

Boceski argued that statements he made and all the evidence should be suppressed, because the surreptitious eavesdropping of the drug transaction violated his right to privacy under the Alaska Constitution.

ISSUE:

Were police required to have a Glass warrant for use of the two tape recorders?

HELD: Yes--they cannot be used at trial, but L.H.'s testimony can be used.

ISSUE:

Can the conversation Sgt. Grubbs heard from the living room be used?

HELD: Yes.

REASONING:

1. Courts have generally concluded that if officers overhear conversations from places where they have a right to be; use only their unaided, natural senses; and are in a place where the speaker would anticipate someone might be, then the speaker has a diminished expectation of privacy that is not protected by the Fourth Amendment.

2. It is uncontested that Sgt. Grubbs was lawfully present in L.H.'s home.

3. Broceski had no reasonable expectation of privacy against eavesdropping by someone lawfully present in L.H.'s home.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section L, "Electronic Monitoring," of your Contents and Text. File Legal Bulletin No. 259 numerically under Section R of the manual.