

Former Titan's arrest shows ability for citizens to prosecute

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By Joseph Pleasant, Reporter -

NASHVILLE, Tenn. -

The arrest of former Tennessee Titan Keith Bulluck came as a result of a taxi cab driver using his Tennessee constitutional right to act as a prosecutor against the man.

The cab driver Habib Hashi is listed as victim and prosecutor on the felony robbery affidavit against Bulluck.

In Tennessee, a civilian can appear in front of a magistrate or judge and present probable cause that a person broke the law. If the magistrate finds probable cause the person can be arrested and charged with the crime.

David Raybin leads the criminal section of Hollins, Raybin and Weissman.

Raybin said in the Bulluck case Metro Police did the correct thing by taking Bulluck into custody and allowing the cab driver to appear in front of a magistrate to apply for the arrest warrant.

"This is usually the case where the police don't know for sure that the person has committed the crime," he said. "The officer will tell them if you say that is the person we will let you sign the warrant and we will execute it for you."

In past years that lead to a number of frivolous warrants being issued.

"People would be swearing out warrants left and right and clogging up the courts with frivolous things," Raybin said.

The Davidson County District Attorney General's Office would not comment specifically on Bulluck's arrest because the office has not received the case.

But the office said in general, assistant district attorney's or police officers are involved with cases involving civilians swearing out criminal warrants through the office's warrant screening program.

The program was created using federal funds in the late 1990s to cut down on the amount of frivolous warrants sworn out in court.

People wanting to swear out a misdemeanor warrant who are referred to the warrant screening office are at times sent to mediation instead of seeing a magistrate right away for a criminal warrant.

On felony cases like Bulluck's a police officer or detectives is usually involved before a magistrate hears the case.

Access to the system is restricted to assistant district attorney's and officers who can log into a computer program to generate the affidavit.

"The policy the district attorney's office has in Davidson County is great it helps cut down on incidents of bad warrants and increase the quality of cases the government brings by and large," Raybin said.

A person arrested based on a civilian filed affidavit face the same consequences as other people arrested by officers, which can be a burden.

"People have to go to court, defend themselves, spend time and expense," he said. "When you get arrested it goes to the criminal information computer system, it shows up on your record."

He continued, "An arrest is a significant consequence for someone even if the charges are later dismissed. So you want to have a lot of safeguards in place to keep that from happening frivolously."

If a defendant is prosecuted by a civilian frivolously Raybin said there is few remedies for the defendant to hold the person who swore out the warrant accountable.

He said the defendant could sue the person for false arrest, but they must prove the person took out the warrant maliciously and there was not probable cause.