

State court: Nervousness not probable cause

By Michelle Starr

Staff writer

The Nebraska Supreme Court ruled that a hunch based on nervousness alone is not probable cause for state patrol officers to search a vehicle.

The decision stated that state patrol officers did not have enough probable cause to search and seize 229 pounds of marijuana from Christopher Anderson's car during a traffic stop on Aug. 27, 1997.

The court opinion said: "The fact that the hunch proved to be correct does not legitimize the seizure and subsequent search."

A state patrol officer pulled Anderson over on Interstate 80 near Grand Island for not having front and rear license plates, which is against state law in Ohio, where the car was licensed.

State Patrol Trooper Christopher M. Kolb testified that he could see Anderson's artery pulsate through the skin on his neck and that his hands were shaky, the opinion said.

Kolb said Anderson hesitated when asked where he was coming from, and he passed through his documents at least once before finding the car's registration.

Anderson's license was valid, and he had no criminal history.

Kolb handed Anderson a violation card for not having both license plates but could still see the artery on Anderson's neck pulsating and his shaky hands.

According to the opinion, Kolb said it was unusual for Anderson to continue to be nervous because a violation card has no penalty; it only requires the owner to correct the defect.

Kolb then told Anderson that he was not under arrest or in custody.

The court said in the opinion that "at this point, the purpose of the initial traffic stop was complete" and that Anderson should have been free to go.

"A reasonable investigation of a traffic stop may include asking for a driver's license and registration, requesting a driver to sit in the patrol car and asking the driver about his or her destination and purpose," the court said.

Kolb then asked if Anderson had any illegal firearms or drugs with him. Anderson said no, but Kolb said Anderson would not look at him.

After Anderson denied Kolb permission to search the vehicle, Kolb said Anderson remained nervous.

Because of the conversation, Kolb called State Patrol Trooper Greg Goltz with a canine unit, which alerted the officer to the trunk of the car.

Goltz asked Anderson if he was responsible for everything in the car, and Anderson said yes, according to the opinion.

Inside the trunk were four duffel bags with large bundles of marijuana, totaling 229 pounds.

"Based on the evidence in this record, we determine Kolb did not have reasonable suspicion of criminal activity to justify detaining Anderson after the traffic stop was complete," the court said.

But Sgt. Beth Hagemeyer of the state patrol said using that suspicion seemed to work if the marijuana was found.

"It's an investigative tool. You can't just disregard a tool that's working."

Sgt. Beth Hagemeyer
Nebraska State Patrol

"I don't think that it's going to change anything that the officers do. It's an investigative tool," Hagemeyer said. "You can't just disregard a tool that's working."

Hagemeyer disagreed with the court and she said sometimes the court seems to try to handicap law enforcement.

"What do they have to do, pull us over and signal to us that they have drugs in their cars?" Hagemeyer said.

Anderson's sentence was vacated, and he will be retried.



Police: Lincoln man arrested for hitting officer during fight

An early morning fight at an Amigos restaurant ended with an assault on an officer Friday.

Off-duty Deputy Chad Baehr, 28, tried to control a fight at 1:30 a.m. Friday involving about eight men outside the restaurant at 14th and Q streets.

Police arrested Lawrence McIntosh, 19, 3333 Portia St. Apt. 2B, in the assault, Lincoln Police Ofc. Katherine Finnell said.

Finnell said McIntosh struggled with Baehr when he was being taken into custody, swung and hit the officer in the chin and pushed the officer onto the hood of a car.

Baehr fell backwards onto the ground, Finnell said.

McIntosh was arrested for felony assault on a police officer.

Lincoln Police responded to the call.

Compiled by staff writer
Michelle Starr

Businesses hit by counterfeit bills

By Michelle Starr

Staff writer

Counterfeit money has hit the streets of Lincoln, hurting businesses and consumers.

Three incidents of counterfeit money transactions reported on Thursday appear to be related, Lincoln Police Ofc. Katherine Finnell said.

"I think they should catch the numskull that did this," said Cyndie Kohlman, off-sale supervisor at J Ryans. "They are hurting businesses."

The first call came in at 6 p.m. from J Ryans, a bar and off-Sale at 1434 N. 27th St.

An employee reported a black man about 5-foot-7-inches tall and 130 pounds purchasing a half-pint of brandy with a counterfeit \$20 bill.

Jodi Eastin, the J Ryans employee who took the bill, said she didn't realize the bill was fake at first.

