



## DPS TRAINING BULLETIN



LEGAL BULLETIN NO. 349

May 12, 2010

**WARRANTLESS "HOT PURSUIT" ENTRY REQUIRES PROBABLE CAUSE AND AN EXIGENCY OF SUCH A NATURE THAT IT COMPELS ENTRY INTO A PERSON'S HOME BEFORE A WARRANT CAN BE SECURED**

**Reference:**

State of Alaska  
v.  
Allen Siftsoff, Jr.

Alaska Court of Appeals  
Opinion No. 2262  
P.3d  
April 30, 2010

**FACTS:**

A police officer observed a truck driving at approximately sixty to sixty-five miles per hour in a forty-five mile per hour zone. The officer activated his overhead lights and pursued the truck, reaching speeds which he estimated at eighty-five miles per hour. The truck ultimately drove into a trailer park. The officer recognized the driver as Siftsoff. Siftsoff got out of the truck and started walking toward a trailer that the officer knew was Siftsoff's trailer. The officer told Siftsoff that he was conducting a traffic stop and told him not to go into the trailer. Siftsoff shook his head and went into the trailer.

After calling for backup and checking to make sure no one else was in the truck, the officer knocked on the trailer door, announced his presence, and then proceeded to open the trailer door and enter. Siftsoff was taken into custody and subsequently indicted for: (1) felony failure to stop at the direction of a police officer; (2) misdemeanor reckless driving, and; (3) misdemeanor driving under the influence. Siftsoff argues that the police officer illegally entered his residence and asked the court to suppress all evidence (including intoxication) which was derived from the evidence. The State argued the entry into the residence was justified under the doctrine of "hot pursuit."

**ISSUE:**

Do the facts in this case justify a warrantless entry under the doctrine of "hot pursuit?"

**HELD:**

No. To make a warrantless entry into a home, the police must not only have (1) probable cause, but (2) an emergency or exigency must also exist

of such a nature that it compels entry into a person's home by police before a warrant can be secured.

**REASONING:**

1. A warrantless entry into a person's home to arrest him is unreasonable and therefore in violation of the state and federal constitutions unless it falls within one of the limited exceptions to the warrant rule.
2. Prior decisions do not support allowing the police to enter a residence merely because the police are engaged in an immediate and continuous pursuit of a suspect. The police must have a "compelling need for official action and no time to secure a warrant."
3. Police officers in hot pursuit of a suspect may enter a residence without a warrant if (1) the officers have probable cause to believe that the person has committed a serious offense; (2) the officers know or have probable cause to believe that the person is in the residence they are about to enter; and (3) the officers have probable cause to believe that some additional exigent circumstance requires a prompt entry into the residence - for instance, that the person is armed or otherwise presents an imminent threat of harm to the officers or others, or that the person will flee the residence and escape unless the officers make an immediate arrest, or that the person will destroy evidence unless immediately apprehended.
4. In this case there was little danger that Siftsoff would be able to escape; that he would not have gotten very far if he had attempted to escape; that he would be a danger to others; and there was no indication that he was armed and dangerous.

**NOTES:**

Compare this case with Gray v. State (see Legal Bulletin No. 25) where the Alaska Supreme Court upheld the warrantless seizure of evidence from a vehicle as "hot pursuit" exception to the warrant requirement. The Gray case involved an armed robbery and there was a reasonable belief that two armed suspects were still at large.

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