



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 198
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SURREPTITIOUS USE OF VIDEO MONITORING IN PRIVATE RESIDENCE

Reference: State of Alaska
v.
Edward Page, Jr.

Alaska Court of Appeals
Opinion No. 1458
P.2d
February 9, 1996

FACTS:

Edward Page was suspected of selling cocaine. Police hid videotape equipment in a Fairbanks apartment and, through an informant, arranged for Page to come there to make a delivery of cocaine. Police had placed three video cameras in the apartment-- one focused on the parking area and front door to the building, another on an amusement arcade across the street, with the third placed inside a non-functioning television set in the living room of the apartment. Page asked the Superior Court to suppress the videotapes of him taken by police.

ISSUE:

Were police required to obtain a Glass warrant before they recorded Page's activities?

HELD: Yes.

REASONING:

1. If a person engages in a conversation that is protected from electronic monitoring under Glass and if this conversation occurs in a place where the person has a reasonable expectation of visual privacy, the police must secure a warrant before surreptitiously videotaping the conversation, even if they turn the sound off. (emphasis added)

2. Just as the Alaska Constitution, as construed in Glass, protected Page against surreptitious electronic monitoring or recording of his words to the undercover officer (informant), our State's Constitution also protected Page from surreptitious photography or videotaping of that meeting.

3. Because of the value society places on individual privacy, we cannot give police unfettered discretion to decide when electronic monitoring of private conversations might be justified to detect or prevent illegal conduct. The same holds true for clandestine videotaping of non-public activities.

NOTES:

In this case, the court did not suppress the videotapes of the "public areas" outside the apartment. The court said, whereas he had no expectation of privacy outside the apartment, Page did have an expectation of privacy when he went inside the apartment.

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