



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 121
July 1, 1988

INVESTIGATORY STOP OF VEHICLE WITH NO PROBABLE CAUSE

Reference: Michelle L. Smith
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 821
P.2d
June 17, 1988

FACTS:

A "locate" was issued on a vehicle as a result of the registered owner having her license suspended. A description of the registered owner was furnished with the locate. A police officer spotted the vehicle and observed a female driving it. When he stopped the vehicle, the officer learned that the driver was Smith instead of the registered owner. Smith did not have a drivers license. The officer learned that Smith's license had been suspended, also, and he arrested her.

Smith argued that (1) the officer had no probable cause to stop the vehicle; and (2) the stop did not meet the standard for an investigative stop, because there was no reasonable suspicion and because driving while a license is suspended is not a crime involving imminent public danger nor serious harm to persons or property.

ISSUE:

Must an officer who performs a traffic stop be certain that imminent public danger exists or that a crime involving serious harm to persons or property has recently been committed?

HELD: No.

REASONING:

1. Where there are grounds to believe the license of a driver has been suspended and there is no information to rule out the possibility the suspension was directly related to the driver's actual inability to drive safely, there is, at a minimum, reasonable suspicion to believe that imminent public danger exists.

2. Little purpose would be served in requiring an officer in such a situation to confirm his reasonable suspicion by awaiting some actual manifestation of reckless or negligent driving or by postponing any action until probable cause can be obtained.

NOTES:

Review of the following cases is recommended:

Coleman v. State, Legal Bulletin No. 3--investigatory stop of vehicle immediately after violent crime.

Waring and Robinson v. State, Legal Bulletin No. 76--investigatory seizure of persons from vehicle based on "gut feeling" where evidence was suppressed.

Christianson v. State, Legal Bulletin No. 112--investigatory stop of vehicle to check serial number with that of one reported stolen.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

Add this case to Section I on Page 6 of your "Contents" and to I-6 of "Text". File Legal Bulletin No. 121 numerically under Section R of the manual.