



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 196
January 17, 1996

CIVIL ALLEGATIONS OF CONSTITUTIONAL
VIOLATIONS, FALSE ARREST AND IMPRISONMENT

Reference: John Waskey
 v.
 Municipality of Anchorage

Alaska Supreme Court
Opinion No. 4308
 P.2d
January 12, 1996

FACTS:

Evan Waskey was arrested and charged with assault. He told the arresting officer his name was John Evan Waskey, which is actually his brother's name. Evan then jumped bail and a bench warrant was issued in the name of "John Evan Waskey" for failing to appear.

John was arrested on the warrant and detained for ten days. When the Municipality learned it was Evan and not John, who was originally arrested and charged, the charges against John were dismissed.

John filed a civil action against the Municipality containing counts sounding in negligence, constitutional violations, and false arrest and false imprisonment.

ISSUE NO. 1:

Did the arresting officer owe a duty of care enforceable in tort to ensure that people arrested are who they say they are, and did the arresting officer negligently fail to perform his duty?

HELD: No.

ISSUE NO. 2:

Does the Municipality have immunity for false arrest?

HELD: Yes.

REASONING:

1. The arresting officer owed John no duty of care to proceed without error when he initiated legal action against Evan.

2. Because the arresting officer owed John no duty of care, no duty was breached, and no negligence claim can be maintained.

3. In this case, the Municipality obtained a warrant for the arrest of John Waskey and, thus, had appropriate legal authority for the arrest. There can be no claims for false arrest nor false imprisonment under these circumstances.

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. 196 numerically under SECTION R of the manual.