



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 116
April 15, 1988

INVESTIGATIVE SEIZURE OF PERSON
AND LUGGAGE AT AIRPORT

Reference: State of Alaska
v.
Dennis Garcia

Alaska Court of Appeals
Opinion No. 797
P.2d
April 1, 1988

FACTS:

Two drug-enforcement officers assigned to Anchorage International Airport were watching passengers deplane a United Airlines flight which arrived from San Francisco and Seattle. They were looking for possible drug couriers. Garcia, who appeared Latin or Albanian, was among the first ten passengers to get off the airplane. He looked "intent, business-like and seedy." He looked both ways when deplaning and walked quickly to the luggage-claim area. He walked past the United Airlines baggage-claim area, stopped at several other airline baggage carousels and scanned the crowd in a manner reflecting a fear of being followed.

Several minutes later, he went to the United Airlines carousel where he retrieved a suitcase. Garcia was then approached by the officers, who had already decided to detain his bags for a canine scent-detection check. The officers identified themselves to Garcia and asked to speak to him. He agreed to do so. Garcia was informed that he was not under arrest and was free to leave at any time. Garcia asked the officers what it was all about; he was told they were conducting a drug investigation. Garcia became perceptively nervous. His hands were shaking and he had sweat on his brow.

The officers asked Garcia if he had drugs in his suitcase. Garcia answered, "No. In fact, I am going to leave." The officers asked him to wait just a moment and Garcia asked, "Why me?" He was told his actions at the airport caused officers to become suspicious. Officers asked Garcia permission to search his suitcases; he refused his consent. Garcia was told his bags were going to be detained. A scent-detection dog was brought to the scene and the dog alerted on Garcia's luggage. The bags were seized and Garcia was then allowed to leave. A search warrant was obtained. The luggage was searched and was found to contain 840 grams of cocaine and two ounces of marijuana.

ISSUE:

Did officers have sufficient information to perform an investigative stop?

HELD: No.

REASONING:

1. Police are authorized to perform an investigative stop where they have reasonable suspicion that imminent public danger exists or that serious harm to persons or property has recently occurred.
2. A person is seized only if a reasonable person in his or her position would not feel free to leave.
3. The exposure of luggage to the dog trained to detect drugs is a search. Because the search is minimally intrusive, however, the police may conduct this type of search when they have a reasonable suspicion that drugs are present in the containers.
4. The officers could approach Garcia in the manner they did, ask questions and even ask for identification. When Garcia indicated he was leaving and the officers announced they were going to detain his bags, the offices were required to have reasonable suspicion that there were drugs present in the bags. (emphasis added)
5. In view of all the factors, it appears Garcia's actions were suspicious to some degree. However, it is important to make sure that the circumstances relied upon do not "describe a very large category of presumably innocent travelers who would be subject to virtually random seizures..."
6. The officers' observations would appear to apply to a large number of innocent travelers.

NOTES:

Review of the following cases, cited by the Court in this Opinion, is recommended:

Coleman v. State, Legal Bulletin No. 3--investigative seizure of a person based on articulable facts.

Pooley v. State, Legal Bulletin No. 96--warrantless seizure of suitcases for purpose of exposing them to drug-detection dogs.

Waring and Robinson v. State, Legal Bulletin No. 76--investigative seizure of person absent probable cause or reasonable suspicion.

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