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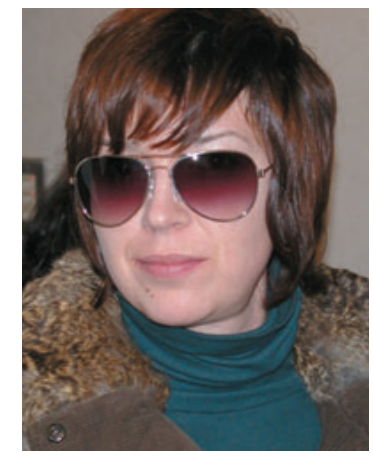
HUMAN RIGHTS

Lesbian wins Zesty's case

Tribunal dismisses comedian's free speech defence

Nathaniel Christopher



This decision will put "a chill on comedy," predicts Jim Millar, who notes Lorna Pardy (above) stayed until the end of the show and threw two glasses of water in his client's face. NATHANIEL CHRISTOPHER PHOTO

THE COMEDIAN AT THE CENTRE OF the Zesty's case "had means to deal with perceived disruption to the show far short of his attack on [Lorna Pardy] as a woman and as a lesbian," the BC Human Rights Tribunal ruled on April 20, awarding Pardy $22,000 plus interest in damages.

The tribunal roundly dismissed Guy Earle's freedom of expression defence.

"Nothing about Mr Earle's asserted purposes in verbally and physically attacking Ms Pardy on the basis of her sex and sexual orientation justified elevating his right to free expression over her right under the Code to be protected against his discriminatory conduct," tribunal member Murray Geiger-Adams ruled.

Pardy filed a complaint against Earle alleging he violated her rights at a comedy show he hosted at Zesty's (now Zawa) on Commercial Dr in May 2007.

The tribunal found that while onstage, Earle called Pardy a "fucking dyke" and a "fucking cunt," suggested she take her girlfriend home and "fuck her up the ass with a strap-on" and suggested someone "stick a dick in her mouth and shut her up." He later broke her sunglasses.

Pardy also alleged that Zesty's owner and manager Salam Ismail "did not intervene to prevent the tirade, or the harassment from continuing."

Several witnesses at last year's hearing said Earle's comments were prompted by heckling from Pardy's table and that Pardy twice threw water in his face when he approached her table.

Geiger-Adams found Pardy wasn't heckling. "It cannot fairly be suggested that the tone, content or context of Mr Earle's words and actions directed at Ms Pardy were consistent with the Code's purposes of promoting 'a climate of understanding and mutual respect where all are equal in dignity and rights,'" he ruled.

Earle's lawyer, Jim Millar, who also defended accused Aaron Webster killer Danny Rao in 2004 and got him acquitted, says his client is entitled to the freedom of artistic expression guaranteed by the Charter of Rights, which, he says, trumps Pardy's complaint.

Geiger-Adams ordered Earle to pay Pardy $15,000 plus interest and Zesty's owner Salam Ismail to pay her $7,500 plus interest for injury to her dignity, feelings and self-respect.

That is "an astounding amount of money considering that Guy has apologized many times, and profusely, and hasn't performed since. He never performed there again and has virtually stopped performing since the complaint," Millar says, predicting the decision will put "a chill on comedy."

Earle, who previously worked as a physicist, says the ordeal has left him unemployable because potential employers Google him and find out "I was a foul-mouthed homophobe."

He says he can't pay the fine. "I can't pay my own rent, and I'm trying to support a family over here."

The decision presents a real danger for British Columbian comics, he warns, "because they can easily get dinged for saying the wrong thing to the wrong protected group."

Earle says he intends to appeal the decision.

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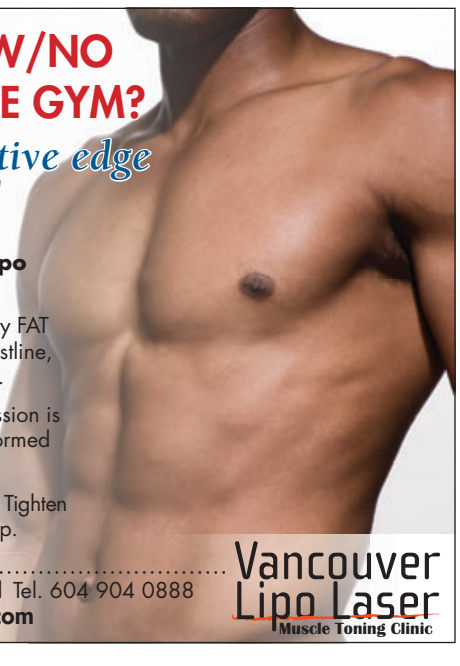

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