



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 205
October 7, 1996

PERJURY BY UNSWORN AND NOT NOTARIZED STATEMENT

Reference: Danny J. Harrison
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 1479
P.2d
August 23, 1996

FACTS:

Harrison filed an application for post-conviction relief, challenging his convictions for weapons and theft violations. As part of the appeal, he filed an affidavit stating, "I, Danny J. Harrison, being duly sworn upon my oath, depose and state the following." Among other things, Harrison claimed that police officers who arrested him "broke his arm and killed his dog." Harrison signed the affidavit citing Alaska Statutes 09.63.020 and Title 28, U.S.Code, Section 1746, and "declare(d) under penalty of perjury that the foregoing is true and correct."

The State discovered that Harrison's statements were false and charged him with two counts of perjury. He was convicted and he appealed.

Harrison argued that his affidavit did not qualify as a "sworn statement," because he did not "swear to it before a notary or any other official empowered to administer oaths."

Alaska Statute 11.56.240(2) defines two types of "sworn statement":

(A) a statement knowingly given under oath or affirmation attesting to the truth of what is stated, including a notarized statement; or

(B) a statement knowingly given under penalty of perjury under AS 09.63.020.

ISSUE:

Since Harrison's affidavit could not be considered a "sworn statement," was it legally sufficient to support convictions for perjury?

HELD: Yes.

REASONING:

1. When a false statement pertaining to an important matter is sworn, affirmed or certified, the resulting evil is the likelihood that the statement's formal assertion of truthfulness will be honored and relied upon.

2. Despite its failure to expressly state that no notary was available, Harrison's affidavit declared that it was made under penalty of perjury "pursuant to the provisions of AS 09.63.020." (emphasis added)

3. Harrison's affidavit clearly amounted to "a verification on its face of truthfulness of the facts contained therein."

4. The affidavit was a "sworn statement" within the meaning of AS 11.56.240(2)(B).

NOTES:

This case also cites Knix v. State (see Legal Bulletin No. 204), which involves an unsworn statement made before a notary. That case, like this one, was upheld.

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