

Ruling Shows Tension Between Police and African Americans

Judges call 2004 search unconstitutional

On the night that led to the conviction of Bennie Demetrius Washington, the 40-year-old Portland man was sitting inside his lawfully parked car and offered no reasonable suspicion or probable cause of criminal activity.

That is the opinion of the federal appellate court, and the reason why they recently threw out the conviction of Washington, an African American, who was arrested by Portland police on Nov. 23, 2004 after they discovered a 9 mm handgun while searching his car.

The June 19 ruling by a three-judge panel in the 9th U.S. Circuit Court of Appeals in San Francisco disagreed with an initial ruling, saying the search of the car became nonconsensual, therefore unconstitutional, when an officer gave Washington orders while frisking him.

The ruling means Washington will avoid a sentence of nearly six years in prison for being a felon in possession of a firearm. It also sets significant legal precedence for other residents in Portland, where, the judges wrote, there is the "unique situation between the African-American community and the Portland police."

During the 2004 encounter, Washington was parked downtown. Officer Darrell Shaw approached Washington, who told him he was waiting for a friend. Shaw then asked him if he had anything on him he shouldn't have. Washington said no, and

then consented to a search of his person and his car. He allowed police to direct him away from his car, where officer Troy Pahlke discovered a firearm.

Washington subsequently pled guilty to, and was convicted of, being a felon in possession of a firearm. But though he voluntarily consented to the search, the June 19 appeals court decision concluded the encounter and search were "impermissible."

The court cited recent history in Portland, particularly the deaths of Kendra James and

James Jahar Perez during police traffic stops. Portland's African American community has vilified James' death in 2003 and Perez's death in 2004 as unjust, which led to an investigation of James' death by the Albina Ministerial Alliance, a Portland group of clergy.

The AMA succeeded in getting a pamphlet issued by the police bureau after James' shooting, advising citizens to comply with police instructions when stopped. AMA member Bishop A.A. Wells also testified during Washington's

initial trial, but the prior shootings and Washington's defense were not enough to persuade District Judge Ancer Haggerty, who sentenced Washington to 70 months in prison.

Now that the conviction has been overturned, Wells said the case set the stage for a renewed dialogue about race between the Portland Police Bureau and the community.

Deputy City Attorney David Woboril said he'll use the ruling as a case study in future trainings, hoping in the future to avoid officers unintentionally violating people's constitutional rights.

Local Homeowner Not Charged for Shooting Intruder

Foiled burglary hospitalizes man

Northeast Portland resident Leroy Hudson will not face charges after shooting an intruder in the face during a break-in at Hudson's home, according to the District Attorney's office.

In the early morning hours of June 29, Hudson, 71, discovered Brent Alexander Sweet, 26, on the back porch of his home at 107th Avenue and Northeast Glisan Street. According to Hudson, he and his

wife, Janice, 62, were awoken by the sound of glass breaking near their enclosed back porch. Janice called 9-1-1 and Leroy took a gun and moved toward the noise. He encountered Sweet and demanded to know why he was there. Sweet did not answer and Hudson raised his

gun and shot him between the eyes. Police arrived soon after and took Sweet to Legacy Emanuel Hospital & Health Center.

Sgt. Brian Schmautz, spokesman for the



Brent Alexander Sweet

Portland Police Bureau, said Sweet was released from the hospital over the weekend and was booked into the Justice Center Jail. He was charged with one count of criminal trespass in connection with the incident and faced an arraignment Monday afternoon. Schmautz said Sweet's last known address was Auburn, Wash. Sweet was also arrested June 8 in Portland on a charge of disorderly conduct.

On Monday the Multnomah County District Attorney's office ruled the shooting will not proceed to a Grand Jury.



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Poll: Public Wants Impeachment

For both Bush and Cheney

(AP) -- Nearly half of the US public wants President George W. Bush to face impeachment, and even more favor that fate for Vice President Dick Cheney, according to a poll out Friday.

The survey by the American Research Group found that 45 percent support the U.S. House of Representatives beginning impeachment proceedings against Bush, with 46 percent opposed, and a 54-40 split in favor when it comes to Cheney.



George W. Bush (AP photo)

The study by the private New Hampshire-based ARG canvassed 1,100 Americans by telephone July 3-5 and had an error margin of plus or minus three percentage points. The US Constitution says presi-

dents and vice presidents can be impeached -- that is, formally charged by the House -- for "treason, bribery, or other high crimes and misdemeanors" by a simple majority vote. Conviction by the Senate, which requires a two-thirds majority, means removal from office.

Just two US presidents have been impeached: Bill Clinton was impeached in 1998 and acquitted in 1999; Andrew Johnson was impeached and acquitted in 1868. Disgraced president Richard Nixon resigned in 1974 when a House impeachment vote appeared likely.

In late April, left-wing Representative Dennis Kucinich, a long-shot Democratic presidential hopeful, introduced a resolution calling for Cheney's impeachment. To date, the measure has nine listed co-sponsors and a 10th set to sign on when the House returns to work next week.

But Democratic leaders appear unlikely to pursue such a course.

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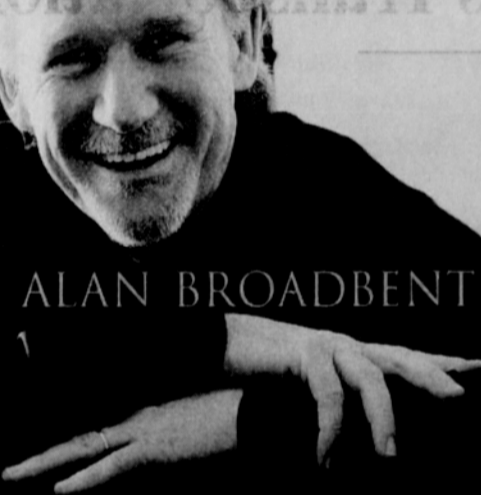
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Correction

In the July 4 article titled "Will Roy Make a Run for Mayor?" the Portland Observer stated that businessman and civic leader Roy Jay owns SmartPark parking garages. In fact, Jay created the Alliance of Minority Business Chambers, which in turn won a bid for a management contract for the downtown parking garages.

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