



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 100
May 1, 1986

DOG-TRACKING EVIDENCE

Reference: Jeffrey C. Wilkie
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 599
715 P.2d 1199
March 21, 1986

FACTS:

At about 4:50 a.m., a female arrived in the employee parking lot at Anchorage International Airport. When she opened her car door, she was confronted by a man who said he had a gun. He ordered her to move over; she complied and the man entered her car and forced her to have intercourse with him.

Moments after the attack, the victim received assistance from another airport employee, who also saw a man fitting the suspect's description running toward the international terminal.

Police responded to the scene with "Kai", a tracking dog. Kai was placed next to the victim's vehicle to begin tracking. The dog traveled toward the domestic terminal and was stopped by his police handler and returned to the victim's vehicle. The dog signaled an alert and started toward the international terminal. Enroute to the terminal, Kai circled a truck, but the officer determined no one was in it and returned Kai to his original track. Kai went straight to the international terminal, entered, went to Japan Airlines and jumped upon the counter. Wilkie, who was on the telephone, "popped up" from behind the counter.

Wilkie was arrested and convicted. He appealed his conviction on several grounds, including identification, Grand Jury, polygraph and the dog tracking. The Appellate Court upheld the conviction on all issues. This bulletin addresses only the issue which pertains to the tracking of the defendant by Kai which resulted in Wilkie's arrest.

ISSUE:

Should the dog-tracking, which resulted in the seizure of Wilkie, be admitted into evidence?

HELD: Yes.

REASONING:

1. The foundational prerequisites for admission of dog-tracking testimony are: (a) the experience and qualifications of the dog's handler; (b) the dog's experience, skill, training and reputation as a tracker; and (c) the circumstances pertaining to the trailing itself.

2. To the extent there are questions about this kind of evidence, the parties to a particular case can rely on expert witnesses to aid the jury in determining the weight to give such testimony.

3. The officer testified about Kai's training and experience. He further testified that Kai had been used for tracking in actual cases resulting in apprehension of suspects and detection of drugs.

NOTES:

This is the first time the Appellate Court has addressed the dog-tracking-of-a-suspect issue in Alaska. The courts have, however, addressed cases where trained drug-detection dogs have been used to establish probable cause to seize luggage or packages.

The tracking experience of a police dog is subject to discovery by defense counsel, so it is highly advisable that the dog handlers maintain a neat and accurate log showing the dog's experience and training. The log should also list actual cases where the dog discovered drugs or a suspect, where the dog was used in establishing probable cause to obtain warrants and used for controlled seizures during demonstrations.

The following cases involving drug-detection dogs should be reviewed:

Gibson v. State, Legal Bulletin No. 98--investigatory seizure of a package from an airline, resulting in a sniff test by the drug dog and subsequent issuance of a search warrant.

United States v. Place, Legal Bulletin No. 75--sniff test by trained canine is not a search as construed by the Fourth Amendment.

Pooley v. State, Legal Bulletin No. 96--limited seizure of a suitcase in possession of a person for a sniff test by a trained drug-detection dog.