

ANCHORAGE POLICE DEPARTMENT



BUREAU BULLETIN



LEGAL BULLETIN NO. 3

November 1, 1977

THE INVESTIGATIVE STOP

Reference: Elijah COLEMAN
v.
State of Alaska

COLEMAN v STATE
533 P2 40 ✓
Alaska 1976

FACTS:

At 7:45 p.m. on August 15, 1973, a female left her place of employment and walked through a wooded park on the outskirts of Anchorage. She had a blue bank bag in her possession which contained a small amount of money belonging to her employer. While walking through the park, she was accosted, pulled into the weeds and raped; the bank bag was taken by her assailant. After the attack, the victim went to her home a short distance away and called the police. The victim advised the dispatcher that she had been robbed and that the suspect was a short black man wearing a white T-shirt with levis and was carrying the blue bank bag. This information was given to the police officer dispatched to investigate.

The police officer decided to drive through the park before making contact with the victim. The officer observed a yellow vehicle leaving the area. The vehicle was being operated by a black male wearing a white T-shirt in a legal manner. The officer halted the automobile in the manner of a routine traffic stop and observed a blue bank bag on the floor of the passenger's side. At that time, the suspect was identified as COLEMAN; he was arrested and the bag was seized as evidence. COLEMAN moved to suppress the "blue bag" and it was denied; he was convicted and he appealed to the State Supreme Court.

ISSUE:

Did the officer have the right to make an "investigative stop" on the vehicle (without probable cause to arrest) and, after observing the evidence in plain view, arrest COLEMAN?

HELD: Yes.

REASONING:

1. In light of the facts known, the officer had the right and the duty to make a prompt investigation and to stop the car and question COLEMAN.

2. The stopping and questioning of COLEMAN by the officer was not an arrest but was a reasonable course of action in light of the circumstances.

3. Permitting "temporary detention" for certain cases (i.e., cases where the police officer has a reasonable suspicion that imminent public danger exists or serious harm to persons or property has recently occurred) does not conflict with the Fourth Amendment.

4. The investigative stop, under the circumstances, was proper and the bank bag which was in plain view was legitimately seized.

NOTES:

No distinction is made between a person in a vehicle and one on foot when making the investigative stop. This appears to be the case which most closely resembles the "Terry" Stop-and-Frisk Case which the U.S. Supreme Court has ruled on. That is not to say, even though our Supreme Court cited Terry in this opinion, that the Terry doctrine has been adopted in total. More than "mere suspicion" is required to justify a stop-and-frisk situation.

All of the facts should be articulated and based on what is observed. A reasonable man should be led to believe that criminal activity is afoot. A word of caution --- if stop-and-frisk is used on "known burglars" (members of motorcycle gangs and the like), you can expect your "reasons" to be more closely scrutinized. In other words you cannot use this to roust nor harrass "police characters".

Our court says in this case that ". . . Terry should not be extended beyond situations requiring immediate police response to protect the public in serious cases where there is likelihood of imminent danger about to occur or where serious harm has recently been perpetrated to persons or property."