Harvey Weinstein Conviction Thrown Out

0:01

from The New York Times I'm Katherine

0:03

benold this is the

0:06

[Music]

0:13

daily when Hollywood producer Harvey

0:15

Weinstein was convicted for sex crimes 4

0:17

years ago it was celebrated as a

0:19

watershed moment for the me too

0:22

movement yesterday New York's highest

0:25

appeals court overturned that

0:27

conviction my colleague jod caner on

0:30

what this ruling means for Weinstein and

0:32

for the me too

0:35

movement it's Friday April

0:38

[Music]

0:43

26 Jody you and your reporting partner

0:46

Megan Tui were the ones who broke the

0:48

Harvey Weinstein Scandal which really

0:50

defined the me too movement and was at

0:53

the center of this court case explain

0:55

what just happened so on Thursday

0:58

morning New York's highest court threw

1:00

out Harvey Weinstein's conviction for

1:03

sex crimes and ordered a new trial in

1:06

2020 he had been convicted of sexually

1:10

abusing two women he was sentenced to 23

1:14

years in jail the prosecution really

1:17

pushed the boundaries and the conviction

1:20

was always a little shaky a little

1:24

controversial but it was a landmark

1:27

sentence in part because Harvey wein is

1:30

a foundational figure in the me too

1:33

movement and now that all goes back to

1:36

zero he's not a free man he was also

1:38

convicted in Los Angeles but the New

1:41

York conviction has been wiped away and

1:45

prosecutors have the really difficult

1:47

decision of whether to leave things be

1:50

or start again from scratch and I know

1:53

we spent a lot of time covering this

1:55

case on this show with you in fact but

1:58

just remind us why the prosecution's

2:00

case was seen to be fragile even then

2:03

the controversy of this case was always

2:06

about which women would be allowed to

2:08

take the witness stand so think of it

2:11

this way if you took all of the women

2:13

who have horrifying stories about Harvey

2:16

Weinstein they could fill a whole

2:18

courtroom of their own nearly a hundred

2:21

women have come forward with stories

2:23

about his

2:25

predation however the number of those

2:28

women who were candidates to serve at

2:31

the center of a New York criminal trial

2:33

was very small a lot of these stories

2:36

are about sexual harassment which is a

2:39

civil offense but it cannot send you to

2:41

prison it's not a crime some of these

2:44

stories took place outside of New York

2:46

City others took place a long time ago

2:49

which meant that they were outside of

2:50

the statute of limitations or they were

2:53

afraid to come forward so at the end of

2:56

the day the case that prosecutors

2:58

brought was only about two women two out

3:02

of a 100 yes and both of those women

3:05

stories were pretty complicated they had

3:08

disturbing stories of being victimized

3:10

by Weinstein but what they also openly

3:13

admitted is that they had had consensual

3:16

sex with Weinstein as well and the

3:19

conventional prosecutorial wisdom is

3:22

that it's too messy for a jury that

3:25

they'll see it as too gray too blurry

3:28

and will hesitate to convict so

3:32

prosecutors working under enormous

3:35

public pressure and

3:36

attention figured out what they thought

3:39

was a way to bolster their case which is

3:43

that they brought in more

3:45

witnesses remember that part of the

3:47

power of the Harvey Weinstein story is

3:49

about patterns it's about hearing one

3:52

woman tell virtually the same story as

3:55

the next woman it becomes this kind of

3:58

echoing pattern that is so much more

4:01

powerful than any one isolated story so

4:05

prosecutors tried to recreate that in

4:07

the courtroom they did that to searing

4:10

effect they brought in these additional

4:12

Witnesses who had really powerful

4:14

stories and that was instrumental to

4:17

Weinstein being convicted but these were

4:21

Witnesses whose allegations were not

4:24

actually on trial exactly prosecutors

4:27

were taking a risk by including them

4:31

because there's a Bedrock principle of

4:33

criminal law that when a person is on

4:36

trial the evidence should pertain

4:39

directly to the charges that are being

4:43

examined anything extraneous is not

4:46

allowed so prosecutors took this risk

4:49

and it seemed to pay off in a big way

4:52

when Weinstein was convicted in February

4:54

of 2020 it was by a whole chorus of

4:58

women's voices

5:00

what seemed to be happening is that the

5:03

legal reality had kind of caught up with

5:06

