

Search writ unjustified, judge rules

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The Columbian

A judge has ruled police acted without sufficient reason to suspect the presence of drugs when they raided a Fruit Valley home in June.

The raid led to the arrest of a couple after officers confiscated nearly an ounce of marijuana, but the case appears dead.

A search warrant issued by District Court Judge Eugene Harris was invalid and the evidence cannot be used against the couple, Clark County Superior Court Judge John Skimas ruled.

As a result, the prosecutor's office apparently will drop its case against Robert and Christine Walton, 3303 Yeoman Ave. Prosecutor Art Curtis said his office decides has 30 days to appeal.

Skimas had ruled earlier this month that the search was lawful. Defense lawyer Steve Thayer asked Skimas to reconsider. The judge decided Friday to grant Thayer's motion.

Thayer said Skimas' ruling upholds the

Constitution's Fourth Amendment, protecting citizens from unlawful search and seizure in their homes.

Robert, 29, and Christine, 23, were arrested as a result of police contact with a confidential informant. They were charged on June 23.

The informant, according to the court records, had told police two months earlier that Robert was trafficking in marijuana. The informant contacted police again less than 72 hours before the warrant was served. According to the file, the informant quoted Robert as saying "there was marijuana available for sale."

"The somewhat cryptic statement that drugs are available for sale does not indicate they are at the defendant's house," said Skimas. "He may be obtaining them elsewhere. We should not simply jump to the conclusion that people who deal in drugs must have them in their house."

"If this were so, then any person reasonably believed to be a dealer would lose the benefit of the Fourth Amendment prohibition against unreasonable searches...."

The judge noted that police know from experience that drug dealers take phone orders and deliver drugs — "just like pizza." They also know dealers keep their stash close at hand, and might assume dealers would have drugs in their houses.

But reasonable suspicion is not enough to support a search warrant, Skimas said.