

There were several issues appealed in this case. For purposes of this Bulletin, only the investigative stop and subsequent show-up will be addressed.

ISSUE:

Was this a proper investigatory seizure of Haag and was the subsequent show-up authorized?

HELD: Yes. The officer's actions did not amount to an arrest--it was an investigatory stop.

REASONING:

1. Police were investigating an armed robbery that had been committed only minutes before and were dealing with a suspect who ran from them. The police did not exceed the proper bounds of an investigatory stop when substantial force (a drawn weapon and handcuffs) was used to detain and restrain Haag.

2. The officer's act of transporting Haag back to the apartment complex did not turn the investigatory stop into an arrest.

3. An encounter can remain an investigatory stop (rather than an arrest) even though police transport the suspect a short distance for a show-up or other identification procedure.

4. Haag was running from the scene, was dressed in predominately black clothing and, initially, failed to stop when directed to do so. It is true that the robbers were previously described as black men, but the witness had also reported they were wearing ski masks. Given the facts available to police, they were justified in temporarily detaining Haag so he could be presented to the witness and either identified or excluded as one of the robbers. (emphasis added)

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

File Legal Bulletin No. 298 numerically under Section R of the manual.