

ANCHORAGE POLICE DEPARTMENT



LEGAL BULLETIN NO. 11

BUREAU BULLETIN



May 18, 1978

SEARCH WARRANT BASED ON

RELIABLE INFORMANT

Reference: Anthony KELLER
v.
State of Alaska

KELLER v. STATE
543 P.2d 1211
(1975 Alaska)

FACTS:

Officers in Ketchikan received a telephone call from a DEA (Drug Enforcement Administration) agent who said KELLER would arrive in Ketchikan on Alaska Airlines and would have a blue suitcase containing a large quantity of drugs. The DEA agent stated he had received his information from Chief of Police Payne in Centralia, Washington.

The officers first contacted Seattle law enforcement personnel to verify the identity of the DEA agent. After they confirmed his identity, they contacted the Police Department in Centralia and determined Payne to be the Chief. Next, a person-to-person telephone call was placed to Payne to verify the story told by the DEA agent.

Payne told the officers that KELLER had left Centralia for Seattle and would be enroute to Ketchikan with a quantity of drugs in a blue suitcase. Payne stated that he had received his information from a reliable informant and that he had known this informant for five or six years; during that period of time, information supplied by his informant resulted in three drug related convictions and the informant had furnished information on the other cases. Payne further stated he had been investigating KELLER for one year and knew him to be involved in the trafficking of drugs.

The officers checked with Alaska Airlines and learned that KELLER was enroute to Ketchikan but that his suitcase had been "mishandled" in Seattle and would arrive on the next flight. Officers observed KELLER deplane and file a report on his missing blue suitcase. Officers then contacted a magistrate and requested a search warrant be issued based on an affidavit containing all the information above. A search warrant was issued and the suitcase searched. The defendant was convicted and appealed.

ISSUE:

Did the affidavit provide sufficient probable cause to conclude KELLER would be carrying drugs in the blue suitcase?

HELD: Yes.

REASONING:

1. The two-prong test of Aguilar v. Texas, 38 U.S.108 (1964), was met . . . there was personal knowledge of the informant and reliability of the informant had been established
2. The informant had told Payne that KELLER would be transporting the drugs in a blue suitcase. This established "personal knowledge" on the part of the informant and the information was verified by the officers at the airport when KELLER reported it missing.
3. Payne stated that he had received reliable information from the informant on prior occasions and, through his personal investigation, he was aware of KELLER's involvement in the trafficking of drugs.
4. The information that KELLER had a large amount of drugs in a blue suitcase and was taking it to Ketchikan aboard a specified airline is not the type of general information that is likely to be the subject of rumors.
5. A disinterested magistrate could reasonably conclude from the information that it was based on personal knowledge of the informant.

NOTES:

The Supreme Court in this case devoted a paragraph to commending the Alaska State Troopers (Carl M. Swanson) for their thoughtful, deliberate and reasoned approach. The court was pleased that the identities of the DEA agent and the Police Chief were verified and that a search warrant was obtained from a neutral and detached magistrate even though they (AST) were pressed for time to deal with the situation.

The court was not upset that the information was from the "reliable informant" of Payne and his identity unknown to the officer (Swanson) who signed the affidavit. The court said, "An affidavit may be based on hearsay so long as a substantial basis for crediting the hearsay is presented to the magistrate."