



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 279

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SEARCH OF VEHICLE'S CENTER CONSOLE AS INCIDENT TO ARREST

Reference: Kirk Merland Crawford Alaska Court of Appeals
v. 68 P.3d 1281 (2003)
State of Alaska Opinion No. 1920 (2004)

FACTS:

A police officer observed a vehicle going 50mph in a 30mph zone. Within a five-block area, the vehicle made several extreme lane changes without using turn signals. The officer pulled the vehicle over and noticed that the driver "kept looking back into the mirror and then he was making motions inside the vehicle...and he was basically fidgeting in the driver's seat as he was moving objects around." The officer thought from a safety standpoint that there could be a weapon involved.

When the officer approached the vehicle, he observed that the driver, Crawford, was "jumpy and nervous." The officer asked Crawford to shut the engine off and give him the keys; Crawford refused. The officer pulled Crawford from the vehicle. Crawford became belligerent, thrashed about and yelled obscenities. Crawford was handcuffed, placed under arrest for reckless driving, and placed in the back of the police car.

The officer returned to Crawford's car and searched the area that had been within Crawford's immediate reach. He found a baseball bat between the driver's seat and the center console. The officer opened a small compartment in the center console and found crack cocaine and drug-use paraphernalia. Crawford was charged with reckless driving and misconduct involving a controlled substance. Crawford argued that police had no right to make a warrantless search of the console.

ISSUE:

Was there an articulable and reasonable basis to believe that the center console of Crawford's vehicle might contain a weapon?

HELD: Yes--The officer searching Crawford's vehicle had a very real suspicion that Crawford possibly possessed a weapon and that the console might contain a weapon.

REASONING:

1. When police arrest the driver of a vehicle, they are not authorized to search the center console of that vehicle as a matter of course. Rather, a warrantless search of the console is permissible only if the police have reason to believe it contains a weapon or evidence of the crime for which the driver has been arrested. (emphasis added)

2. The officer had an articulable and reasonable basis to search the console for a weapon.

3. The search of the console was justified as a search incident to arrest.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section E, "Incident to Arrest," and Section J, "Vehicle Exception," of your Contents and Text. File Legal Bulletin No. 279 numerically under Section R of the manual.