



## DPS TRAINING BULLETIN



LEGAL BULLETIN NO. 361

August 30, 2012

### EMERGENCY ENTRY INTO RESIDENCE AND SEIZURE OF EVIDENCE FOUND IN "PLAIN VIEW"

**Reference:**

Forrest J. Ahvakana  
v.  
State of Alaska

Alaska Court of Appeals  
Opinion No. 2369  
P.3d  
August 17, 2012

**FACTS:**

North Slope Police were at the scene of an assault when they received a report that a woman was being beaten at another location. When they arrived at the second location witnesses at the scene pointed out a residence and said that AHAVAKANA and his girlfriend, Ella Black, were staying with AHVAKANA's sister at that residence. AHAVAKANA was also the suspect in the first assault. The officers went to the residence and knocked on the door. When they received no response they attempted to make a forced entry at which time Ella Black came to the door. She was naked and wrapped in a blanket. The officers could see that Black had cuts on her face and blood in her hair, on her face and neck. When asked, Black told the officers that AHAVAKANA was not there but the officers did not believe her and entered the residence. During the search of the back bedroom the officers found AHVAKANA hiding in a closet.

AHVAKANA was arrested and charged with attempted first-degree murder, first- and second-degree assault, and two counts of third-degree assault. During the arrest process the police officers also seized bloody clothing that was in the residence.

**ISSUE:**

Was the warrantless entry and search of the residence and subsequent seizure of the bloody clothing permissible under the emergency aid doctrine?

**Held.** Yes. The police confronted an emergency situation involving domestic violence and had a legitimate need to locate the individuals involved in that violence. Once the police were lawfully inside the residence, they were entitled to seize evidence that they observed in plain view (emphasis added).

**REASONING:**

1. Warrantless entry will be justified under the "emergency aid" exception if these three elements are met (see GALLMEYER v. State, bulletin no. 54): (1) police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property"; (2) the search must not be primarily motivated by intent to arrest and seize evidence; and (3) there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched.

2. The police here responded to a report of a possible domestic violence assault.
3. The police had reason to believe AHVAKANA was still inside the residence and that Black might be in serious danger, and that there might be other victims. Prong 1 of the emergency aid doctrine - requiring police to have reasonable grounds to believe there is an emergency at hand and an immediate need for their assistance - is met here (see State v. GIBSON, bulletin no. 357).
4. The police were authorized to seize evidence of a crime that they observed in their "plain view."
5. Under Alaska Law, a search must satisfy three requirements to fall within the plain view doctrine: (1) the initial intrusion that afforded the view must have been lawful; (2) the discovery of the evidence must have been inadvertent; and (3) the incriminating nature of the evidence must have been immediately apparent.

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