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# Judge rules local cops' queries of immigrants unconstitutional

A Superior Court judge on Tuesday ruled it's unconstitutional for local law enforcement to prolong the detention of individuals they've stopped to question them about their immigration status.

By Lornet Turnbull

Seattle Times staff reporter

In a decision immigration attorneys and advocates are hailing as a civil-liberties victory, a Pierce County Superior Court judge ruled Tuesday that local law-enforcement officials violate the state constitution when they prolong detention of individuals to question them about their immigration status.

Judge Kathryn Nelson issued the ruling in the 2010 case of four Latino immigrants pulled over by two Kitsap County sheriff's deputies for a broken headlight and suspicion of illegal shellfish harvesting.

Once the four showed a commercial license for their haul and proper identification, the deputies continued to question them over the next hour or so about their immigration status and their country of origin — in violation of their state constitutional rights, the judge said.

Eventually the deputies contacted U.S. Border Patrol officers, who took the four workers — only three of whom were plaintiffs in the lawsuit — to the Northwest Detention Center in Tacoma.

Local law-enforcement officials, Nelson wrote, "do not have the authority to enforce federal immigration law nor prolong a detention to question individuals about their immigration status, citizenship status or country of origin." The judge said that's true even if the officers have probable cause to detain the individuals for violating laws the officers are authorized to enforce but for which they do not make an arrest.

A Kitsap County sheriff's spokesman said he had not seen a copy of the order and could not immediately comment. The city of Seattle and King County have ordinances that prohibit law enforcement and other agencies from asking a person's immigration status.

And while there's nothing that prevents other local law enforcement from asking these questions, officers cannot detain the person to do so.

At the same time, if the person was already arrested on suspicion of DUI, for example, nothing prevents officers from asking about their immigration status.

In other words, "A cop can't pull someone over for speeding and then go on a fishing expedition to determine whether they filed their taxes last year," said Matt Adams, staff attorney for the Northwest Immigrant Rights Project (NWIRP) which brought the lawsuit along with the ACLU of Washington and the law firm of Stoel Rives.

Adams said such stops that morph into immigration interrogations are not uncommon in certain parts of the state. In fact, they've become common enough, the organizations sued Kitsap County to try to bring clarity on this issue and plan to ensure that law-enforcement agencies are aware of the Tuesday's decision.

"There's a scattering of counties where local law enforcement spend time and resources butting into an area of the law they are not authorized," he said.

"There's nothing that prevents them from sharing information with the feds, but they are not authorized to stop and hold someone while either they investigate them or call up their buddies from the federal government to do their own investigation."

The incident at the center of this case dates to February 2010, when the deputies saw three men and a woman harvesting oysters on the Kitsap Peninsula.

In an incident report, they said they observed the four speaking fluent Spanish and later described them as "appearing to be Hispanic."

As the four left the beach, the deputies followed their truck and pulled them over to investigate a defective headlight they'd spotted earlier, and to check their shellfish license.

After the four provided the paperwork, the deputies began questioning them about the country they were from and their immigration and citizenship status.

One man said none of them were U.S. citizens. The other three said they were in the process of obtaining green cards.

The deputies called the Border Patrol, which took the four into custody.

Adams said NWIRP got the three released from detention and the immigration proceedings against them terminated.

"Then," he said, "we decided to see if we could address the bigger problem here."

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