

ABERDEEN DAILY WORLD

Appeals court rules evidence was obtained in illegal search, affirms lower court judge

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The state Court of Appeals recently upheld a Grays Harbor Superior Court judge's decision to suppress drug evidence against a District Court judge's 25-year-old son as result of an illegal, warrantless search.

The Appeals court announced in an opinion Tuesday that prosecutors failed to provide evidence describing how an Aberdeen officer seized 200 oxycodone pills from the man's hospital room in late 2007.

"We agree with the trial court that the State failed to overcome the presumption that the officers' warrantless search of the bag was unreasonable," the Appeals court opinion stated.

Thomas S. Copland, son of county District Court Judge Tom Copland, was charged with possession of the prescription painkiller in 2007. Superior Court Judge David Edwards rejected the drug evidence in 2008, criticizing prosecutors for not establishing who found the pills or how the officer came to possess them. The case against Copland was later dismissed.

"You are asking me to make assumptions about the rest of your theory to justify the warrantless search, when all you had to do was to call a witness or two in here to testify about it," Edwards told prosecutors, according to court transcripts. "I don't know why those witnesses weren't here. ... I don't know why that didn't happen."

Deputy prosecutor Michael Rothman first filed charges against Copland in June of 2008. Court records stated the younger Copland, 23 at the time, suffered a head injury while skateboarding in October of 2007. He was taken to Grays Harbor Community Hospital for treatment.

An Aberdeen firefighter showed the Aberdeen officer a black plastic bag containing the oxycodone pills, court records stated. Investigators said the pills fell out of Copland's pants pocket when he was being treated, but prosecutors did not call witnesses to testify on the subject during an evidence hearing in Superior Court.

"I am not going to assume that everything happened the way you believe it happened," Edwards told prosecutors at the hearing. "I am suppressing the search. I just don't think I have any choice in the matter."

"If you want to prosecute people for felonies, you need to treat it more seriously than this," the judge added.

The Court of Appeals stated prosecutors must present evidence demonstrating how the drugs were seized, outlining whether the discovery was done by police or other state officials. They must also describe who opened the bag and why. Without evidence, the court must presume the search was not valid.

"The lack of evidence in the record about how the bag came to be at the hospital, what evidence showed Copland possessed it, where it was found, who was in the area where it was found, who found it, and who opened it, if it was not already open, leaves the State's case resting solely on speculation," the opinion stated. "While the State's theory is one possibility, there is no basis in the record to draw only the inference or conclusion that the bag was opened without state action, especially when the police were the first to identify its contents."

County Prosecutor Stew Menefee said he had not yet reviewed the Appeals decision. He confirmed the case had been dismissed after the pills were suppressed from evidence. His office had not discussed whether to attempt to appeal the decision to a higher court.