

Washington Supreme Court rules names must remain in records

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OLYMPIA – Renters who have been wrongly sued by their landlords can't have their names hidden in court records to prevent possible problems with finding future housing, the state Supreme Court said Thursday.

Public interest in the judicial system outweighs renters' rights to privacy, a slim majority of the court said. A dissenting justice said the majority was ruling from an "ivory tower" in a way that favors court records over the prospect of a family's homelessness.

The case involved Ignacio Encarnacion and Norma Farias, a couple with three children who had 11 months left on a one-year lease to a Burien apartment when the building was sold. The new landlords wanted them to sign a month-to-month lease. Encarnacion and Farias refused, and the landlords filed an action called an unlawful detainer to evict them. The family stayed in the apartment and continued to pay rent for a few months until the case was settled; they got some of their rent back and moved out. But when they went to rent a new apartment, the property manager did a background check that turned up the earlier court action and rejected them, saying that was company policy for anyone with an unlawful detainer, regardless of outcome.

Eventually they found a place that would rent to them, but were worried such problems would continue. They asked the King County court clerk to replace their names with initials on the court record so it would not show up in future searches. The clerk said no but a Superior Court judge said yes. The clerk appealed, and the Appeals Court agreed with the clerk. Encarnacion and Farias appealed.

In the 5-4 Supreme Court decision, the majority said court records can only be sealed or redacted in unusual circumstances and in the face of a serious or imminent threat. This case did not qualify because the family found a place to rent, even though they'd prefer a place with a shorter commute and worry about finding other housing in the future.

“Keeping court records open is a vital constitutional safeguard,” Justice Susan Owens said. “The privacy interest at stake in this case is not so compelling as to warrant redaction.”

But Justice Steven Gonzalez argued the couple did nothing to warrant eviction but still will have trouble finding housing in the future. The trial judge heard testimony and came up with a reasonable decision that the majority just does not like, he said, and sided with the court clerk who did not have legal standing to appeal.

“The lead opinion has rebalanced the facts from our ivory tower to find the burden of redaction for a clerk without standing is more compelling than the prospect of homelessness for a family with small children,” Gonzalez wrote. “It seems that Encarnacion and Farias could satisfy the justices of the lead opinion only if they and their children were, in fact, homeless.”

In a separate dissent, Justice Debra Stephens said the court did not even need to delve deeply into the facts of the case to side with the family. The court clerk’s office, she said, should not have appealed a ruling by a judge from its court, simply because the clerk disagreed with it.

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