

Washington Supreme Court reverses Spokane County judges on pretrial release conditions

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A Washington state trooper checks the license of a Spokane driver suspected of driving under the influence in this file photo. (Rajah Bose / SR)

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The Washington Supreme Court ruled Friday against a Spokane County judge in a split decision that may limit the conditions judges can impose on persons arrested for nonviolent crimes before they go to trial.

In a 5-4 decision, the state Supreme Court ruled Friday that now-retired Spokane County District Court Judge Greg Tripp overstepped his legal bounds in 2015 with pretrial conditions he imposed on defendants accused of DUI.

The ruling reverses the decisions in three separate cases heard by Tripp that year. In each of those cases, Tripp ordered defendants – Cortney Bloomstrom, Brooke Button and Christopher Cooper – to undergo four random urinalysis tests each month to make sure they were complying with his order not to possess or use alcohol.

Both Bloomstrom and Cooper had no prior DUI offenses, and Button's charge related to driving under the influence of marijuana. Despite objections from their defense attorney, Tripp ordered the random tests at the request of prosecutors, according to court records.

“Because of the facts of this case, because of the argument of counsel, I do find that there is a likelihood that you would re-offend and ... (I) possibly believe consuming alcohol would be a risk to the public safety as well,” Tripp said during the case against Bloomstrom.

Those decisions were appealed to the late Superior Court Judge Sam Cozza, who agreed with Tripp. However, the State Supreme Court overturned those decisions by a thin majority, saying they violated the defendants’ constitutional rights to privacy.

Bloomstrom, Cooper and Button “lack an adequate remedy at law to challenge pretrial release conditions,” Justice Charles Wiggins wrote for the majority. “We therefore reverse and remand to the superior court for further proceedings consistent with this opinion.”

Signing for the majority along with Wiggins were Justices Charles Johnson, Susan Owens, Debra Stephens and Sheryl Gordon McCloud.

Writing for the dissenters, Justice Steven Gonzalez argued that the ruling hinders judges’ abilities to impose pretrial conditions.

“Once an individual has been arrested on probable cause for certain offenses, such as DUI, courts have the authority to prohibit drug and alcohol use,” Gonzalez wrote. “Monitoring this prohibition through random urinalysis reduces the possibility that a defendant will re-offend on pretrial release.”

Gonzalez wrote that he agreed with how the majority resolved other matters in the case, but he did not agree with its interpretation that a violation of privacy “usurps the authority of courts to impose pretrial release conditions.”

Signing for the dissent along with Gonzalez were Justices Mary Fairhurst, Barbara Madsen and Mary Yu.

Local defense attorney David Partovi applauded the decision. He said the admonition that defendants not use or possess alcohol should be enough for cases of DUI that have not yet gone to trial.

“I’ve been arguing that for years,” Partovi said. “It goes in one ear and comes out the other.”