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Sun Herald, The (Biloxi, MS)

1997-12-13

Section: COAST & STATE

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DECISION ADDS AMMO TO DUI FIGHT DOUBLE JEOPARDY CLAUSE AT ISSUE

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THE SUN HERALD

A U.S. Supreme Court decision this week is providing ammunition to state officials who want a restriction lifted on prosecuting drunken-driving cases.

The court ruled that in most cases defendants hit with civil penalties for a crime can be prosecuted, too, without violating the Constitution's double jeopardy clause. The clause forbids punishment twice for the same crime. But the Mississippi Supreme Court ruled otherwise in September. In 1993, Ronnie Keyes of Gulfport was charged with driving drunk for the third time. The state suspended his license.

But Keyes argued that the suspension was punishment for his crime, and that any criminal prosecution and punishment would constitute double jeopardy. State Supreme Court justices agreed.

Since then, courts across the state have dismissed or postponed dozens of DUI cases. The Mississippi Attorney General's Office, claiming that the license suspension is a civil remedy, not a criminal punishment, has asked the state Supreme Court to reconsider its ruling. The court hasn't yet.

But in the eyes of those who want the Keyes decision reversed, the federal court's ruling settles the issue.

“That's been our argument all along, that it was not double jeopardy,” said Charlie Head, the attorney for the Mississippi Highway Safety Patrol. The highway patrol is part of the state Department of Public Safety, which administers the license suspensions. “I feel very strongly that this case is going to solve 99 percent of the (Keyes-related) problems in Mississippi.”

The Attorney General's Office, in fact, sent a legal brief Thursday to the state Supreme Court. The brief argues that the federal court's ruling Wednesday supports the office's position.

Even defense attorneys who support the Keyes decision concede that Wednesday's ruling undermines their arguments.

Wayne Woodall, a Gulfport attorney noted for his representation of DUI defendants, said the ruling “doesn't look good for the home team.” He said it gives the state Supreme Court a base on which it can reverse its earlier decision.

Still, **Woodall** argued, the federal court's decision -- based on a bank fraud case from Oklahoma --

cites federal banking law that clearly establishes civil penalties separate from criminal punishments. Mississippi has no such law for DUI cases, he said.

And, he added, the state Supreme Court is free to interpret state law as it sees fit: ``We don't need the federal courts to tell us how to interpret the Mississippi Constitution."''

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