

## **Stalter v. State, 151 wn. 2d 148 (2004)**

### **From I-5 to “Ident”**

**By: Lance Hester; July 2004**

The Washington State Supreme Court recently held that, “jail personnel do have a duty to take steps to promptly release a detainee once they know or should know, based on information provided to them, that the person they are holding is not the person named in the arrest warrant.”

My client, Kevin Taylor, was wrongfully arrested while driving a big-rig truck in the “fast lane” on I-5 near Tacoma. After pulling him over, the WSP trooper radioed-in on a records check. The trooper learned over the radio that there were no warrants for my client, but that there was a different person named Robert (as opposed to Kevin) Stalter who used “Kevin Stalter” as an alias. Based on this information that was received on the radio from a dispatcher, the trooper arrested Kevin Stalter and took him to the Pierce County jail for booking.

Kevin brought his innocence and misidentification to the attention of those responsible for “booking” him into jail. And those persons admitted as much during their depositions. Of course, to add insult to injury, a complete weekend intervened before Kevin was able to appear before a judge. At that time Robert Stalter’s probation officer told the court that it was not Robert Stalter who was being held. And accordingly the court ordered Kevin’s release. (Of course, his immediate release didn’t actually occur until several hours later.)

Additionally, when the warrant under which Kevin was booked was produced, indeed it was a warrant for Robert, and not Kevin, Stalter. Furthermore, the warrant DID NOT list Kevin as an alias.

The case settled with the WSP. But the county slipped out of the lawsuit on summary judgment. The trial court held that the jail staff had no duty to investigate. The Court of Appeals reversed, and explicitly held indeed there does exist a duty to investigate a prisoner who is protesting his presence.

The State Supreme Court accepted the county’s petition for review, and reviewed Mr. Stalter’s situation (the case was consolidated with another case handled by our office and Pierce County as well).

So the question in cases such as Mr. Stalter's is not only whether the jail knew, but also whether it *should have known*, that the person being held is not the person on a warrant. If so, the jail must take prompt steps to release the person.

End

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