Judge postpones hearing in lawsuit over police seizure of UCSC student protester's phone

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17 April 2025

On Monday, a judge in Santa Cruz, California postponed a hearing in a case brought by University of California, Santa Cruz (UCSC) student Laaila Irshad challenging the seizure and search of her phone by university police.

The hearing Monday was attended by at least 50 students, faculty and other protesters, who filled the courtroom to show their support for Irshad and to demonstrate their opposition to the university administration, which is defending the seizure. Irshad is represented by the American Civil Liberties Union, the Center for Protest Law and Litigation and civil rights attorney Thomas Seabaugh, who addressed an assembly of students outside the courthouse after the hearing.

On October 1, 2024, Irshad's phone was seized by university police in evident retaliation for filing a lawsuit against the university the previous month. In the warrant the police obtained to seize and search the phone, they even included a photo of Irshad at a press conference to announce the filing of the original lawsuit. However, on Monday, Judge Stephen Siegel refused to hear Irshad's motion to quash the warrant and retrieve her phone, transferring the case to Judge Erika Ziegenhorn, the judge who issued the original warrant.

The new hearing will be on April 30 at a courthouse in Watsonville, California. This is the second time the hearing has been postponed on technical procedural grounds.

Irshad was one of more than a hundred students and faculty who were arrested and banished from campus for participating in a May 2024 encampment protesting the US-backed Israeli genocide in Gaza. At the end of May, the encampment was violently suppressed in a brutal police raid, which was followed by summary banishments for all of the students swept up in the dragnet.

As a result of these mass banishments, the students lost access to campus housing, medical care, jobs, classes, library access and other services, just before their final exams began. In September 2024, a group of students and faculty that included Irshad sued the university and alleged that the mass banishments violated their due process rights.

"Laaila was the subject of a double injustice," said Seabaugh, speaking to the assembled students, faculty and protesters outside the courthouse. "First, she was kicked off of campus in violation, we felt, of her due process rights. We filed a lawsuit against the University in September contending that her due process rights were violated when the university kicked her off campus, and many of you I expect also went through that experience. After we filed that lawsuit, within 15 days, the university police showed up at her dorm while she was outside on a fire drill and seized her phone."

"I've been practicing law for 15 years now and I've never seen something so egregious as this search warrant," he commented.

"The warrant for the phone asks for all emails, all text messages, all photos, all videos, all audio, all voicemails, every website she's ever visited, every internet search she's ever conducted, all location data on the phone since the beginning of time, and she has information on that phone going back to when she was in the fifth grade."

"We filed this petition arguing that that was illegal. Not only was it illegal for them to kick her off campus together with many of you back in May, but this search was illegal. Unfortunately, we've been bounced around a few times in trying to get this petition heard, but we intend to stick with it."

On March 5, Irshad filed the latest petition, asking the judge to quash the search warrant as unconstitutionally overbroad and retaliatory, and also on the grounds that it violated California state law protections governing such seizures of electronic data.

Her petition seeks the return of her phone and destruction of all information obtained from it. It also seeks to unseal the affidavits submitted by university police in support of the warrant, which have so far remained sealed from public view. Irshad has been without her phone for more than six months and the university is refusing to return it.

Seabaugh emphasized the broader importance of the case for democratic rights, "We don't want this to happen to anybody else. We don't want it to be the case that if you protest at a university, if you express dissent of any kind, that they can take your phone and look at all the data on it. That's not the rule."

Referencing the Fourth Amendment's prohibition on unreasonable searches and seizures, Seabaugh continued, "In

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fact, the Constitution protects your data on your phone from being searched in that way, so we think this will set an important precedent."

"We've got so much information on our phone. We've got our personal lives, our medical records, our financial records, our personal relationships, our intimate photos, our political views, our religious beliefs, everything is on our phones. Our whole lives are on our phones, and if they can search that, it's a tremendous violation, a tremendous trespass against our most intimate selves."

Most notably, Seabaugh said, through the seizure of Irshad's phone "the UC police have access to her emails to and from her attorneys, including me. They have her phone, and on her phone are her emails with her attorneys."

"So we do think this is important, and I think this we have to also make clear: it's not just the students. This is for everybody. I think we also have to make clear in the factories, in the workplaces, in the warehouses, this is all of our democratic rights."

"This is the democratic rights that we all have," he continued. "If they can come after her phone, they can get anybody's phone. And it's especially important for people who are protesting, because what's on your phone? The list of people you associate with politically, the people you protest with, the people you talk to about your political beliefs, the people you criticize your employer with, right? That's all on your phone."

"This is a reign of terror on the campuses that began under Biden," he said. "The UC Board of Regents," which is defending the warrant in court, "is Democrats. The tyranny is not just coming from Trump."

Rachel Lederman, an attorney with the Center for Protest Law and Litigation, spoke to the *World Socialist Web Site* outside the courthouse after the hearing. "We filed the lawsuit after they banned more than a hundred students and some faculty members from campus following the clearing of the encampment last spring," she explained. "People got out of jail, and then they got a notice that they were instantaneously banned from campus."

"And so that included, if they live in the dorm, they couldn't go back, they couldn't go home, they couldn't go to their campus job, they couldn't go to class. This all happened in the last two weeks of the quarter. So they were having to figure out where to take finals because they couldn't go on campus."

Lederman continued, "There was no process. People were either just handed a slip of paper, or some people, such as Professor [Christine] Hong, were not given anything at all. And it went into effect immediately. It was only a two-week ban, in some cases lifted a little earlier. But because of the timing with finals, it was a substantial hardship, especially for students who live and work on campus. People lost their jobs, in some cases lost their summer employment, lost their access to the Student Health Center.

"We filed a lawsuit because this was completely unconstitutional and illegal. It violated everybody's constitutional right to due process. And it didn't even follow the terms of the California statute that they were reportedly using," Lederman explained. "We sued just in the fall. And it was only 15 days later that they came and seized Laaila's phone, who was one of the three named plaintiffs in the lawsuit challenging the campus bans.

"It just seemed clearly retaliatory that they came and took her phone," Lederman said. "They waited until she was outside very early in the morning in her pajamas for a fire drill. She's an RA [Resident Assistant]. And so it was in front of all of the students that she's an RA for. And that happened in October, and they still haven't returned the phone."

"The search warrant is on its face clearly unconstitutionally overbroad," Lederman continued. "It's in violation not only of the Constitution, but of the California Electronic Communications and Privacy Act. So the proceeding that we're here for today was under the California Electronic Communications and Privacy Act (CalECPA), to quash the warrant, get rid of the warrant, destroy the data that they took and return the phone.

"They're still refusing to even return the phone, even though that's completely ridiculous, because obviously, they've taken any data that they wanted off of it by now," Lederman concluded. "So we're confident that once we finally get a hearing - this motion has been bounced around for some time—but once we finally get a hearing before the judge, we're pretty optimistic that they will quash the warrant, because we can't have universities or other law enforcement just taking people's cell phones and then being able to search every single thing on your phone going back to the first data recorded on the phone."

"I'm from El Salvador, and I was a student in the 1970s," said one woman who joined the assembly outside the courthouse. "And I'm very emotional because I don't have friends, most of my friends were killed. So at least we are alive here, and we're fighting, and we have to continue." She added, "Like the lawyer said, it's so important, all those present, because we really have to fight for our rights."

Speaking in response to questions from students, Seabaugh noted, "If the warrant is overbroad and lacking particularity, it violates the Constitution. We had a revolution over that in this country. We had a revolution over general warrants. The king just can't sign a warrant that says: I authorize this person to search for whatever he wants to search for. We had a revolution over that."

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