

Associated Press

## **Colorado Supreme Court rules that immigrants' tax records are private, were illegally searched**

IVAN MORENO Associated Press Writer

December 14, 2009

DENVER (AP) — The Colorado Supreme Court ruled Monday that authorities violated the constitutional and privacy rights of suspected illegal immigrants when they used tax returns to try and build hundreds of identity theft cases against them.

The 4-3 ruling affirmed a decision by a Weld County district judge who suppressed evidence against one of the defendants. In that case, investigators raided a tax business that catered to Latinos in Greeley, an agricultural city on the northern plains of Colorado with a heavily Hispanic population.

The investigation, dubbed "Operation Numbers Game," marked the first and only time in the U.S. that authorities used tax returns, which are confidential under federal law, to prosecute suspected illegal immigrants.

A favorable ruling for Weld County could have given prosecutors a new tool to find and prosecute illegal immigrants, who are required to pay taxes despite their legal status.

Prosecutors in other states had expressed interest in the investigation, a prosecutor said.

With Monday's ruling, the Supreme Court agreed with a district court judge who said authorities had gone on an "exploratory search" and had no probable cause to search the man's tax returns.

The defendant was one of more than 70 people charged with criminal impersonation and identity theft. Some defendants pleaded guilty and were deported before the district court ruling. Prosecutors had dismissed more than 60 pending cases while they waited for the Supreme Court to rule, and the district attorney's office said it reserved the right to file charges again with a favorable ruling.

"Obviously, I'm disappointed," said Weld County District Attorney Ken Buck, a Republican who is running for the U.S. Senate. "We have a serious identity theft problem in Weld County, we are trying to address it and this is a setback."

Buck said he would not appeal to a federal court.

Kevin Strobel, the head of the Greeley Public Defender's Office, said Monday's ruling shows that despite the heated political debate about illegal immigration, "there's still a constitutional framework for how authorities deal with that population and whether they've committed crimes or not."

"They gotta play by the rules," he said.

Weld County authorities launched their investigation after a Texas man told them his identity was being used by a Greeley resident. The suspect in that case told sheriff's investigators that he was filing taxes with Amalias' Translation and Tax Services.

Investigators obtained a search warrant and seized thousands of tax documents from the business and used them to arrest dozens of people. The American Civil Liberties Union successfully sued on behalf of the business owner, saying the search of her property was illegal.

An appeal in that case is pending with the Colorado Supreme Court.

The identity theft investigation angered immigrant advocacy groups, including the National Immigration Law Center, which said the immigrants were following the law by paying taxes. Some of them said they hoped that doing so would help their chances of someday becoming permanent residents.

Prosecutors had said they believed as many as 1,300 immigrants were breaking the law and that they planned to charge more people.

In ruling against Buck's investigation, the Supreme Court ruled that the search warrant was flawed because it did not identify by name the people whose documents were to be inspected. That, Buck said, was impossible.

"The problem with identity theft is that people are using false identities," Buck said. "So how do you know whose name is going to be on that file?"