



DPS TRAINING BULLETIN



LEGAL BULLETIN NO. 378

July 20, 2016

Reference: State of Alaska
v
David C. Spencer

Alaska Court of Appeals
Opinion No. 2494
February 26, 2016

FIELD SOBRIETY TEST ADMINISTERED BASED ON REASONABLE SUSPICION

FACTS:

A state trooper observed SPENCER driving his four-wheeler on a public street in Nenana. The trooper contacted SPENCER and observed signs SPENCER was intoxicated. The trooper administered field sobriety tests during which SPENCER complained about performing the tests and expressed his reluctance to do so. The trooper repeatedly told SPENCER to complete the rest of the field sobriety tests, which SPENCER did. SPENCER failed the tests and was arrested for driving under the influence. A subsequent breath test revealed a blood alcohol level above the legal limit.

SPENCER moved to suppress the evidence of his intoxication, asserting that the trooper unlawfully coerced him into performing the field sobriety tests.

ISSUE:

Was the trooper required to have “probable cause” to justify his demand for SPENCER to perform field sobriety tests?

HELD:

No: In Alaska, police are entitled to administer field sobriety tests whenever they have “reasonable suspicion” to believe a motorist is driving under the influence.

REASONING:

1. Most courts hold a motorist has no constitutional right to refuse field sobriety tests as long as the requested field sobriety tests are “non-testimonial.”
2. Because a motorist’s legal consent to field sobriety tests is not required, the validity of field sobriety tests does not hinge on whether the officer politely asked the motorist to perform them or instead tersely instructed the motorist to complete the tests – as long as the circumstances of the

stop as a whole were not so coercive that the motorist was subjected to arrest before the trooper had probable cause.

3. In reviewing the record, it appears that the contact was cordial, and SPENCER cooperated and performed all of the field sobriety tests as directed, albeit unenthusiastically.

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