



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 157
May 29, 1991

INVESTIGATORY CHASE OF PERSON WHO ABANDONED DRUGS BEFORE ARREST

Reference: California
v.
Hodari D.

United States Supreme Court
59 LW 4335 (No. 89-1632)
April 23, 1991

FACTS:

Two police officers on patrol in a high crime area observed a group of juveniles, including Hodari, huddled around a small red car. When the juveniles saw officers approach, the red car left the area at a high rate of speed and the juveniles panicked and ran. One of the officers exited the police vehicle, ran down a parallel street and got to the intersection before Hodari who was looking behind as he ran. He did not see the officer until he was almost upon him, whereupon Hodari tossed away what appeared to be a small rock. A moment later, the officer tackled Hodari and handcuffed him. Hodari was found to be carrying \$130.00 in cash and a pager. The rock he discarded was found to be crack cocaine.

ISSUE:

Was Hodari seized at the time he dropped the drugs?

HELD: No.

REASONING:

1. To constitute a seizure of the person, just as to constitute an arrest, there must be either the application of physical force, however slight, or submission to an officer's "show of authority" to restrain the subject's liberty.
2. No physical force was applied in this case, since Hodari was untouched by the officer before he dropped the drugs.
3. Moreover, assuming the police pursuit constituted a "show of authority" enjoining Hodari to halt, Hodari did not comply with that injunction and therefore was not seized until he was tackled.
4. The cocaine abandoned while he was running was not the fruit of a seizure.

NOTES:

This case is similar to Michigan v. Chesternut, Legal Bulletin No. 123, where police on routine patrol "followed" (no pursuit) Chesternut until he threw away packets containing cocaine and was arrested

at that time. Both cases involved arrest after drugs were abandoned. The abandoned drugs were then in plain view of the officers.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section A, "Abandoned Property;" Section I, "Investigatory Seizure of Persons and Things (Stop & Frisk)," and Section K, "Plain View," of your Contents and Text. File Legal Bulletin No. 157 numerically under Section R of the manual.