



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 120
Cross-reference Legal
Bulletin No. 106
July 1, 1988

INVOLUNTARY MIRANDA WAIVER

Reference: Don Michael Webb
v.
State of Alaska

Alaska Supreme Court
Opinion No. 3338
P.2d
June 3, 1988

FACTS:

Webb was convicted in Superior Court. He appealed first to the Court of Appeals, which affirmed his conviction, and then to the State Supreme Court, which reversed the conviction (refer to Legal Bulletin No. 106).

After obtaining a package from an airfreight company located near Anchorage International Airport, Webb's vehicle was stopped by police officers. Webb produced his Alaska drivers license, which was seized by one of the officers.

Webb was asked to voluntarily follow police to their airport office for an interview. He was told that, even though he was not under arrest, his drivers license would be returned to him only if he went to their office and made a statement. Webb had been given his Miranda warning. He agreed to go to their office. Upon their arrival, Webb was reminded of his Miranda rights. He told officers he understood his rights, but he did not understand why he was at their office if he had rights. Webb gave a tape-recorded statement admitting to ordering the marijuana contained in the package. Webb's drivers license was returned to him and he was allowed to leave. He was later charged.

ISSUE:

Was the seizure and retention of Webb's drivers license, with its return conditioned upon his giving a statement, coercive enough to render his Miranda waiver involuntary?

HELD: Yes.

REASONING:

1. Webb was removed from his car, placed against its hood and patted down in the presence of three officers.

2. When Webb asked for return of his drivers license, officers made it clear to him that the drivers license would be returned only on the condition that he went to their office and gave a statement. (emphasis added)

3. Webb was given the mixed message that, while he had the right not to incriminate himself, he had to balance the importance of that right against the importance of getting his drivers license back.

4. If Webb had refused to go with the officers, he would not have been able to drive his car legally.

5. Webb was presented with the illusory choice of exercising his right to remain silent and losing a valuable property interest, namely his drivers license, or making an incriminating statement to secure the return of that drivers license.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

Mark "REVERSED" across previous Legal Bulletin No. 106 and make a cross-reference to this Legal Bulletin No. 120.

Add this case to Section P on Page 13 of your Contents and to P-4 of "Text". File Legal Bulletin No. 120 numerically under Section R of the manual.