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# DPS TRAINING BULLETIN

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LEGAL BULLETIN NO. 147  
September 16, 1990

INVESTIGATIVE SEIZURE OF PERSON/LUGGAGE  
AT AIRPORT FOR SNIFF TEST BY NARCOTICS DOG

Reference: Gregory D. Wright  
v.  
State of Alaska

Alaska Court of Appeals  
Opinion No. 1060  
P.2d  
July 27, 1990

FACTS:

A Hawaiian Airlines ticket agent contacted police to report that Wright was arriving in Anchorage on a flight from Honolulu and he fit the "drug profile." The agent indicated that Wright traveled to Hawaii four or five times within the past five or six weeks, purchased tickets with cash, and had trips of short duration. The agent further stated that Wright always traveled with the same suitcase, which felt light for a large bag. The suitcase contained a five-to-eight pound soft item which shifted inside it when moved.

When Wright arrived at the airport, he was observed going first to the baggage claim area. Before the luggage appeared on the carousel, however, he walked outside to where his girlfriend and son were waiting to pick him up.

Alaska State Trooper Allen Storey followed him outside and asked Wright if he could speak with him. Wright said, "Sure," and the officer told him he was not under arrest and was free to leave without saying anything. Wright consented to a search of his hand luggage.

The officer then asked Wright if his checked luggage contained any marijuana and Wright responded, "No way!" When asked about his frequent trips to Hawaii, he stated that he did not go very often, "...a couple of times a year." The officer then asked permission to look into Wright's checked baggage. Wright told the officer he had lost his luggage key.

The officer informed Wright he intended to seize the luggage and have a narcotics dog sniff it for drugs. Wright was told he could either stay or leave and he elected to remain at the airport. The drug-detection canine responded positively to the test on Wright's suitcase. Wright left the airport and his suitcase was seized. The following day, a warrant was obtained to search the suitcase. It was found to contain more than ten pounds of marijuana.

ISSUE:

Was the investigative seizure of Wright and his luggage permissible?

HELD: Yes.

REASONING:

1. A law-enforcement officer may request and briefly inspect a person's identification without turning the encounter into a constitutional seizure. (emphasis added)

2. An individual can consent to an officer's request to search luggage without turning the encounter into an investigative stop. (emphasis added)

3. In evaluating the strength of the officer's suspicion, the actual intrusiveness of the canine sniff was minimal and the transport of illegal drugs over long distances for commercial purposes posed imminent public danger.

NOTES:

This case reaffirms other cases (see list below) concerning investigative seizures of persons/luggage at airports for purpose of sniff testing by narcotics-detection dogs. In this case, Trooper Storey clearly articulated his suspicions based on the responses he got from Wright, who "changed his story" on several occasions. Remember--this encounter started with Wright's consent!

Review of the following cases, located in Section I of the Alaska Legal Brief Manual, is recommended:

Coleman v. State, Legal Bulletin No. 3--investigative seizure of a person based on articulable facts.

United States v. Place, Legal Bulletin No. 75--sniff test by narcotics-detection dog was upheld.

Pooley v. State, Legal Bulletin No. 96--sniff test by dog was upheld.

Gibson v. State, Legal Bulletin No. 98--investigatory seizure of package for sniff test was upheld.

State v. Garcia, Legal Bulletin No. 116--not sufficient probable cause to justify investigative seizure of person/luggage.

LeMense v. State, Legal Bulletin No. 117--police had sufficient probable cause to justify investigatory seizure of person/luggage.

United States v. Place, Legal Bulletin No. 130--airport drug profile and investigatory seizure of person/luggage was upheld, as was sniff test by drug-detection dog.

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Add this case to Section I of your Contents and Text. File  
Legal Bulletin No. 147 numerically under Section R of the  
manual.