

Law Helps Those Who Escape Sex Trafficking Erase Their Criminal Record

By EDNA ISHAYIK MARCH 23, 2015

http://www.nytimes.com/2015/03/24/nyregion/law-helps-those-who-escape-sex-trafficking-shed-its-stigma-too.html?_r=0

She has applied for jobs cleaning airplane cabins between flights, tidying up offices overnight and ringing up orders at concession stands. But the 57-year-old woman from Queens has been rejected from these and dozens of other low-wage jobs because she has a long criminal record.

She has been convicted 133 times and does not deny any of her crimes.

But her record should not condemn her to a life of struggle, she says, because all of her crimes were the result of 17 years of being forced to work as a prostitute by an abusive ex-boyfriend.

“It’s not like I did it to myself,” said the woman, who asked that her name not be published because she feared for her safety. “He had me at an advantage. There would be repercussions if I didn’t do what he asked me to do. I could not talk about the beating I used to get. I always had a black eye.” She added: “Wherever I went, he’d always find me and bring me back. It was a lot of violence.”

She escaped her captor in 1990, but her criminal record has followed her, preventing her from finding steady work. Now, however, she is close to having all her convictions erased thanks to a New York State law designed to treat those forced to become prostitutes as victims rather than as criminals.

“Before, my life was like hell,” she said, anticipating a clean record. “Now, I feel good about myself. It’s like I died, and when I came back, I came back clean. Nothing to hold me back.”

The law, passed in 2010, allows convictions related to sexual trafficking to be removed from a person’s record. New York had the first such law in the country and today 18 other states have adopted similar statutes.

“If certain prostitution arrests arose directly from trafficking, the court must vacate the charges,” said Melissa Broudo, a lawyer with the Sex Workers Project at the Urban Justice Center. “The case is over. It’s a recognition that they should not have been convicted in the first place.”

More than 60 women with prostitution convictions have had their records cleared in New York.

The law is particularly important, Ms. Broudo said, because sex-trafficking victims who manage to escape their plight often find themselves in financial crisis. “You have to start from scratch,” she said. “They’re not going to have money. They will have been forcibly cut off from family members, anyone that could have helped them.”

But the criminal records that can follow many former prostitutes make it nearly impossible to overcome financial hardship. “I can’t overstate the collateral consequences of criminal convictions, even for petty

offenses,” said Kate Mogulescu, a lawyer for the Legal Aid Society who has helped clear the records of 49 prostitutes. “It’s crippling.

People come to us with one prostitution conviction from 10 years ago and they cannot get a job as a school bus matron.”

Ms. Broudo, with pro bono help from the law firm Weil, Gotshal & Manges, has worked with the Queens woman to remove 129 convictions — mostly for prostitution or loitering — from her record, the most of any prostitute under the state law.

Now she is trying to have her four remaining convictions, which are more serious, removed. All of them stem from arrests involving thefts, including for stealing from a department store in Nassau County, crimes she says she was forced to commit by her trafficker when she did not earn enough money from prostitution.

She spent nine months in jail for the department store theft. Later, she moved to Virginia, where one of her sisters lived. After surviving for years on odd jobs and the support of her fiancé, the woman hopes to apply for a job as a school crossing guard or security guard.

“I got a second chance at life,” she said. “Doors are opening for me. I always wanted to do security but I never could because I had these convictions. This is the moment I was waiting for.”

But first, she must await a response from a Nassau County prosecutor about whether her convictions will be cleared. To have a conviction vacated under the law, a motion must be filed in court and with a prosecutor in the county where the offense was committed. If the prosecutor consents, then the conviction is removed. If not, a judge can decide after a hearing in which both sides make arguments.

Most prosecutors have approved the removal of convictions. Cyrus R. Vance Jr., the Manhattan district attorney, whose office has cleared 114 of the Queens woman’s convictions, said his prosecutors took a sympathetic approach to former prostitutes.

“Though law enforcement’s treatment of prostitution has evolved significantly over the past decade, many victims’ records contain convictions from an era when they were not viewed as victims,” Mr. Vance said in a statement. “Overturning those convictions is not only a positive way to help them move forward, but the just thing to do.”

Though efforts to remove convictions have been largely successful, providing legal help to sex-trafficking victims can be challenging. “There are very few providers doing these motions,” Ms. Broudo said. “The capacity is limited and there are thousands of survivors. There’s a real dearth of resources.”

The financial, emotional and physical consequences of being forced into prostitution can prevent victims from even seeking out legal services, she said. “For so many people that have experienced severe trauma and are living beneath the poverty level, there are endless barriers. Transportation, child care, a health issue stemming from the trauma, and emotionally, for a long time the criminal justice system is something they were trying to get away from.”

G. M., a 56-year-old Bronx woman, who abbreviates her name to protect her identity, was the first person to have her convictions vacated under New York’s law. In 1996, her husband began physically abusing her and forced her into prostitution, she said. She experienced “continued violence” that at times left her “scarred and disfigured,” according to court documents, and she accrued nine convictions over 11 years.

“When you have these convictions, you feel like the world is falling on you and that your life has ended,” she said, speaking in Spanish through an interpreter. When she did find work, she said, she would be fired when employers ran background checks. “They would see me as a delinquent,” she said. “It made me depressed because that wasn’t who I am. My record doesn’t show what my heart is.”

Since her convictions were cleared, she has been working as a home health aide. “My life has changed,” she said. “I’m part of society. I think about the past. It’s something I cannot forget. When I look back I just see darkness and these huge holes I couldn’t get out of. But I did get out.”