

BREAKING NEWS: ZIMBABWE HIGH COURT AWARDS DAMAGES IN GROUND BREAKING JUDGMENT IN FAVOUR OF RICKY NATHANSON, A TRANSGENDER WOMAN FROM BULAWAYO, ZIMBABWE

The Bulawayo High Court in Zimbabwe delivered a scathing judgment against Zimbabwean police. The Honourable Justice Bere awarded Ricky Nathanson, a transgender woman and activist originally from Bulawayo, \$400,000 in damages. The High Court awarded Ms Nathanson damages for unlawful arrest, malicious prosecution and emotional distress.

The significant High Court decision came after Ms Nathanson sued the police for unlawful arrest, detention, malicious prosecution and emotional distress in 2014. In January of that year, she was arrested by six riot police officers on charges of “criminal nuisance” for wearing female clothes and using a female toilet. She was forced to undergo invasive and humiliating medical/physical examination and asked to remove her clothes in front of five male police officers in order to “verify her gender”. She was forced to spend two nights in police holding cells in the most appalling conditions. During the period of her arrest, the case made national headlines and the mainstream media exposed her life to public scrutiny. When the case came before the Magistrate, the Magistrate required the prosecutor to indicate how Ms Nathanson had violated criminal nuisance laws, which are ordinarily used against people committing misdemeanours, such as lighting firecrackers, in public places. The prosecutor could not provide evidence to link Ms Nathanson to the charge and the case was dismissed.

“This has been a long, emotional rollercoaster for me. I have waited almost 5 years for this moment. I am elated. This is an incredibly life-changing decision. It is a great moment for Zimbabwe. It affirms and recognizes the fundamental human rights, freedoms and dignity of all citizens”, says Ms Nathanson. “All persons regardless of sexual orientation and gender identity are equally entitled to have their rights and dignity respected and protected. Governments can no longer sit-back while vulnerable persons such as transgender persons face ongoing stigma, humiliation and discrimination with impunity. I hope that this case will send a strong message that we are all human and that our diversity should be celebrated. My wish is for society to be more tolerant where LGBT persons are not in constant fear of being targeted”.

“We are happy that justice, fairness and compassion has prevailed. Ricky is a strong woman. It has been a long journey for Ricky, she went through the most”, says Tashwill Esterhuizen, LGBT and Sex Workers Rights Programme Lawyer at the Southern Africa Litigation Centre (SALC). “Throughout Southern Africa transgender persons are often targeted by law enforcement officers by arbitrary and subjective application of outdated laws. The subjective application of these offences by police officials creates a culture of impunity and increases the vulnerability of transgender persons. We hope that this case sets an important precedent and sends a strong message to all persons including law enforcement officers and other state and non-state actors that impunity will not be tolerated in constitutional democracies.”

Ms Nathanson and SALC would like to extend our gratitude and appreciation to the Sexual Rights Centre (SRC) based in Bulawayo, Zimbabwe, for their support and assistance during the arrest and trial of Ms Nathanson. We would also like to send our gratitude to Mr Philip F Moses, a Clinical Psychologist at InnerHealth Consulting, Clinical Psychology Practice based in Harare and the Counselling Services Unit in Zimbabwe for their assistance and expert evidence during the damages trial.

Ricky Nathanson is represented and legally supported by Phulu & Ncube Attorneys and SALC.

ISSUED BY RICKY NATHANSON AND SALC

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