



DPS TRAINING BULLETIN



LEGAL BULLETIN NO. 358
February 12, 2012

GPS DEVICES CONSTITUTE A SEARCH UNDER THE FOURTH AMENDMENT

Reference:

United States
v.
Antoine Jones

U.S. Supreme Court
Opinion No. 129

U.S.
February 13, 2012

FACTS:

FBI and metropolitan police suspected Jones was trafficking in narcotics. Based in part on information gained through investigative techniques, including visual surveillance, installation of (on public property) a camera, a pen register, and wiretap on Jones's cellular phone, the agents applied for a warrant authorizing the use of an electronic device (GPS) on a vehicle registered to Jones's wife. The court issued a warrant authorizing installation of the device in the District of Columbia within 10 days. The agents installed the device on the 11th day when the vehicle was located in a public parking lot in Maryland. The GPS tracking device was installed on the undercarriage of the vehicle.

During a 28 day period 2000 pages of data was collected from the GPS. The government ultimately obtained a multiple-count indictment charging Jones and several co-conspirators with conspiracy to distribute drugs. Jones was ultimately convicted and received a life sentence.

Jones argued that the evidence should be suppressed. The Court of Appeals agreed that part of the evidence obtained by the search warrant must be suppressed.

The government appealed to the US Supreme Court arguing that because the device was installed on a public parking lot and that the vehicle was using public roads that Jones had no expectation of privacy and therefore no warrant was required.

ISSUE:

Did the government's attachment of the GPS device to the vehicle, and its use of that device to monitor the vehicle's movements constitute a search under the Fourth Amendment?

Held. Yes. The government physically occupied private property in this case for the purpose of obtaining information.

REASONING:

1. The Fourth Amendment protects people, not places. A violation occurs when government officers violate a person's "reasonable expectation of privacy."
2. Here, the government's physical intrusion on an "effect" for the purpose of obtaining information constitutes a search.
3. The government's installation of a GPS device on a target's vehicle, and its use of that device to monitor the vehicle's movements, constitutes a search.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

File Legal Bulletin No. 358 numerically under Section R of the manual.