



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 185
August 1, 1994

WARRANTLESS SEARCH OF CLOSED CONTAINER SEIZED FROM VEHICLE

Reference: California United States Supreme Court
v. 114 L Ed 2d 619
Charles Steven Acevedo May 30, 1991 (89-1690)

FACTS:

DEA agents in Hawaii seized a package containing marijuana which was to have been delivered to J. R. Daza, in care of the Federal Express office in Santa Ana, California. One of the agents sent the package to the police, who in turn took it to Federal Express with intentions of arresting the person who claimed it.

The following day, a man identifying himself as Jamie Daza arrived at Federal Express to claim the package. Police followed Daza to his apartment and watched him carry the package inside. Shortly thereafter, Daza left the apartment and dropped the box and paper containing the marijuana into a trash bin. At that time, one of the officers left the surveillance to go and apply for a search warrant.

Shortly after the officer left to obtain the warrant, officers at the scene observed Acevedo enter Daza's apartment. Acevedo stayed for about ten minutes and reappeared carrying a brown paper bag which looked full. The officers noticed that the bag was the size of one of the wrapped marijuana packages sent from Hawaii. Acevedo walked to his vehicle and placed the bag in the trunk and drove away. Fearing the loss of evidence, officers in a marked police car stopped him. They opened the trunk and the bag and found marijuana; Acevedo was arrested.

ISSUE:

Did the warrantless search of the container seized from the automobile violate the Fourth Amendment?

HELD: No; they had probable cause.

REASONING:

1. Police officers may conduct a warrantless search of a paper bag found in an automobile trunk when they have probable cause to believe the bag contains marijuana. (emphasis added)

2. The police did not have probable cause to believe that contraband was hidden in any other part of the vehicle, so a search of the entire automobile would have been without probable cause and unreasonable under the Fourth Amendment.

3. Under the "vehicle exception" to the warrant requirement in Carroll v. U.S. (1925) 267 US 132, police may search an automobile and the containers within it when they have probable cause to believe they contain contraband or evidence.

NOTES:

A word of caution--the Alaska Appellate Courts have not, as yet, adopted the "vehicle exception" to the warrant requirement. They have said that warrantless searches of vehicles are merely "sub-categories" of the other exceptions to the warrant requirement.

In this case, the officers established probable cause to search the paper bag removed from the trunk. That probable cause did not authorize the search of the entire vehicle.

Review of the following cases is recommended:

Daygee v. State, Legal Bulletin No. 10--search of vehicle incident to arrest; Clark v. State, Legal Bulletin No. 12--search of vehicle based on exigent circumstances; Anchorage v. Cook, Legal Bulletin No. 26--emergency search of vehicle; Lupro v. State, Legal Bulletin No. 29--search of abandoned vehicle; N.Y. v. Belton, Legal Bulletin No. 50--search of container in vehicle as incident to arrest; U.S. v. Ross, Legal Bulletin No. 59--search of vehicle based on probable cause; and other cases found in Section J of your Alaska Legal Briefs Manual.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section J, "Vehicle Exception," of your Contents and Text. File Legal Bulletin No. 185 numerically under Section R of the manual.