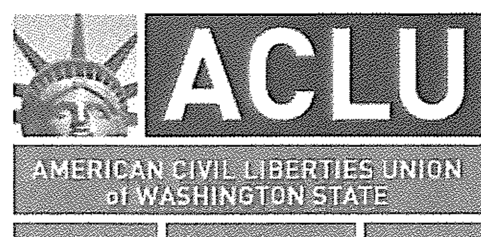

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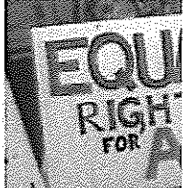

Appeals Court Limits Strip Searches

August 10, 2006

The Washington Court of Appeals has ruled that people held in local jails while they wait to post bail cannot be strip searched without a warrant or reasonable suspicion that they are smuggling contraband. The court agreed with the legal reasoning from a friend-of-the-court brief filed by the American Civil Liberties Union of Washington.

The ruling came in the case of *Plemmons v. Pierce County*, where a victim of identity theft was erroneously arrested, detained and strip searched, even though she was not dangerous or suspected of carrying contraband.

"In our state, local jails cannot strip-search someone unless there is a compelling reason to do so. Strip searches are very invasive, and we're glad that the court has clarified that strip searches cannot ever be considered a standard practice," said Aaron Caplan, ACLU-WA staff attorney.

In 2001, Abra Plemmons had her purse stolen. A few months afterwards, she was stopped for speeding in Montana, and her name matched an arrest warrant for someone who forged a check. She was arrested and released on condition that she post $10,000 in bail and show up for arraignment at a court in Tacoma.

However, the Tacoma court required an additional $5,000 in bail, which Plemmons did not have in hand. The court ordered her to be held until she could post bail. During that delay, the Pierce County Jail, using a standard procedure, submitted her to a strip search before placing her in a general intake area. Plemmons posted bail that evening and was released. The county eventually realized she was innocent and dismissed the forgery charges.

Plemmons later sued the county for conducting an unconstitutional strip search. The lawsuit exposed a weakness in the language of state laws that restrict strip searches of people after an arrest and arraignment. State law allows strip searches of pretrial detainees without a warrant only for persons who are likely to be violent or carrying contraband or weapons, or who have been committed to detention by a court. But the law was not very clear on how to treat nonviolent people who have gone through arraignment, but will soon be released when they post bail. These pretrial detainees are

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legally innocent, since they have not yet been convicted of any crime.

In 2005, a Pierce County Superior Court judge ruled in favor of Plemmons, and the county appealed.

The ACLU-WA submitted an amicus brief with the Appeals Court in support of Plemmons. The ACLU explained that when the Legislature enacted the law against strip searches at local jails, it clearly intended to rule out general policies to strip search of temporary detainees such as Plemmons.

The ACLU amicus brief was written by Robert Hyde of the law firm Rafel Manville and Mathew Pile of the law firm Riddell Williams.

The state laws restricting strip searches of detainees were passed in 1986, after intense lobbying by the ACLU-WA. The ACLU pursued these laws after litigating several cases on behalf of people unjustly strip searched without a warrant at jails and detention centers.

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