



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 184
March 19, 1994

SEARCH WARRANT BASED ON INFORMATION SUPPLIED BY
JUVENILE WHO BURGLARIZED
DEFENDANT'S RESIDENCE

Reference: Robert Atkinson
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 1337
P.2d
March 11, 1994

FACTS:

A man called State Troopers and reported that his 15-year-old son, P.J., had come home with some "very green" marijuana, which apparently had been freshly harvested. P.J. was interviewed by the Trooper and admitted he brought the marijuana home. P.J. told the Trooper he had burglarized a private residence and discovered numerous marijuana plants growing there. He further admitted he had been in the same residence on a prior occasion to steal marijuana and said an "extensive lighting system" was being used to grow the plants. P.J. furnished the Trooper with a map depicting the location of the house and said he thought it was owned by Robert Atkinson.

The Trooper showed the map to an acquaintance, who immediately identified the location as Atkinson's residence. Subsequent checks of utility records confirmed the house was in the name of Robert Atkinson.

A magistrate issued a warrant to search the Atkinson residence, based on the Trooper's testimony/affidavit. P.J. did not testify. The search warrant was executed while Atkinson was on the premises and numerous marijuana plants were seized from his basement.

ISSUE:

Based on the Aquilar-Spinelli two-prong (personal knowledge and credibility) test regarding informant hearsay, did the trooper have enough information to support probable cause?

HELD: Yes.

REASONING:

1. P.J.'s story that he had obtained marijuana from Atkinson's house was corroborated by numerous particulars--he was caught by his father with "green" marijuana; he told the same story to his father and the Trooper; he drew a map specifying the location of Atkinson's home, which proved to be accurate; and the resident utilities proved to be in Atkinson's name.

2. The magistrate properly determined P.J.'s credibility was additionally bolstered by the self-incriminating (admitting to the burglaries) nature of his statement.

NOTES:

Review of Section M of the manual is recommended. Compare/contrast the Illinois v. Gates, Legal Bulletin No. 73, and Alabama v. White, Legal Bulletin No. 146, cases decided by the United States Supreme Court with the following State cases: Keller v. State, Legal Bulletin No. 11; Resek v. State, Legal Bulletin No. 56; Allen v. State, Legal Bulletin No. 137; Willie v. State, Legal Bulletin No. 168; and Goodlataw v. State, Legal Bulletin No. 175.

Remember--Alaskan courts have said that our State constitution will not allow the Gates (Legal Bulletin NO. 73) "totality of the circumstances" approach for the issuance of search warrants and that the Aguilar-Spinelli analysis must be used (personal knowledge and veracity of informants).

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section M--"Warrants, Affidavits and Informants"--of your Contents and Text. File Legal Bulletin No. 184 numerically under Section R of the manual.