the logic of the me movement in which

5:10

these patterns these groups of women had

5:13

become so important and then to heighten

5:17

things the same thing basically happened

5:20

in Los Angeles Weinstein was tried in a

5:23

second separate trial and he was also

5:26

convicted also with that kind of

5:29

supporting evidence and sentenced to

5:31

another 16 years in prison and on the

5:35

same strategy Based On A Chorus of women

5:38

who all joined forces basically joining

5:41

their allegations against him the rules

5:43

are different in California but yes it

5:45

was a similar strategy so Weinstein Goes

5:48

to Jail the world's attention moves on

5:51

the story appears to end but in the

5:54

background Weinstein's lawyers were

5:56

building a strategy to challenge the

6:00

fairness of these convictions and they

6:02

were basically saying this evidence

6:05

never should have been admitted in the

6:08

first place and Megan and I could tell

6:10

that Harvey Weinstein's lawyers were

6:12

getting some traction his first appeal

6:16

failed but by watching the proceedings

6:19

we could tell that the judges were

6:20

actually taking the questions pretty

6:23

seriously and then Weinstein's lawyers

6:25

took their last shot they made their

6:28

last case at the highest level of the

6:30

New York courts and they won and that

6:34

panel of Judges overturned the

6:36

conviction and what exactly do these

6:39

judges say to explain why they threw up

6:42

this conviction given that another Court

6:44

had upheld it well when you read the

6:47

opinion that came out on Thursday

6:48

morning you can feel the judges

6:50

disagreements kind of rising from the

6:52

pages pictured like sort of a half moon

6:55

of seven judges four of them female

6:59

listening to the lawyer arguments

7:01

wrestling with whether perhaps the most

7:05

important conviction of the met too era

7:07

was actually fair and in their

7:09

discussion you can feel them torn

7:11

between on the one hand the need for

7:15

accountability and then on the other

7:17

hand the need for fairness so there was

7:20

a sort of sense that this is an

7:22

important moment and this case

7:24

represents something perhaps bigger than

7:27

itself absolutely there was a lot of

7:30

concern first of all for what was going

7:32

to happen to Weinstein himself all of

7:34

that that symbolized but also what sort

7:37

of message they were sending going

7:38

forward so in the actual opinion the

7:42

judges divide into let's call them two

7:44

teams the majority are basically

7:47

behaving like

7:48

traditionalists they're saying things

7:50

like here's one line under our system of

7:53

justice the accused has a right to be

7:56

held to account only for the crime

8:00

charged they're saying there was just

8:02

too much other stuff in this trial that

8:05

wasn't directly relevant didn't directly

8:08

serve as evidence for the two Central

8:12

acts that were being

8:14

prosecuted so those majority opinion

8:17

judges simply say that this was a kind

8:19

of overreach by the prosecutor that this

8:22

isn't how the criminal justice system

8:24

works exactly and then if we called the

8:28

first team of Judges the tradition ists

8:30

let's call the denters the realists and

8:33

they're talking about the way sexual

8:36

crimes play out in the real world and

8:39

what's necessary to effectively

8:41

prosecute them and they are incredibly

8:45

critical of the majority they use words

8:48

like I'm looking at the pages now

8:52

oblivious

8:53

naive phrases like an unfortunate step

8:57

backwards endanger during Decades of

9:01

progress perpetuates outdated Notions of

9:05

sexual violence allows predators to

9:08

escape accountability what they're

9:11

saying is that these Rules of Evidence

9:14

have to be somewhat flexible in the real

9:17

world because otherwise they're not

9:19

going to capture what really happened

9:21

you can really sense the passion in this

9:24

argument you know you really get the

9:25

sense that this court is bitterly

9:28

divided over the question and what I'm

9:30

hearing The Descent basically saying is

9:32

that if we overturn this conviction

9:35

we'll be pushing ourselves backwards

9:37

like this is regress and that the

9:39

evidence served a really important

9:42

function in the trial that something is

9:44

lost without

9:45

[Music]

9:47

it but in the end that point of view

9:51

lost out in this case the traditionalist

9:55

judges prevailed by a single vote

10:03

[Music]

