



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 317
November 19, 2006

INVESTIGATIVE STOP OF VEHICLE NOT SUPPORTED BY REASONABLE SUSPICION

Reference: Michael Travis Miller Alaska Court of Appeals
v. Opinion No. 2069
State of Alaska P.3d
October 20, 2006

FACTS:

An unknown woman called 911 to report that a man and woman were arguing in the parking lot of a bar. The caller said the two were not physically fighting but were arguing and waving their arms. She furnished a physical description of them and told the dispatcher that she did not know if the two were a couple or perhaps a brother and sister. The caller said the two were standing next to a white Subaru.

The police dispatcher sent a police officer to a "verbal domestic dispute." When the officer arrived, he observed a white Subaru occupied by three people. The officer activated his overhead lights and stopped the Subaru. The officer asked Miller, the driver, about an argument in the parking lot. He also asked if anyone in the vehicle needed help; the two women passengers shook their heads to indicate they did not need assistance.

Upon contacting Miller, the officer observed that he had watery, bloodshot eyes and an odor of alcohol, so he began to investigate whether Miller was intoxicated. Ultimately, Miller was arrested for DUI and refused to submit to a chemical test. He was charged with two counts of reckless endangerment for putting his passengers at risk by driving while under the influence. Miller argued that the evidence should be suppressed because the stop was illegal.

ISSUE:

Did the officer have an objective basis to believe that the reported argument had led, or would lead, to a crime?

HELD: No--an investigative stop is permitted if an officer has "reasonable suspicion that imminent public danger exists or serious harm to persons or property has recently occurred." (see Coleman v. State, Legal Bulletin No. 3)

REASONING:

1. It was previously held (see Jones v. State, Legal Bulletin No. 243) that a verbal argument, standing alone, does not justify a detention.

2. The officer in this case, like the officer in Jones, had no objective basis for believing that a crime had occurred or that one was imminent. No violence had been reported and the officer did not observe any violence nor have any knowledge of the relationship of the persons involved.

NOTES:

In a related issue, the Alaska Supreme Court No. S-11783 (Order No. 57 - October 13, 2006) dismissed the petition to be filed by the State to hear the John Q. Adams case (see Legal Bulletin No. 291). The Adams case involved a "pat-down" where cocaine was found. The Court of Appeals ruled that police were not justified in conducting the pat-down and the evidence was suppressed. By dismissing the petition, the State Supreme Court has upheld the Court of Appeals decision.

Review of the following cases is recommended; they address illegal seizure of a person resulting in suppression of evidence:

- Castle v. State, Legal Bulletin No. 241
- Jones v. State, Legal Bulletin No. 243
- Young v. State, Legal Bulletin No. 268

Also, compare/contrast the above cases with the cases listed below, all of which involve investigatory stops of persons or vehicles where officers were able to articulate

a reasonable suspicion. Evidence seized as a result of these stops was ruled admissible.

Free v. State, Legal Bulletin No. 39

Hamilton v. State, Legal Bulletin No. 263

State v. Wagar, Legal Bulletin No. 273

Nease v. State, Legal Bulletin No. 293

Williams v. State, Legal Bulletin No. 315

All of the above-referenced cases can be accessed on the Alaska Police Standards Council website.

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