



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 310

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FOURTH AMENDMENT DOES NOT PROHIBIT POLICE FROM CONDUCTING SUSPICIONLESS SEARCH OF A PAROLEE

<u>Reference:</u>	Donald Curtis Samson v. California	United States Supreme Court No. 04-9728 _____ U.S. _____ June 19, 2006
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FACTS:

Samson was on state parole in California following a conviction for being a felon in possession of a firearm. California law provides that every prisoner eligible for release on state parole "shall agree in writing to be subject to search or seizure by a parole officer or other peace officer (emphasis added) at any time of the day or night, with or without a search warrant and with or without cause."

A police officer, who knew Samson and was aware of his conditions of release allowing the warrantless search, observed Samson walking down a street with a woman and child. The officer stopped Samson and asked him if he had an outstanding parole warrant. Samson told the officer that there was no outstanding warrant and that he "was in good standing with his parole agent." The officer checked and dispatch confirmed that there were no outstanding warrants on Samson. Based on his knowledge of the conditions of release, the officer searched Samson and found a cigarette box in his left breast pocket. Inside the box, the officer found a plastic bag containing methamphetamine.

ISSUE:

Does the Fourth Amendment prohibit a police officer from conducting a suspicionless search of a parolee?

HELD: No--they do not enjoy the absolute liberty of other citizens and if they do not want to agree to the search as a condition of release, they can remain in physical custody for their sentence.

REASONING:

1. An inmate may serve his parole period out of physical custody subject to certain conditions. Conditions may include mandatory drug testing, restrictions on association with felons or gang members, mandatory meetings with parole officers, informing parole officer of change of employment or residence, enrollment in psychiatric programs, mandatory abstinence from alcohol, and/or any other conditions deemed necessary.

2. A state has an overwhelming interest in supervising parolees because "parolees...are more likely to commit future criminal offenses."

NOTES:

This case was decided on the Fourth Amendment of the U.S. Constitution. Alaska courts may take a different view under our Article I, Sections 14 (Search and Seizure) and 22 (Right to Privacy).

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

File Legal Bulletin No. 310 numerically under Section R of the manual.