

EXHIBIT 1

American Civil Liberties Union Foundation of Southern California et al. v. Superior Court of Los Angeles County

Court of Appeal, Second Appellate District, Division Three
Case Number B259392

March 11, 2015

Transcript of Selected Portions of Oral Argument

[Argument at timestamp 4:38]

[Court] If the photographing of the license plates can be determined to be an investigation to determine if a crime has been committed, doesn't this photographing of these license plates fall directly within the purview of that statute?

[Ms. Lynch] For two reasons I don't think it does. The first reason is that, as I've mentioned, the actual collection of the data happens regardless of whether a car is involved in any kind of criminal activity, that determination does not happen until the data that's collected is compared to a hot list or compared to some investigation. So that's the first reason why it doesn't fit under the investigatory records section of 6254(f).

My other reason, the other reason that I would raise, is that both *Haynie* and the prior case, *Williams vs. Superior Court*, both of those cases were decided before Proposition 59 was on the ballot and was passed by an overwhelming majority of the voters in 2004. Proposition 59 clearly stated that the presumption, this was an amendment to the Constitution, that the presumption in the Public Records Act needed to be one of opening up records, and it stated clearly that in the past where statutes may have been construed narrowly, or for example 6254(f), the California Supreme Court had said it's a broad exemption that now going forward after the 2004 amendment, that those statutes should be construed narrowly.

[. . .]

[Argument at timestamp 6:16]

[Court] Is it your position then, that only those records that demonstrate that a crime has been committed, in other words where the hit has been made on the hot list, it's only those records that are covered by the exemption?

[Ms. Lynch] I think it's only once those records are compared to a hot list, so we are, as I mentioned, we're looking for... [cut off]

[Court] Didn't *Williams* disregard that argument?

[Ms. Lynch] No I don't think so Your Honor because *Williams* again, was looking at a very specific fact pattern where you had a criminal investigation that was going on and it was not the mass collection of raw data. Also, as I mentioned, the *Williams* case was in the 1990s, and so it came well before the constitutional amendment that was passed in 2004.

[Argument at timestamp 33:19]

[Ms. Lynch] So looking to the purpose of 6254(f), there's no reason to withhold this data under *Haynie* and *Williams*, and I think when you combine that with the California constitutional amendment, we have a situation where we need to look again at this section of the California Public Records Act and apply it to new technology in a way that doesn't deny the public from getting access to this information and my fear Your Honors is that, if the court here finds that these records should be withheld as investigative records, then that will have a negative implication on data that's gathered using other technologies.

Declaration of Diana Gonzalez

I, Diana Gonzalez, hereby state as follows:

1. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

2. I am a paralegal and work under the supervision of attorney Peter Bibring, counsel of record for Petitioners.

3. On July 22, 2015, I listened to the audio recording provided by the Court of Appeal of the oral argument held in this case on March 11, 2015 at the Court of Appeal, Second Appellate District, Division Three. I transcribed the audio of selected portions of the argument, at the following timestamps on the audio recording provided: 4:38, 4:58, 5:25, 6:16, 6:31, 6:38, 6:43, and 33:19.

4. The foregoing transcripts are a true and accurate transcription of the selected portions of the oral argument referenced above.

I declare under penalty of perjury of the laws of the State of California and the United States that the foregoing is true and correct. Executed this 22nd day of July 2015 in Los Angeles, California.

/s/ Diana Gonzalez _____

DIANA GONZALEZ