



---

# DPS TRAINING BULLETIN

---

LEGAL BULLETIN NO. 203  
July 27, 1996

## SEARCH OF PERSON IN RESIDENCE DURING EXECUTION OF WARRANT

Reference: James Conroy Betts  
v.  
State of Alaska

Alaska Court of Appeals  
Opinion No. 1476  
P.2d  
July 12, 1996

### FACTS:

Juneau law-enforcement officers were alerted to the possibility of drug trafficking at a trailer in Space 50 at the Sprucewood Trailer Park. The officers based their probable cause on a named informant who had been to the trailer, saw drugs and had been offered an opportunity to purchase drugs from the occupants. This information had been obtained a short time before the officers applied for, and were issued, a warrant to search the trailer and any individuals on the premises for drugs and drug paraphernalia.

When the warrant was executed a short time after it was issued, the officers found several individuals, including Betts, in the trailer. Betts was found to be in possession of a small quantity of cocaine and was charged with misconduct involving a controlled substance in the fourth degree. Betts appealed his conviction, challenging the validity of the search warrant.

### ISSUE:

Upon execution of the warrant, was there good reason to believe that individuals in the trailer would have drugs or drug paraphernalia on their persons?

HELD: Yes.

### REASONING:

1. A warrant authorizing the search of a particularly described premises and "any persons therein" is not per se impermissible.
2. The sufficiency of a warrant to search persons identified only by their presence at a specified place should depend upon the facts.

3. So long as there is good reason to suspect or believe that anyone present at the anticipated scene will probably be a participant, presence becomes the descriptive fact satisfying the aim of the Fourth Amendment.

**NOTES:**

Review of the following cases, in Section M of the Legal Briefs Manual, is recommended:

Moore v. State, Legal Bulletin No. 163--the warrantless search of a person present in private residence during execution of warrant.

Ybarra v. Illinois, (no legal bulletin)--search of patron in a public bar.

**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. 203 numerically under Section R of the manual.