

# Illegal stop tosses \$1M cocaine bust

A judge rules a DPS officer had insufficient evidence of an illegal lane change before discovering 56 pounds of coke.

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A county judge has thrown out of court police discovery of more than 50 pounds of cocaine in a car occupied by a California mother and daughter and granddaughter.

The judge said the traffic stop that led to the seizure of the cocaine was illegal.

Maria D. Avila, 27, and her mother Tomasa Palacios, 52, were arrested on drug charges following a July 14, 2003, traffic stop in Interstate 40. Officers found 56 pounds of cocaine, worth about \$1 million

on the street, hidden in a spare tire the two women occupied with Avila's young daughter.

The two women were indicted on drug-trafficking charges, and pleaded innocent to those charges.

The women's attorney, Lee Phillips, filed a motion in Coconino County Superior Court to have the evidence suppressed, arguing that the traffic stop that led to the discovery of the cocaine was illegal.

Phillips stated in a press release, "We are of course very pleased with the court's decision. We understand the tremendous pressure the courts

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are under to help law enforcement in the war on drugs."

But at the same time, the courts have the duty to uphold the constitutional rights of citizens, Phillips stated, and keep the government from breaking the law.

"The court did its duty and we, as citizens should be thankful," Phillips stated.

David Rozema, chief deputy Coconino County attorney, stated in an e-mail response, "Generally, these cases are very difficult to prosecute because the state must show that the driver had knowledge that the drugs were in the vehicle."

He added that drug traffickers know this fact, and as a result they typically will use a car that is not registered to them and are careful not to leave fingerprints on the drugs.

"In this case, the basis for the stop was that the officer thought the defendant's vehicle made an unsafe lane change," Rozema stated. "The court found that the officer did not have an adequate basis to stop the defendant for this reason ..."

working that day.

The two women were stopped by a K-9 officer for the Arizona Department of Public Safety about 20 miles east of the city on I-40. The officer said the vehicle made an unsafe lane change.

The two women were in a rental sport utility vehicle. And according to DPS officials, the two women were nervous and exhibited signs they might be involved in criminal activity. The officer noticed the spare tire had been moved recently and the weights used to balance the tire had been shifted. The officer let some air out of the tire so his dog could smell. The dog indicated that drugs were inside the tire.

During an evidentiary hearing on the matter, Phillips presented an expert witness who demonstrated that the officer who made the traffic stop on Palacios and Avila could not have seen the unsafe lane change.

The officer was behind the women's SUV, and the SUV was behind a semi. The SUV pulled into the left lane and passed the semi before moving back into the right lane, which the officer said was too close to the semi.

The officer was still behind the semi at the time the women turned into the lane in front of the semi.

wrote, "The state is required to prove that the officer had reasonable suspicion that Avila committed the traffic offense of unsafe lane usage. The basis offered by the state, when weighed against the testimony of the defense witness and defense exhibits, does not rise to the level of objectively reasonable grounds necessary to constitutionally justify the stop."

Rozema said, "Obviously, we can't proceed to trial without this evidence."

He added that the County Attorney's Office will take more time to review the case in order to determine if prosecutors will appeal the judge's decision.

Phillips also made the claim that the two women were stopped because they are Hispanic, a practice known as "racial profiling."

DPS consistently maintains it does not make traffic stops based solely on race, and even has a policy in place that prohibits the practice.

Adams did not address the claim of racial profiling in his ruling.

According to information from the Metro anti-narcotics task force, cocaine sells in Flagstaff for \$40 to \$50 a gram. That would make the DPS seizure worth between \$1 million and \$1.25 million.