10:08

we'll be right

10:10

back so Jody now that this conviction

10:12

has been overturned what's next for

10:15

Harvey

10:16

Weinstein well back in New York

10:19

prosecutors have a really tough question

10:21

to face which is do they retry this case

10:25

on the one hand the Weinstein conviction

10:28

meant so much to so many people that to

10:31

just drop it seems very unsatisfying but

10:35

on the other hand their attempt failed

10:38

those women are going to be very

10:39

difficult to get back on the stand and

10:41

are they really going to start from zero

10:43

and do this all over again especially

10:45

given that this conviction that's just

10:47

been overturned exactly but meanwhile

10:50

the other thing to keep your eye on is

10:52

the appeals in the California case

10:55

Weinstein's attorney told the times that

10:58

next month they are going to file an

11:00

appeal in California that will make many

11:04

of the same arguments that they did in

11:08

New York now the California rules are a

11:10

little clearer on what evidence is

11:13

admissible so we don't know exactly

11:15

what's going to happen but I should add

11:18

that this attorney is the same one who

11:20

succeeded in getting Bill Cosby's

11:23

conviction thrown out so is there a

11:27

world in which all the convictions

11:28

against Weinstein will be overturned

11:31

sure Katherine it's very plausible wow

11:34

now given that what does this ruling

11:37

mean for other legal cases for other me

11:39

too cases that are currently moving

11:41

through the legal system well it's

11:43

definitely a symbolic blow for the me

11:45

too movement and also for accountability

11:49

which is part of what powers the

11:50

movement if you think of progress like a

11:53

wheel spinning forward part of what

11:56

powers the wheel is accountability

11:59

because women only want to come forward

12:01

if they think something may actually

12:05

happen when they see consequences for

12:08

some men it encourages others to step

12:10

forward but that doesn't really feel

12:12

like a symbolic blow that actually feels

12:14

like a real setback because if the

12:17

promise of accountability was what was

12:20

driving the me too movement and sort of

12:22

persuading all these women to come

12:24

forward then this ruling seems to be

12:26

undercutting that well it's also a sign

12:30

of Health in the system because what

12:32

we're seeing in prosecutions across the

12:35

country is more testing of this sort

12:39

prosecutors are starting to bring cases

12:41

that they never would have brought years

12:43

before maybe they're Messier maybe the

12:46

evidence isn't perfect maybe they're

12:48

less traditional and so to prove those

12:50

cases you have to try to get new kinds

12:53

of evidence in court and some of those

12:56

attempts are going to succeed as they

12:58

did in the win trial the first time

13:00

around and some of those efforts are

13:02

going to fail as we see with the

13:04

overturning of the conviction but that

13:07

kind of

13:09

experimentation potential

13:12

expansion is potentially a sign of the

13:14

health of the system and the idea that

13:16

the legal system may be to some degree

13:20

catching up with me too so you're saying

13:22

another way to look at this case is that

13:25

it sort of represents a legal system

13:27

trying to navigate this new reality and

13:30

sort of trying to figure out in real

13:32

time how to deal with these kinds of

13:35

cases it's almost like a trial and error

13:38

you know one step forward two steps back

13:40

Dynamic but also I want to add that you

13:43

know you can't score me too like a

13:45

basketball game every time there is some

13:47

big outcome in a me to case R Kelly gets

13:51

convicted Governor Cuomo

13:54

resigns Bill Cosby gets convicted Bill

13:58

Cosby walks free there can be this

14:01

temptation to draw huge conclusions from

14:04

that you know it's a victory for me too

14:07

it's a loss for me too but these cases

14:10

are not necessarily reliable indicators

14:13

of what's really happening what's really

14:15

changing because what we're also seeing

14:18

is real structural change on the legal

14:21

level laws protecting women have changed

14:24

in I think 23 States since

14:27

2017 the new York statute of limitations

14:30

was extended for rape directly in

14:33

response to the Weinstein allegations

14:35

it's now much longer and recently New

14:38

York State opened a kind of new window

14:40

for survivors to sue for long ago

14:43

offenses so even as these individual

14:48

cases rise and fall one by one the

14:51

system is slowly changing H so on the

14:55

one hand the Harvey Weinstein case

14:58

actually changed legislation and created

15:01

this whole new set of laws around these

15:03

kinds of cases but on the other hand the

15:07

criminal case against him was ultimately

15:09

shut down so I guess my question is how

15:11

should we think about the Weinstein case

15:15

and does any of this change the way we

15:17

should see his case as the kind of

15:20

defining case of the me too movement and

15:23

Weinstein himself as the kind of

15:24

defining Central

15:26

character I think the question that

15:29

Megan and I have had for a long time is

15:32

whether any criminal conviction in any

15:34

city is really the best measure of what

15:38

