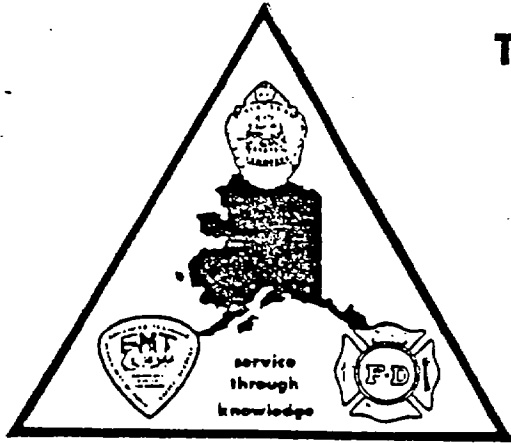


# DEPARTMENT OF PUBLIC SAFETY

## TRAINING ACADEMY



LEGAL BULLETIN NO. 98  
December 4, 1985

### INVESTIGATORY SEIZURE OF A PACKAGE FOR DOG SNIFF

Reference: Thomas R. GIBSON  
v.  
State of Alaska

Alaska Court of Appeals  
Opinion No. 540  
708 P.2d 708  
October 25, 1985

#### FACTS:

An airline employee received a package for shipment to Barrow, Alaska, which she suspected might contain drugs. The package was relatively small and was wrapped in brown paper with fiber tape over two ends and across the bottom. The commodity description of the package was "tea". The airline employee became suspicious because of the size of the package and the shipper's willingness to ship "tea" by private air carrier for \$21.00 as opposed to using less costly mail service. The airline employee reported her suspicions to the troopers' Airport Detail office.

The investigating officer seized the package and took it to his office in the main airport building. He discovered that the name used by the shipper was not in the telephone book and the return address used did not exist. The phone number listed on the airbill belonged to someone other than the shipper.

The package was put before a scent-detection canine who "alerted" to it. The officer prepared an affidavit and applied for a search warrant, which was granted. The package was found to contain one-half ounce of cocaine. The package was shipped to Thomas GIBSON in Barrow for "controlled delivery. GIBSON was subsequently arrested and convicted. GIBSON appealed his conviction because of concern over seizure of the package and particularly because the police brought the package to the dog rather than the dog to the package

#### ISSUE:

Did the police have "reasonable suspicion" sufficient enough to justify temporary detention of the package for purpose of a canine sniff?

HELD: Yes.

#### REASONING:

1. The package was relatively small--seven and one-half inches long, two and three-quarters inches deep and four inches high; it was wrapped in brown paper with fiber tape over the two ends and across the bottom and was being shipped as "tea" for the cost of \$21.

2. The name, address and phone number of the shipper did not exist.
3. The intrusion was relatively slight and for the limited purpose of subjecting the package to a dog sniff.
4. There was adequate reasonable suspicion to justify the investigatory steps taken. (emphasis added)
5. Unlike the dispossession of hand baggage in custody of a passenger, which constitutes a substantial intrusion, the mere detention of mail (in this case, the package by private carrier) not in custody nor control amounts to at most a minimal or technical interference and results in no personal deprivation--United States v. Place.

NOTES:

The court likens this case to an investigatory seizure of a person (stop and frisk) or vehicle where the reasonable suspicion standard instead of probable cause is used. You should keep in mind that this package was not in the immediate possession of its owner.

You should review the following:

Coleman v. State (Legal Bulletin No. 3) where our court adopted the "investigatory stop" doctrine.

Snyder v. State (Legal Bulletin No. 17) where airline employees' suspicion lead to subsequent seizure of drugs.

United States v. Place (Legal Bulletin No. 75) where the United States Supreme Court said sniff test by trained canine is not a search as construed by the Fourth Amendment.

Pooley v. State (Legal Bulletin No. 96) - limited seizure of a suitcase in possession of a person for "sniff test" by trained drug-detection dog.