



ANCHORAGE ACADEMY

DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 295

March 8, 2005

INVESTIGATE STOP LEADS TO PASSENGER WITH PRE-EXISTING WARRANTS

Reference:	Ronald J. McBath
	V.
	State of Alaska

Alaska Court of Appeals Opinion No. 1974 P.3d February 18, 2005

FACTS:

Police stopped a truck for having expired license plates. The driver was subsequently arrested for DUI. Police made arrangements to have the truck towed for impoundment. Police informed McBath, who was a passenger in the truck, that he was free to go and offered to call a cab for him. McBath called to the driver and asked him if he wanted him to remove anything from the truck. The driver asked McBath to remove a toolbox and an unopened twelve-pack of beer from the back of the truck.

The police were willing to allow McBath to remove the items from the truck. However, to forestall any later claim that property was unaccountably missing, police asked McBath to tell them his name. At first, McBath refused to give his name. At length, he told police his first name was "Ron." When pressed, he finally said his last name was "McGoo." Police suspected he was not being truthful and they did not get a match on the name of Ron McGoo. At this point, they detained and handcuffed McBath until they could find out who he was. Soon afterward, McBath divulged his real name. A computer check revealed there were two outstanding warrants for McBath's arrest. A search "incident to arrest" resulted in the seizure of methamphetamine; he was charged and convicted of fourth-degree controlled substance misconduct. March 8, 2005

Page 2

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)

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