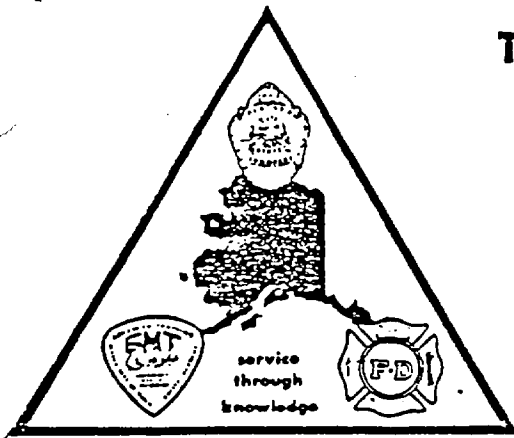


# DEPARTMENT OF PUBLIC SAFETY

## TRAINING ACADEMY

LEGAL BULLETIN NO. 75  
October 14, 1983



### "SNIFF TEST" BY A TRAINED NARCOTICS DETECTION DOG

Reference: United States  
v.  
Raymond J. PLACE

United States Supreme Court

~~(Decided June 20, 1983)~~

~~33 CrL 3186~~

462 US 696 (1983)

#### FACTS:

PLACE's behavior aroused the suspicions of law-enforcement agents as he waited in line at Miami International Airport to buy a ticket to New York. Agents approached him at the departure gate and requested identification. He showed them his identification and consented to a search of two suitcases which he had checked through. However, the flight was about to depart, so the agents decided not to search the luggage. Because of PLACE's suspicious behavior and the agents' encounter with him which pointed out discrepancies in the street address on his luggage tags, the agents contacted two of their associates in New York who ultimately observed PLACE deplane. They, too, were suspicious of PLACE.

After he retrieved his luggage and had called for a limousine, the agents made personal contact with him. They identified themselves to him and requested identification from him. He told the agents he had "spotted" them as cops as soon as he left the plane. A records check was conducted; there were no outstanding warrants for his arrest. PLACE told them he had been contacted by agents in Miami and that they had already searched his luggage. The New York agents told him they knew this was not true and asked for his consent to search the luggage. PLACE refused to consent to the search. The agent then told him that his luggage would be seized and taken before a federal judge to try to obtain a search warrant. The agent told PLACE he was free to accompany them if he wished to, but he declined. The bags were taken to an airport office where they were subjected to a "sniff test" by a trained narcotics detection dog. The dog reacted positively to the smaller of the two bags. Approximately ninety minutes had elapsed since the seizure of PLACE's bags. Because it was late on a Friday afternoon, the agents retained the luggage until Monday morning when they secured a search warrant for the smaller bag. Upon opening the bag, the agents discovered 1,125 grams of cocaine. PLACE was indicted for possession of cocaine with intent to distribute.

#### ISSUE NO. 1:

Did the "sniff test" conducted by the trained canine amount to a search as construed by the Fourth Amendment?

HELD: No.

#### ISSUE NO. 2:

Was the ninety-minute warrantless seizure of the luggage permissible as an investigate detention?

HELD: No.

REASONING:

1. A "canine sniff" by a well-trained narcotics dog does not require opening the luggage. It does not expose non-contraband items that otherwise would remain hidden from public view, as does, for example, an officer's rummaging through the contents of luggage. The manner in which information is obtained through this investigative technique is much less intrusive than a typical search. (emphasis added)
2. The "sniff" discloses only the presence or absence of narcotics, a contraband item.
3. Because of the inherently transient nature of drug-courier activity at airports, allowing police to make brief investigative stops of persons at airports on reasonable suspicion of drug-trafficking substantially enhances the likelihood that police will be able to prevent the flow of narcotics into distribution channels. (emphasis added)
4. When an officer's observations lead him to reasonably believe that a traveler is carrying luggage which contains narcotics, the police may confine their investigation to an on-the-spot inquiry---for example, immediate exposure of the luggage to a trained narcotics detection dog. (emphasis added)
5. When the police seize luggage from the suspect's custody, the limitations applicable to investigative detentions of the person should define the permissible scope of an investigative detention of the person's luggage on less than probable cause. (emphasis added)

NOTES:

The court analyzed this case as a "Terry stop-and-frisk" situation. They in essence said, (1) the behavior exhibited by PLACE alerted the agents' reasonable suspicions that he was engaged in drug trafficking; (2) the initial seizure and detention of PLACE and his luggage was not unreasonable; (3) the "sniff" by the dog was not a search within the meaning of the Fourth Amendment; and (4) the ninety-minute detention was too long, especially when the New York agents were alerted in advance that PLACE was arriving. The agents were able to articulate their suspicions on the behavior of PLACE even though they did not have probable cause to arrest him and the luggage in question was in a public place.

If you come upon a case such as this, it is suggested that you immediately contact a judge or be able to justify why you could not do so. The court is not going to be interested in "hunches", "gut feelings", "intuition", "lucky guesses" nor like comments. You must be able to articulate what it was that made you suspicious.

Besides the Terry v. Ohio stop-and-frisk doctrine, it is recommended that the following also be reviewed:

1. Michigan v. Summers (Legal Bulletin No. 44)--limited detention of occupants while authorities search premises pursuant to valid search warrant.
2. Coleman v. State (Legal Bulletin No. 3)--the investigative stop and subsequent arrest of a rape suspect.
3. Ozenna v. State (Legal Bulletin No. 42)--stop-and-frisk of a burglary suspect based on facts articulated.