

Judge in hearing throws out marijuana seized as evidence

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Marijuana seized from two vehicles being driven last summer by members of a musical group was thrown out as evidence Friday following a hearing conducted in 14th Judicial District Court.

Ad Hoc Judge Barrett Harrington of Crowley said sheriff's deputies had no probable cause or reasonable grounds for searching one of the vehicles, and should have obtained a search warrant for the other.

Harrington has been replacing Judge E. Woody Thompson this week while Thompson is recuperating from heart surgery.

Defense attorneys claimed the evidence was improperly seized during a warrantless search of the vehicles. They filed motions to suppress on behalf of the six defendants, all from the New Orleans area and members of the band ██████████ which was playing at a local lounge Aug. 23, 1991.

The six are charged with the misdemeanor offenses of possession of marijuana and possession of drug paraphernalia.

Defendants and their respective attorneys were ██████████, represented by Walt Sanchez; ██████████, represented by Glen Vamvoras; ██████████, represented by Stacey Moreau; and ██████████, represented by Steve Salter.

Assistant District Attorney Elaine Solari prosecuted.

Detective Randy Johnson of the sheriff department's narcotics division testified he got a tip from a confidential informant known as Chico that members of the band were smoking marijuana while taking a break outside around their white van.

The band members had taken as many as three breaks, according to the informant, and as many as 10 people were outside smoking during the breaks, Johnson said.

Johnson said after he received the tip, he set up surveillance officers both inside and outside the lounge. The officers verified the band members were driving a light-colored van and that Chico was inside the lounge.

When the group finished playing and loaded up their equipment, ██████████, ██████████ and ██████████ got into a Mustang while ██████████, ██████████ and ██████████ entered the van.

Both vehicles drove to the hotel where the

band members had rented rooms. They were stopped in the parking lot and detained for quite some time before the vehicles were searched.

Later the officers also searched the hotel rooms. No contraband was found on any of the defendants or in their rooms.

However, various marijuana cigarettes, including several partly burnt, were found in both vehicles. They also found paraphernalia such as rolling papers.

The defendants testified the band had only taken one 30-minute break that night. Most of the members remained inside the lounge, although they could not all see each other during the break. Some admitted to having gone outside but not to smoke marijuana.

The defendants said they were surprised and frightened when they were stopped because they did not know the plainclothed men with guns were sheriff's deputies.

They said they were annoyed by the aggressive and abrasive manner of the officers, and some finally gave permission to search their rooms and luggage. They refused, however, to give permission to search the vehicles, but the deputies said they had enough information to search them without a warrant.

In closing arguments, Solari claimed the information the officers had met the two-pronged test for a warrantless search. She said they had probable cause to stop the subjects based on the tip from Chico and what the surveillance team had observed.

And there were "exigent circumstances" involved because the vehicles could have easily been moved and evidence destroyed had deputies left to obtain a warrant.

Without giving the defense attorneys a chance to argue, Harrington ruled in their favor. He said "there was no probable cause whatsoever for the Mustang" because no one ever said anything about two vehicles.

The judge also said there was no exigency involved with the van because the vehicle could have been held while drug-sniffing dogs were brought in to verify information for a search warrant.

"I think Chico overstated his case," the judge said in granting the motion to suppress and throwing out the evidence.