



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 204
September 14, 1996

PERJURY BY FALSE SWORN STATEMENT

Reference: Clint and Connie Knix
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 1477
P.2d
August 2, 1996

FACTS:

Clint and Connie Knix applied for and received public assistance from the State of Alaska, Division of Public Assistance (DPA) from October 1991 through October 1992. The Knixes declared no income from October 1991 through April 1992. Early in 1992, the DPA received information which indicated the Knixes were earning income through a business venture. DPA employee, Guy Swafford, interviewed the Knixes. Clint Knix admitted he had been involved in the business venture, but stated the business had made no sales and had earned no income since September 1991.

Clint Knix wrote a statement for Swafford declaring that the Knixes received no income from their business venture from September 1991 through May 1992. Beneath the declaration, Swafford wrote "Under penalty of perjury, this is a true and accurate statement." Both Knixes signed and dated the statement. Swafford, a notary public, then added his own signature and affixed his notary seal.

Subsequent DPA investigation revealed the Knixes had in fact obtained substantial income while they were receiving public assistance. The Knixes were charged and subsequently convicted of fraud, theft and perjury. They appealed their convictions. This Legal Bulletin will address the perjury conviction only.

ISSUE:

Did the State prove that the statement to Swafford qualified as a "sworn statement" for the purposes of the perjury statute?

HELD: Yes.

REASONING:

1. AS 11.56.200(a): A "person commits the crime of perjury if the person makes a false sworn statement which the person does not believe to be true."

2. The form of the statement is defined in AS 11.56.240(2)(A) as: "A statement knowingly given under oath or affirmation attesting to the truth of what is stated, including a notarized statement."

3. Under AS 09.63.010, oaths or affirmations may be taken by justices, judges and magistrates; by Clerks of Court or their deputies; or by notaries, postmasters and commissioned officers and municipal clerks in certain circumstances. (emphasis added)

4. Under AS 09.63.030(a), any officer authorized to administer an oath may notarize a document by certifying "on the document that it was signed and sworn to or affirmed before the officer." (emphasis added)

5. Even though Swafford did not actually administer an oath or affirmation to the Knixes, the Superior Court properly concluded that sufficient evidence was presented at trial to allow the jury to find that the written and notarized statement signed by the Knixes amounted to perjury--"a false sworn statement which the Knixes did not believe to be true."

NOTES:

As indicated earlier, this case involved other issues which were not addressed in this Legal Bulletin. The perjury conviction was upheld.

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