Harvey Weinstein did or didn't do

15:41

because at its Essence the Harvey

15:43

Weinstein story is about work what was

15:46

really special about him as a producer

15:49

his particular genius was for making

15:51

careers he made Gwyneth paltro he made

15:55

Matt demon Quinton Tarantino a lot of

15:58

producers who are very successful now

16:01

that was kind of his superpower but what

16:03

we now know is that he also used that

16:06

superpower to manipulate and hurt women

16:10

in story after story about Weinstein the

16:13

same motifs come up a lot of these women

16:15

were really young it was their first day

16:18

their first week their first month on

16:20

the job they wanted opportunity they

16:23

wanted a piece of the action so though

16:27

the anals of the har Rie Einstein story

16:30

do include these instances of very

16:34

troubling allegedly criminal Behavior

16:36

like rape the essence of the story I

16:38

think is about what happens to women in

16:41

the workplace the opportunities they

16:43

have the way their Ambitions can be used

16:47

against them and that's not something

16:50

that any Criminal Court can capture you

16:54

know when you talk to Weinstein victims

16:57

of course you hear the famous thing

16:58

things they've said about the kind of

17:00

physical offenses the bathroom Stories

17:03

the hotel room stories but you also hear

17:06

them talk about their own careers they

17:09

say things like I lost opportunities

17:13

because of this or I could never work in

17:16

Hollywood again and they say my whole

17:19

life is different because of that I can

17:21

never get those years back and it's just

17:25

not something that any Criminal Court is

17:28

quite built to

17:29

capture so in a way you're saying that

17:32

the story is much bigger than those

17:35

criminal allegations against Weinstein

17:37

in a way they're like kind of the tip of

17:38

the iceberg but underneath there is this

17:41

whole culture of men abusing their power

17:46

against women in particular H in the

17:50

workplace exactly and thanks in large

17:53

part to the me too movement this is

17:55

behavior that used to be widely

17:57

tolerated and it's no longer socially

18:01

acceptable and Jody I wonder have you

18:04

spoken to some of the women that you

18:07

spent years talking to and hearing from

18:09

who came forward to share their stories

18:11

about Weinstein and others have you

18:14

spoken to them since this latest

18:17

news yes and I have to tell you the

18:20

Weinstein survivors are pretty Resolute

18:23

they don't really see this as changing

18:25

the story

18:26

[Music]

18:29

when we first got the news from the

18:31

court the first person I called was

18:33

Ashley Jud the first actress who came

18:36

forward about Harvey

18:37

Weinstein and what she said to me was

18:41

you know that she was

18:43

disappointed that this was

18:45

upsetting but she was also unwavering

18:48

she said to me we know what really

18:51

happened

18:52

mhm and I guess in some ways that's the

18:55

Legacy the truth was aired in accord

18:59

law we never knew what the legal system

19:03

would do we never knew whether he would

19:05

be convicted or not but the story stands

19:09

it's the women who are the narrators of

19:12

this story now and that won't be

19:19

overturned Jody thank you very much

19:23

thank you

19:29

we'll be right

19:33

[Music]

19:43

back here's what else you need to know

19:45

today on Thursday the Supreme Court

19:48

heard arguments over whether former

19:50

president Donald Trump should have legal

19:52

immunity for allegedly interfering with

19:54

the 2020 presidential election after he

19:57

lost the race to Joe Biden

19:59

Trump's lawyers have argued that his

20:01

actions because he was still president

20:03

at the time should be shielded from

20:05

prosecution their arguments were

20:07

unanimously rejected in February by a

20:09

lower court but on Thursday the Supreme

20:13

Court's conservative majority seemed

20:15

more receptive to Trump's claims if the

20:18

court rules in the former president's

20:19

favor it could potentially delay any

20:21

trial in the matter until after the

20:24

[Music]

20:26

election and one other thing you should

20:28

know before you go today this weekend

20:31

we're going to start sharing with you a

20:33

brand new show from some of our

20:34

colleagues it's hosted by David maresi

20:37

and Lulu Garcia Navaro and the idea of

20:40

the show simple and classic every week

20:43

one of them will interview someone

20:45

fascinating actors politicians athletes

20:48

writers they're calling their podcast

20:50

just the interview this weekend their

20:54

first couple episodes are perfect

20:56

examples Lulu speaks with your ear lapit

20:59

the leader of the political opposition

21:00

in Israel David speaks with actress an

21:04

Hathaway we'll be sending you those

21:05

shows right here on Saturday and Sunday

21:08

I hope you'll give them a

21:12

listen today's episode was produced by

21:15

Nina Feldman Ricky novetsky and Carlos

21:18

prero it was edited by MJ Davis Lynn and

21:21

Lis oalen contains original music by Dan

21:25

Powell and Alicia beu and was engineered

21:27

by Chris

21:29

our theme music is by Jim brunberg and

21:32

ban lansor of

21:34

[Music]

21:38

wonderly that's it for the daily I'm

21:41

Katherine benold see you Monday

21:47

[Music]