

Crown challenged on bylaw stay

A stay of proceedings on a violation of the city's anti-hooker bylaw has been challenged by a lawyer representing the accused.

The stay was entered by city prosecutor Rolan Bouwman after Tony Serka, representing 33-year-old freelance writer Donald Robert Woodbury, asked the court for a trial date.

Woodbury had been summonsed for violation of the city's Street Activities Bylaw, which is designed to prevent the sale or purchase of sexual services on city streets.

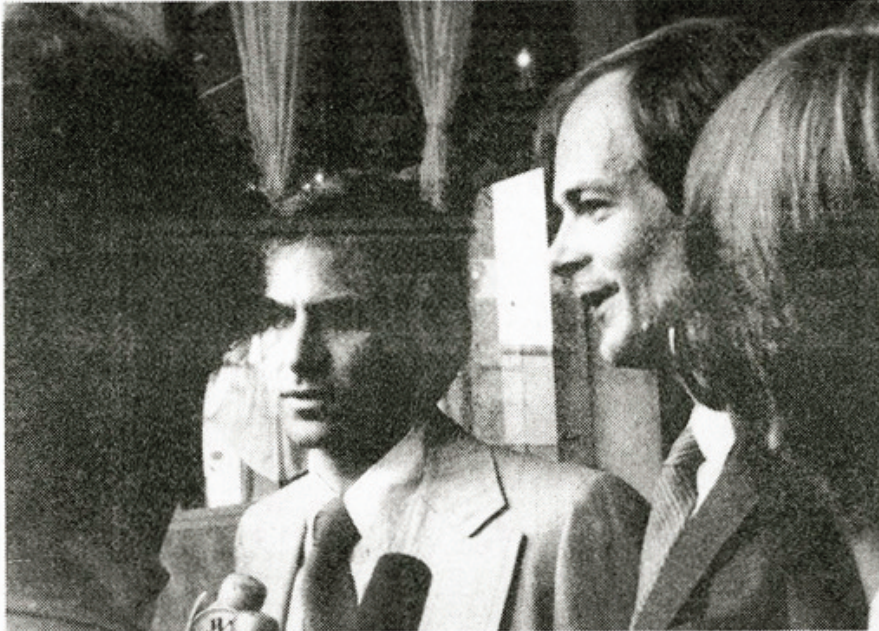
On May 14 Serka appeared before Judge Wayne Smith and announced he intended to challenge the legality of the bylaw. Serka successfully challenged the federal Criminal Code in 1978 in a case before the Supreme Court of Canada. That court's decision redefined prostitution laws and acquitted accused Debra Hutt of prostitution.

At a hearing before Judge David Moffet May 18, Serka challenged the right of the city prosecutor to enter a stay of proceedings in the charge against Woodbury.

The stay was entered after Serka and his client had left the court on the understanding a date for trial would be set.

At Tuesday's hearing, Judge Moffet said prosecutor Bouwman's actions seemed to go beyond his authority.

"What I am concerned with is that a citizen of this country is being denied a trial, a fundamental right," said the judge.



Freelance Vancouver writer Robert Woodbury and his lawyer Tony Serka meet the press outside the bylaw court after Judge David Moffett ruled city prosecutor Roland Bouwman must prove he has the power to enter a stay of proceedings in a charge of violating the city's anti-hooker bylaw. (Photo by Ed Cosgrove)

He repeatedly asked the prosecutor to state the reasons for the stay of proceedings.

"Are you saying there is no evidence to support this charge?" he asked at one point.

No, replied Bouwman, "I'm not saying that."

But he refused to state his reasons.

"What you are saying is that this man is being denied the right to a free trial in an open

court, are you not?" the judge persisted.

No, replied the prosecutor. Who entered the stay? the judge asked.

Bouwman replied that he did, and on his own authority. This touched off a response from Judge Moffet that it was usually "a matter of courtesy to the court" to give reasons for a stay of proceedings.

"With the greatest respect...I don't have to give rea-

sons," Bouwman replied.

Bouwman "frankly and properly" admitted he did not know whether he had the authority to impose a stay, the judge told the accused and his lawyer.

The hearing was adjourned for one week when the judge will hear arguments as to whether the prosecutor has the right to unilaterally enter a stay of proceedings.

—Ed Cosgrove