



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 123
July 1, 1988

INVESTIGATORY SEIZURE OF A PERSON
ABSENT PROBABLE CAUSE

Reference: Michigan United States Supreme Court
v. 56 USLW 4558 (No. 86-1824)
Michael Mose Chesternut June 13, 1988

FACTS:

Observing the approach of a police car on routine patrol, Chesternut began to run. Police followed him "to see where he was going." They caught up with him, drove alongside him for a short distance and observed him discarding a number of packets. Surmising that the pills in the packets contained codeine, police arrested him. After a search of his person revealed other drugs and a hypodermic needle, they charged Chesternut with possession of controlled substances.

ISSUE:

Did the officers' pursuit of Chesternut constitute a "seizure" implicating Fourth Amendment protection?

HELD: No.

REASONING:

1. The test is whether a reasonable man, viewing police conduct as a whole and within the setting of all surrounding circumstances, would have concluded that police in some way restrained his liberty so that he was not free to leave.
2. Chesternut was not "seized" until after he discarded the packets
3. The police did not activate the siren or flashers, command Chesternut to halt or display any weapons, nor operate the car aggressively to block his course or control his direction or speed.
4. The police were not required to have a particularized and objective basis for suspecting Chesternut of criminal activity, in order to pursue him.

NOTES:

In this case, police saw Chesternut in plain view, followed him on a public street when he ran, seized property he abandoned, established probable cause to arrest him and searched his person incident to his arrest.

Review of cases included in Sections I (Investigatory Seizures), A (Abandoned Property) and K (Plain View) is recommended.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

Add this case to Sections A on Page 1, I on Page 6 and K on Page 9 of your "Contents" and to Section A on Page 2, Section I on Page 6 and Section K on Page 5 of "Text". File Legal Bulletin No. 123 numerically under Section R of the manual.