She had a rush of customers and just put it into the drawer. When she looked at it later, she noticed it felt very smooth like a piece of typing

paper, and it didn't have a magnetic strip or a watermark.

Kohlman said employees are instructed on what to look for, and when other businesses report counterfeit bills, the store is put on alert to re-enforce the need to check bills.

The second report, at about 6:58 p.m., came in from T's Stop & Shop at 1307 N. 27th St. A man fitting the same description given by the J Ryans employee purchased something from the store using a counterfeit bill.

The third report came in about 20 minutes later from the McDonald's at 547 N. 48th St.

A female attempted to pay for her meal using a \$50 bill that was counterfeit, but the customer said she did not know that it was counterfeit.

She told police she had made change for someone who fit the description of the man the others described, and he gave her the fake bill.

The woman was not charged with anything, and police did not believe she knew about the counterfeit bill, Finnell said.

Ray Roberts, a manager at

McDonald's, said his employees are instructed to have a manager check any bill larger than \$20.

McDonald's posts signs detailing what to look for on bills, and managers are also trained to look for suspicious bills, he said.

Subtle clues on bills can help people protect themselves.

Consumers should be aware of how a normal bill feels and make sure there is a magnetic strip along the side, Finnell said.

She also said most counterfeit bills are made from inkjet printers and color copiers, and though they provide good quality, there is a subtle difference between counterfeit bills and real money. If the ink rubs off, that's a good clue it's not real.

Eastin said she thought it would be a good idea for the city or county to offer an optional class to instruct people what to look for in counterfeit bills.

"A lot of cashiers don't know what to look for," she said.

Kohlman said, "If they are too broke and need to make counterfeit money, something's wrong with this picture."

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Report criticizes special education programs

WASHINGTON (AP) - Many children with disabilities are getting substandard schooling because states are not complying with federal rules on special education, an independent agency reports.

U.S. officials are not forcing compliance, and as a result, parents often must sue to enforce the law, according to a review of more than two decades of enforcement of the federal special-education law.

In too many cases, children with disabilities are taught in separate classrooms and schools are not following other regulations meant to protect these students from discrimination, the National Council on Disability said in a report to be released Tuesday. The Associated Press obtained an advance copy.

The problems have persisted for years in many locations, said the council, which makes recommendations to the president and Congress.

"Federal efforts to enforce the law over several administrations have been inconsistent, ineffective and lacking any real teeth," the report said.

Officials at the Department of Education, the federal agency responsible for overseeing compliance with the 1975 Individuals with Disabilities Education Act, said it has increased monitoring under the Clinton administration.

"We concur that the responsibility of enforcement of this law should not be borne on the backs of parents," said Judith Heumann, assistant secretary of the office of special education and rehabilitative service.

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them to be and are not implementing the laws as they need to," Heumann said. "We've been spending significant time increasing our monitoring, technical assistance and enforcement."

Nearly 6 million American children receive special-education instruction and services at a cost of almost \$40 billion, about \$5.7 billion of which is federal money.

The special education law was meant to end discrimination against children with disabilities. Many of these children had been excluded from public schools, institutionalized or placed in programs that provided little or no learning. The law was strengthened in 1997.

Under the law, local education authorities that receive federal money answer to state agencies, which in turn answer to the federal Education Department. The department's monitoring division has 35 employees and a budget of about \$2.7 million.

In its report, the disabilities council said Education Secretary Richard Riley has been more aggressive in seeking to improve monitoring and enforcement than the combined efforts of all his predecessors. But the group said serious problems persist.

According to compliance reports

covering 1994 through 1998:

■ 36 states failed to ensure that children with disabilities are not segregated from regular classrooms.

■ 44 states failed to follow rules requiring schools to help students find jobs or continue their educations.

■ 45 states failed to ensure that local school authorities adhered to nondiscrimination laws.

The report said the most recent Department of Education monitoring surveys for the 50 states showed:

■ Only Arkansas, Hawaii, Nevada and Oklahoma were ensuring that local school authorities adhered to nondiscrimination laws, compared to 45 who were not. No information for Mississippi was given in this category.

■ Alaska, Arizona, Arkansas, Colorado, Hawaii, Maine, Nebraska, Nevada, New Hampshire, New Mexico, Oklahoma, Oregon, South Dakota and Vermont were ensuring that disabled children were not segregated from regular classrooms. The rest of states were not.

■ Georgia, Nebraska, North Dakota, Pennsylvania, South Carolina and Wyoming were the only states following rules requiring schools to help students find jobs or continue their educations.