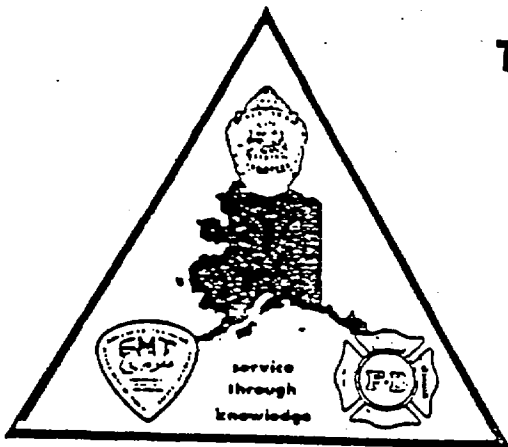


DEPARTMENT OF PUBLIC SAFETY

TRAINING ACADEMY

LEGAL BULLETIN NO. 78
January 5, 1984



SEIZURE AND SEARCH OF A PERSON BY A PRIVATE SECURITY GUARD

Reference: William M. CULLOM
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 325
673 P.2d 904
December 30, 1983

FACTS:

A private security guard saw CULLOM conceal a cologne set on his person as he started to leave the store where the security guard was employed. The guard apprehended CULLOM at the exit and identified himself as a security officer. CULLOM was taken to the store security office, at which time the cologne set was recovered and the security officer read him his Miranda rights. CULLOM was then frisked for weapons. During this search, a glass vial, a syringe and a spoon were found in CULLOM's sock. A concealed shoe-polish kit belonging to the store was also found. The security guard made out a citizen arrest report and then called police. Residue on the spoon was found to be cocaine and CULLOM was charged with "possession". CULLOM moved to suppress the evidence, arguing it was the product of an illegal seizure.

ISSUE:

Was the weapon search, which resulted in the seizure of the cocaine, subject to the Fourth Amendment to the U.S. Constitution or Article 1§14 and Article 1§22 of the Alaska Constitution?

HELD: No.

REASONING:

1. The security guard was not hired nor paid by the police and was not acting in concert with the police in anyway.
2. The search by the security guard was not state action; therefore, the exclusionary rule does not apply to his actions.

NOTES:

The guard in this case was not acting as a "police agent" nor agent of the government. It is important for you to remember that private citizens are not subject to the same rules as police if they are not acting as agents of the police or government.

The following cases are but a few which the courts have upheld as constitu-

tionally proper--they involve searches and confessions obtained by private citizens not acting as agents of the government:

Snyder v. State (Legal Bulletin No. 17)--seizure and search of luggage by airline employee where drugs were found.

McConnell v. State (Legal Bulletin No. 24)--seizure and search of luggage by airline employee.

Sundum v. State (Legal Bulletin No. 37)--seizure of a person after a motel employee opened door and defendant was in "plain view".

D.R.C. v. State (Legal Bulletin No. 58)--strip search of student by school teacher.

Nelson v. State (Legal Bulletin No. 61)--seizure of blood by a physician without permission of patient.

Metigoruk v. State (Legal Bulletin No. 62)--confession obtained by security guard without Miranda warnings.