



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 233

February 7, 2000

FORFEITURE OF VEHICLE PURSUANT TO STATE STATUTE

Reference: Florida United States Supreme Court
v. No. 98-233
Tyvessel Tyvorus White US
May 17, 1999

FACTS:

Two months after officers observed White using his car to deliver cocaine, he was arrested at his workplace without a warrant on unrelated charges. At that time, the arresting officers seized his car. The car was parked in the employer's parking, a public area. Police seized the car because they believed it was subject to forfeiture under the Florida Contraband Forfeiture Act (Act), §932.703(2)(a). During a subsequent inventory search, police found two pieces of crack cocaine in the ashtray. White was charged with possession of a controlled substance. White argued that warrantless seizure of his car violated the Fourth Amendment, thereby making the cocaine the "fruit of the poisonous tree".

ISSUE:

Does the Fourth Amendment require police to obtain a warrant before seizing an automobile from a public place when they have probable cause to believe that it is forfeitable contraband? (emphasis added)

HELD: No.

REASONING:

1. When officers have probable cause to believe that an automobile contains contraband, the Fourth Amendment does not

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require them to obtain a warrant prior to searching the car for and seizing the contraband.

2. Although the police in this case lacked probable cause to believe that White's car contained contraband, they had probable cause to believe that the vehicle itself was contraband under Florida law.

3. The Florida "Forfeiture Act" provides, in relevant part: "Any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of the Florida Contraband Forfeiture Act, or in, upon, or by means of which any violation of the Act has taken or is taking place, may be seized and shall be forfeited."

NOTES:

Review of the following Legal Bulletins pertaining to forfeiture issues is recommended:

Johnson v. Johnson, Legal Bulletin No. 176--illegally seized cash must be returned.

Austin v. U.S., Legal Bulletin No. 179--seizure of real property.

Libretti v. U.S., Legal Bulletin No. 195--forfeiture of property and money pursuant to plea.

Bennis v. Michigan, Legal Bulletin No. 200--innocent owner still subject to forfeiture by statute.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section Q, "Miscellaneous Cases of Interest," of your Contents and Text. File Legal Bulletin No. 233 numerically under Section R of the manual.