

ANCHORAGE POLICE DEPARTMENT



LEGAL BULLETIN # 37

BUREAU BULLETIN



JULY 10, 1980

WARRANTLESS ENTRY INTO MOTEL ROOM RESULTING IN SEIZURE OF PERSON AND STOLEN PROPERTY

Reference: Rick Shane SUMDUM
v.
State of Alaska

Alaska Supreme Court
File No. 4460
612 P.2d 1018
June 27, 1980

FACTS:

During the early morning hours a guest of a Juneau motel was awakened by an intruder. Later in the morning it was learned that a watch, cash, and some marijuana were missing. The manager of the motel was advised and she called the police. Based on the observations of the witness guest, other lodgers pointed out Room 38 and said Rick SUMDUM was the one they wanted. This identification was made at 12:30 p.m. Normal check-out time was 11:00 a.m.

The motel manager said it was her responsibility to determine if there were "skips" at the motel. She telephoned to Room 38 and received no answer. The manager, accompanied by police officers and the victim of the burglary, walked to Room 38. The manager knocked and received no response. She then obtained her passkey and opened the door. When the door opened, two men were observed inside the room, apparently asleep. On the outstretched wrist of the man on the cot closest to the door was a distinctive watch which the victim immediately identified as the one stolen from his room. The police then entered the motel room and arrested and handcuffed SUMDUM. They searched his person and found sixty dollars (\$60.00) in cash. Their search under his cot discovered a buck knife. At the station, a bag of marijuana was found strapped to SUMDUM's leg.

ISSUE:

Was the warrantless entry into the motel room justified as an exception to the warrant requirement?

HELD: Yes.

REASONING:

1. Once the motel manager opened the door to SUMDUM's room and the police officers saw a man fitting the description of the burglary suspect and wearing a watch identified as stolen in the burglary, they had probable cause to arrest.
2. As a minimum, the police could conduct a search incident to that arrest of SUMDUM's person and seize evidence of the burglary. (emphasis added)
3. The fact that they (police) did not avert their eyes when the motel manager opened the door does not convert their view of the room from a common passageway into an illegal search. (emphasis added)

NOTES:

The motel manager was not acting as an agent of the police. She was merely performing her standard procedure to determine if guests "skip". She examined the room well after the posted check-out time. At the time the door was opened, the officers were in the hallway and SUMDUM was in their "plain view" as was the watch on his wrist. The arrest was based on probable cause and the officers had the right to search SUMDUM without a warrant "incident to arrest". In this opinion, the court cites some of the below cases which you may want to review to determine how they research this conclusion:

1. McCoy v. State (A.P.D. Legal Bulletin No. 6) where police are allowed to search person incident to arrest for evidence of crime charged.
2. Weltin v. State (A.P.D. Legal Bulletin No. 13) where the search of a vial found on defendant during search incident to arrest was upheld.
3. State v. Spietz (A.P.D. Legal Bulletin No. 18) where there were no exigent circumstances to make a warrantless entry into a private residence to seize marijuana.
4. Pistro v. State (A.P.D. Legal Bulletin No. 20) where court held a plain view search was permissible when officers walked up a private drive that was considered "public access".
5. Finch v. State (A.P.D. Legal Bulletin No. 22) where the warrantless entry into a motel room could not be justified because there was no showing that the evidence would be destroyed before a warrant could be obtained.

This opinion is dated after the Payton v. New York case (see A.P.D. Legal Bulletin No. 34) where the U.S. Supreme Court could find no exceptions to the warrant requirement when police made a forced entry into a private residence without a warrant. In that case, the defendant was not home and evidence seized was suppressed.