



DPS TRAINING BULLETIN



LEGAL BULLETIN NO. 385

June 17, 2019

Alaska Court of Appeals

Opinion No. 12294

June 7, 2019

Reference: Lanolan Anderson
v
State of Alaska

WARRANTLESS SEIZURE OF CLOTHING FROM HOSPITAL UPHELD UNDER PLAIN VIEW DOCTRINE

FACTS:

ANDERSON, accompanied by two accomplices, kicked in the front door of an Anchorage residence. Two of the occupants in the residence were shot, and a third was pistol-whipped. ANDERSON was also shot in the abdomen. All three of the occupants required medical treatment. ANDERSON left the scene. Anchorage police officer Jean MILLS went to Providence Hospital to make contact with the home invasion victims. Upon her arrival, a vehicle showed up at the emergency room entrance and ANDERSON got out of the vehicle. It was apparent to officer MILLS that ANDERSON, whom she initially thought was one of the victims from the home invasion, had been shot. During his initial interview, ANDERSON told Officer MILLS he was shot in the home invasion. ANDERSON later changed his story, stating he was shot in a grocery store parking lot. Shortly thereafter, another APD officer arrived and informed Officer MILLS that ANDERSON was not a victim from the home invasion shooting but, rather, was a suspect.

Officer MILLS seized all the clothing medical staff had removed from ANDERSON, including his shoes. There was a blood stain on one of his shoes. At trial, a witness from the crime laboratory testified to the match between ANDERSON's shoes and the shoe impressions on the front door of the residence. A second crime lab witness also testified the blood stain found on one of ANDERSON's shoes could not be excluded as that of one of the victims.

ANDERSON argued the warrantless seizure of his clothing from the hospital was illegal, and that this evidence should have been suppressed.

ISSUE:

Did the police need a search warrant to seize the clothing from the hospital?

HELD:

No. The warrantless seizure was justified under the "PLAIN VIEW DOCTRINE" (Coolidge v New Hampshire) because (1) the officer was lawfully present; (2) the discovery of the clothing was inadvertent; and (3) the evidentiary relevance of the clothing was immediately apparent.

REASONING:

1. The record shows Officer MILLS had probable cause to believe that ANDERSON's clothing constituted evidence of a crime even before she and ANDERSON entered the hospital.
2. Because the police had probable cause to believe ANDERSON's clothing was evidence of criminal activity, the seizure of his clothing was lawful.
3. As the United States Supreme Court has said, it is "well settled" the seizure of property in open view "involves no invasion of privacy and is presumptively reasonable if there is probable cause to associate the property with criminal activity." (Citing Payton v New York, see Bulletin no 34)

NOTES:

Review of the following cases cited in this opinion is suggested: AHVAKANA v State, bulletin no. 361 where warrantless seizure of bloody clothing from residence was upheld under emergency aid doctrine resulting in "plain view" seizure; McGee v State, bulletin no.257, where warrantless seizure of package by police from Fed Ex could not be justified as investigatory seizure; State v Ricks, bulletin no. 132, where warrantless seizure of coat hanging on hook behind cocktail bar could not be justified as plain view; and Texas v Brown, bulletin no.68, where seizure of balloons containing drugs were observed by police during checkpoint for drivers licenses and vehicle registration because the stop was (1) lawful; (2) the discovery was inadvertent; and (3) was immediately apparent to the officer.