

**“Prostitution is like rape...”**

## Cops Rape Prostitutes

### **Judge Says Law Doesn't Protect Prostitutes, Drops Rape Count**

April 24, 1986 | MARK ARAX | Times Staff Writer

Several jurors have criticized a Pasadena judge's decision to dismiss charges against a man accused of raping and sodomizing a prostitute, saying they believed the prostitute's testimony and were offended by the judge's characterization of the case as a **"breach of contract between a whore and trick."**

**Pasadena Superior Court Judge Gilbert C. Alston granted his own motion last week for a finding of not guilty in the case against Daniel Zabuski, 25, of Alhambra, a former South Gate police jailer. In granting the motion, court transcripts show, Alston made a general statement that a working prostitute could not be the victim of a rape, even if she was forced to engage in sexual intercourse.**

"I was just thunderstruck at his whole statement . . . the whole idea of what he was saying," juror Sunnie Linscott said. ***"I interpreted it as being, 'We don't give rights to prostitutes.'"***

Alston's decision came after the prosecution had completed its case and over the strong objections of Deputy Dist. Atty. JoAnne Barton, who said **Alston displayed bias against the alleged victim throughout the proceedings, constantly referring in private deliberations to the 30-year-old woman as a "whore"** and allowed Zabuski's attorney to ask questions regarding the prostitute's personal life.

"It didn't matter to us that she was a prostitute," said another juror, Mary Ann Clayton. "The consensus among us was that a prostitute could be raped and that this prostitute was a credible witness. We were all frustrated that the judge didn't allow us to decide the case."

In an interview, Alston repeated his belief that the law did not afford prostitutes protection against rape or sodomy if they had agreed to and were paid for a "lesser" sex act. He said the man could force the prostitute to engage in sexual intercourse and sodomy without being criminally liable, as long as he didn't physically abuse her.

**"A woman who goes out on the street and makes a whore out of herself opens herself up to anybody," Alston said. "She steps outside the protection of the law. That's a basic and fundamental legal concept. . . ."**

"If you think the courts ought to get into reforming the contracts of whores, then you ought to advocate them getting into the reforming of contracts of dope dealers and gamblers," he said. **"Who in the hell is going to believe a whore on the witness stand, anyway?"**

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## Judge Says Law Doesn't Protect Prostitutes, Drops Rape Count continued....

April 24, 1986

Law Expert:

John Kaplan, a criminal law expert and professor at Stanford University Law School, agreed with the prosecutor, saying:

"The Legislature has decided very clearly that rape is sexual intercourse without the consent of a woman to sexual intercourse. The judge's decision strikes me as insupportable. It's wrong."

Sandy Buttitta, head of the sexual crimes unit of the district attorney's office, said she routinely prosecutes cases of rape in which the victims are prostitutes.

"They are difficult cases," she said, **"because people in the community hold certain prejudices. But a prostitute can be raped.** Just because you agree to one form of sex doesn't necessarily mean you agree to everything."

According to court transcripts, Zabuski picked up the alleged victim, Rhonda DaCosta, on the evening of July 10, 1985. Once in the car, DaCosta testified, she agreed to perform oral copulation for \$30.

When Zabuski was not satisfied, she testified, he became "extremely violent" and forced her to engage in sexual intercourse and sodomy. After Zabuski was finished, DaCosta testified, he stole \$150.

**Zabuski, who spent two years in state prison after being convicted in 1980 of bribery for sexual favors during his job as a South Gate cadet jailer, was charged with one count each of rape, sodomy and grand theft.**

Denies Charges

Zabuski denied that he forced himself on DaCosta. He testified that DaCosta agreed to sexual intercourse after he was unsatisfied. Zabuski, who works as a purchasing agent for a manufacturing firm, also denied taking money.

After Alston granted his own motion, the jury ruled that Zabuski was not guilty of the theft, saying the evidence was weak.

**Alston, a former police officer and prosecutor** who has been on the bench since 1980, then told jurors:

**"I have never seen a case like this before. And I would like to apologize for having you spend your time doing what essentially was trying to reform or decide a breach of contract between a whore and trick."**

**One can only imagine how Judge Alston treated prostitutes when he was a cop...**