



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 183 (171)
January 30, 1994

IMMUNITY INEVITABLE DISCOVERY/INDEPENDENT SOURCE

Reference: State of Alaska
v.
Joseph J. Hazelwood

Alaska Supreme Court
Opinion No. 4034
P.2d
December 3, 1993

FACTS:

The facts of this case are described in Legal Bulletin No. 171, Joseph J. Hazelwood v. State of Alaska. Review of Legal Bulletin No. 171 is recommended--mark your copy "CASE REVERSED/REFER TO LEGAL BULLETIN NO. 183."

On July 10, 1992, the Alaska Court of Appeals ruled that Hazelwood was entitled to immunity by Federal Statute and no evidence could be used against him at a criminal trial, because he had notified the U.S. Coast Guard that his ship had run aground on Bligh Reef and was spilling oil (see details in Legal Bulletin No. 171).

Alaska's Attorney General appealed the Court of Appeals' decision to the State Supreme Court. The Supreme Court affirmed the portion of the Court of Appeals' decision pertaining to the "independent source," stating "In this case, there is only one source: Hazelwood's single radio transmission" (to the Coast Guard).

The Court of Appeals had ruled that Hazelwood was granted immunity from prosecution by Federal Statute when he notified the Coast Guard of the spill and, therefore, the "inevitable discovery doctrine" did not apply. The Supreme Court overruled and said it did apply.

ISSUE:

Would the evidence at issue (the spill) have been inevitably discovered without reference to immunized statements?

HELD: Yes.

REASONING:

1. Congress did not rely solely upon the grant of immunity to

encourage the reporting of oil spills. A failure to notify would be a criminal act in addition to any criminal acts causing the spill.

NOTES:

Even though this is a misdemeanor case, it seems likely there will be an appeal, perhaps to the Federal courts, to rule on the Federal immunity statutes.

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