



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 210
February 17, 1997

SEARCH OF A VISITOR'S PURSE ON PREMISES DURING SERVICE OF WARRANT

Reference: Victoria A. Waters
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 1483
P.2d
October 4, 1996

FACTS:

State and federal officers executed a search warrant on the residence of David and Theresa Edwards. The officers were looking for drugs. At the time the warrant was served, Victoria Waters, who was visiting at the Edwards' apartment, was seated on the living room couch. The officers conducted a cursory search of both Mrs. Edwards and Waters.

During the ensuing search, a police officer found a small coin purse on the opposite end of the couch from where Waters had been sitting when officers first entered the residence. The coin purse contained twenty-two slips of crack cocaine. Waters said the purse belonged to her; she was arrested and charged with possession of cocaine with intent to deliver.

Waters argued that the search of the coin purse was illegal because the officer knew it belonged to her (not Edwards) and the officer should have at least obtained her permission prior to searching it.

ISSUE:

Are the police entitled to assume that all objects within the premises lawfully subject to search under a warrant are a part of those premises for the purpose of executing the warrant?

HELD: Yes.

REASONING:

1. The warrant in this case authorized officers to open and search all containers in the Edwards' residence which might have contained drugs.

2. The officers had no duty to resolve ambiguity concerning ownership.

3. Waters' coin purse was a plausible hiding place for contraband and was found in the Edwards' apartment; absent circumstances providing clear notice that the purse actually belonged to Waters, and not just that it might have, the officer acted properly in searching it.

NOTES:

The court reaffirmed the Alaska Supreme Court ruling in Carman v. State, Legal Bulletin No. 30, which also concerns the search of a visitor's purse. In addition, the court mentions the Ybarra v. Illinois case (no bulletin, but see Section M of manual) which involves the search of a person during execution of search warrant. Ybarra was at a licensed public premises (a bar) at the time of the search, not at a private residence. The evidence seized from Ybarra's person was ruled to have been illegally seized. The police in Ybarra should have instructed him to leave.

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. 210 numerically under Section R of the manual.