreme Court has dismissed the appeal.

The challenged offences do not violate the right to security of the person protected by section 7 of the *Charter*.

In a unanimous judgment, the Court held that in applying the modern principle of statutory interpretation, neither the material benefit offence nor the procuring offence prohibits the safety measures contemplated in *Bedford*. It explained that the material benefit offence is aimed at stopping people from profiting from others' sex work in exploitative ways, but allows sex workers to hire drivers, security staff, and others to help keep them safe. The procuring offence only applies where someone deliberately tries to induce another person to sell sexual services, not those who rent space to sex workers or offer them advice on staying safe. As a result, the offences do not engage sex workers' security of the person and do not infringe section 7 of the *Charter*. The convictions of the accused were affirmed.

Breakdown of the decision: *Unanimous*: The Court has dismissed the appeal (Chief Justice [Wagner](#) and Justices [Karakatsanis](#), [Côté](#), [Rowe](#), [Martin](#), [Kasirer](#), [Jamal](#), [O'Bonsawin](#) and [Moreau](#) heard the appeal).

More information: [Decision](#) | [Case information](#)

Lower court rulings: [Application](#) (Court of Queen's Bench of Alberta – in French only) | [Appeal](#) (Court of Appeal of Alberta)