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Lawsuit says judges are violating the law

Jailing of underage drinkers called into question

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In 2008, a man too young to drink pleads guilty after a test finds his blood-alcohol level to be three times the rate considered legally drunk. He is placed on probation by Judge Lisa Asadoorian of 52-3 District Court in Rochester Hills and ordered to serve community service.

Twice he fails to complete his service; twice he is back in front of the judge. Asadoorian finds him in contempt of court and sends him to jail.

Now, two attorneys are suing the court, saying judges who use contempt charges to jail minors whose only crime is drinking exceed their authority. Jim Amberg says he and fellow attorney Jim Williams filed suit last week in Oakland County Circuit Court to try and bring an end to the practice, which they say is all too common.

Underage drinking is a misdemeanor. In the city of Rochester, for example, the first offense is punishable by a fine of up to \$100. Judges may also sentence the offender to participate in substance abuse services, but not jail.

"Some of the judges will, if kids violate probation once or twice, they bring them up on contempt of court and they put them in jail," Amberg said. "It's been said the judges are being tough on crime. Our position is we don't even get to the issue of being tough or not. The courts are not following the law. And that's what it's about. We don't know how many kids have been put in jail illegally."

Court administrator Lynda Hammerstein said Tuesday that the court had not yet been served with the lawsuit and none of the three judges would comment on the case. However, Asadoorian has opined on the matter from the bench. In her opinion on a motion to dismiss a contempt charge in the case described above, the judge said she believes courts have authority to use contempt of court to enforce their orders.

"This court has the authority to sanction a jail sentence of up to 93 days in jail, a fine of not more than \$7,500 or both if defendant is found to be in criminal contempt for violating this court's order," she wrote.

Rochester City Attorney Jeff Kragt said the argument Amberg and Williams are making isn't a new one. He said the law does allow jail time on a second or subsequent probation violation.

"If the court cannot hold the person in contempt for violation of a court order, then why would a defendant ever comply with a court's probation?" he said.

Amberg argues that such cases are not a good use of taxpayer resources.

"It just is so sad on so many levels. We're in a tough time here in Michigan; we don't have a lot of money. ... You don't send them to an overcrowded jail. That doesn't help anybody."

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