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Judge: Baton Rouge Police DWI checkpoints unconstitutional

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BATON ROUGE, LA (WAFB) - A key piece of evidence in a Baton Rouge drunk driving case has been tossed out of city court. The ruling could have a major impact on future DWI trials.

Baton Rouge attorney Cliff Ivey took one of his DWI cases to trial last week. The case went before Baton Rouge City Court Judge Yvette Alexander. Ivey claims the Baton Rouge Police Department not only messed up the checkpoint in which his client was stopped, but all checkpoints since 2010.

"The sobriety checkpoint that the Baton Rouge Police Department ran December 2010 was done so in a manner that was unconstitutional," says Ivey.

City Court Judge Yvette Alexander agreed with Ivey and ruled that way last Wednesday in a case in front of her. As a result any evidence the police got from that check point would be inadmissible according to Ivey.

The Supreme Court rules on DWI checkpoints are clear. The officer who decides when and where the checkpoint will be cannot be involved in the actual performance of the checkpoint.

If that rule is not followed, which Ivey says he proved was not, any evidence recovered at the checkpoint is not allowable in court; effectively dismissing the case.

Ivey says the police violated Louisiana's Article I, 5:17 which reads:

'The location, time and duration of a checkpoint, and other regulations for operation of the checkpoint, preferably in written form, established by supervisory ore other administrative personnel rather than the field officers implementing the checkpoint.'

"The same officer who decided when and where also participated in the checkpoints," says Ivey. "This could affect many cases in City Court."

City Prosecutor Lisa Freeman says her office will appeal the decision by Judge Alexander to the First Circuit Court of Appeal.

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