



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 194
August 20, 1995

AFFIDAVIT FOR SEARCH WARRANT
BASED ON INFORMANTS

Reference: Roy Hugo
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 1426
P.2d
August 11, 1995

FACTS:

While at the airport in Anaktuvuk Pass, North Slope Borough Public Safety Officer Dunbar saw Hugo's wife pass an envelope to the pilot of the plane. When Officer Dunbar asked her what was in the envelope, Hugo's wife said she was sending Hugo his watch so he could wake up on time.

A couple of hours later, an informant told Dunbar that Hugo had gone to Fairbanks and would return the next day with drugs and alcohol. The informant also said Hugo had been selling marijuana from his home and would be returning shortly with two more bags of marijuana.

About two hours later a second informant, who had provided Dunbar with information in the past, contacted Dunbar to report that Hugo would be returning to Anaktuvuk Pass the next day with marijuana and a couple jugs of alcohol.

Dunbar contacted Magistrate Cadra to apply for a warrant to search Hugo's person and luggage. Dunbar informed the Magistrate that the first informant had never given him information before, so he could not say that the informant was credible. However, he also told the Magistrate that he had no reason to doubt the informant's credibility. Dunbar told the Magistrate that the first informant was not being paid nor given any concessions for his information.

Dunbar testified that the second informant, who was a respected member of the community, had given him reliable information in the past and that the informant was someone Dunbar would readily believe.

Dunbar further informed the Magistrate that he had personal knowledge there had been alcohol in Anaktuvuk Pass, which is a dry community, following Hugo's return from his last trip out of the village two weeks before. At that time, Dunbar had seen both Hugo and his wife intoxicated.

Magistrate Cadra found probable cause to believe that Hugo would be carrying marijuana when he returned to Anaktuvuk Pass and issued a warrant authorizing the search of Hugo's person and luggage. Upon service of the warrant, police found several bags of marijuana in Hugo's luggage.

ISSUE:

Did Dunbar's testimony establish probable cause for the issuance of the warrant?

HELD: Yes.

REASONING:

1. Under Alaska law, the adequacy of a search warrant application is evaluated under the Aguilar/Spinelli two-prong test. The State must establish, first, the reliability and, second, that the informant has personal knowledge of the event. (emphasis added)
2. The first informant named Hugo's destination, identified the day on which Hugo would be returning and told Dunbar that Hugo would be bringing back two bags of marijuana and liquor.
3. Likewise, the second informant identified the day of Hugo's return and told Dunbar that Hugo would be carrying both marijuana and liquor.
4. The fact that Dunbar received the same information from two separate sources tends to provide corroboration for each informant's tip. (emphasis added)
5. For purposes of the Aguilar/Spinelli doctrine, the veracity of a statement given by a police informant whose reliability is unknown may be established by a corroborating statement from another informant; cross-corroboration among informants is a well-accepted method of demonstrating the validity of the information given [citing Lewis v. State, 862 P.2d 181, 186 n.5 (Alaska App. 1993)].
6. The Magistrate could properly find the second prong--personal knowledge--satisfied. Both informants reported that Hugo had left town; Dunbar independently knew this from his encounter with Hugo's

wife at the airport. Each of the informants told Dunbar that Hugo would be returning the next day and that he would be carrying both marijuana and alcohol.

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