



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 173
October 4, 1992

INVESTIGATORY STOP OF VEHICLE
WITHOUT PROBABLE CAUSE

Reference: Randy S. Beauvois
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 1244
 P.2d
August 21, 1992

FACTS:

Approximately 2:50 a.m. on May 28, 1990, a 7-Eleven convenience store on the outskirts of Fairbanks was robbed by a person with a knife. The clerk notified police of the robbery and furnished a description of the suspect. Police were also informed that the suspect had left on foot, heading North. A police officer already in the vicinity received the report of the robbery and decided to search the area north of the store, toward the Chena River Wayside campground.

As the officer neared the campground, he noticed a Corvette leaving. The officer blocked the Corvette's exit and called the vehicle license-plate number in to his dispatcher. The officer decided to stop the car to check whether any of the occupants fit the description of the suspect. One individual jumped out of the passenger side. This person matched the robber's general description, so the officer conducted a "pat-down search" and placed the subject in his patrol car. While this was going on, the dispatcher reported the Corvette had been reported stolen from Anchorage.

The officer walked over to the vehicle and saw the knees of a person wearing blue sweat pants protruding from beneath a blanket in the back seat. This person matched the description of the robber and was found to be Beauvois. The clerk from the 7-Eleven store was transported to the scene and identified Beauvois as the robber.

ISSUE:

Was the initial stopping of the Corvette an illegal seizure?

HELD: No.

REASONING:

1. The officer had uncontroverted evidence that a serious felony had just occurred in the vicinity of the campground and that the robber had fled on foot toward the campground. The time was three o'clock in the morning, when most people are asleep. (emphasis added)

2. The officer saw only one vehicle moving--the Corvette leaving the campground. It was reasonable to suspect that the occupants of the Corvette had been awake when the robber came through the campground and that they might have seen something.

3. Even though the officer had no other information to link the Corvette or its occupants to the robbery, he could validly stop the car and ask if they knew anything or had seen anything which might aid the officer's investigation of the crime just committed.

NOTES:

Review of Section I of the Alaska Legal Briefs manual is recommended. Compare/contrast this case with Ozhuwan v. State, Legal Bulletin No. 138, where police blocked two vehicles from leaving a campground because the officer knew that minors consumed alcohol in the area. The Court of Appeals ruled that Ozhuwan had been illegally seized in that instance, because the cars were legally parked and there was nothing to suggest a crime had been nor was being committed.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section I, "Investigatory Seizure of Persons and Things," of your Contents and Text. File Legal Bulletin No. 173 numerically under Section R of the manual.