

McBath argued that the evidence should have been suppressed, because it had been seized as a result of an unlawful investigative stop.

ISSUE:

Does the pre-existing arrest warrant constitute an independent basis for taking the defendant into custody and searching his person, thus dissipating the taint from the illegal detention?

HELD: Yes--regardless of the potential illegality of the investigative stop of McBath, the pre-existing warrant was an independent, untainted ground for McBath's arrest.

REASONING:

1. If, during a non-flagrant but illegal stop, the police learn the defendant's name, and the disclosure of that name leads to the discovery of an outstanding warrant for the defendant's arrest, and the execution of that warrant leads to the discovery of evidence, the existence of the arrest warrant will be deemed an independent intervening circumstance that dissipates the taint of the initial illegal stop vis-à-vis the evidence discovered as a consequence of a search incident to the execution of the arrest warrant.

2. Even if police acted illegally in detaining McBath until he identified himself, this was not flagrant or egregious misconduct under the circumstances. Police had a valid reason for wishing to know his name before he walked off with the arrestee's property.

3. The methamphetamine was discovered only after police found out about the arrest warrant, executed this warrant, and then conducted a search incident to arrest. (emphasis added)

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

File Legal Bulletin No. 295 numerically under Section R of the manual.