



## DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 272  
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BURNED-OUT HEADLIGHT LEADS TO TRAFFIC STOP  
AND CONSENT SEARCH OF PERSON'S WALLET,  
LEADING TO PROBABLE CAUSE TO SEARCH RESIDENCE

**Reference:** William A. Baxter Alaska Court of Appeals  
Vincent T. Haugen Opinion No. 1898  
and \_\_\_\_\_ P.2d  
Lara C. Johnson September 12, 2003  
v.  
State of Alaska

**FACTS:**

A North Pole police officer stopped a car for having a burned-out headlight. The driver, Lara Johnson, told the officer that she did not have a valid driver's license. The officer asked Johnson if she was carrying drugs on her person or in her vehicle. When Johnson said she was not, the officer asked her if he could search her and the vehicle. Johnson replied she did not care.

After Johnson removed items from her person and placed them on the trunk of her car, the officer observed a bulge in her front pocket. The officer asked Johnson to take the other items out, which turned out to be three folded-up coffee filters from her pants pocket and two pill bottles from her jacket pocket. The officer asked Johnson if he could open the coffee filters and she responded that she did not care. The filters contained a white powdery substance that, based on his training and experience, the officer felt was methamphetamine. Johnson also gave the officer permission to open the pill bottles. One contained some blue pills that Johnson said were over-the-counter sleeping pills. The other contained "black and tarred-up silverish little balls" of a type the officer had never seen.

After conducting the searches, the officer arrested Johnson for driving without a valid driver's license but not for possession of drugs. The reason the officer did not arrest Johnson for possession of the methamphetamine was because his Department's policy is that no arrests are made for drug possession until the State Crime Laboratory positively identifies the suspicious substance of drugs.

The officer transported Johnson to the police station, where he conducted a more thorough search. During that search, he opened Johnson's wallet and found a folded piece of paper containing a written list of items that the officer felt were used for making methamphetamine. The officer photocopied the list and returned the original to the wallet.

Three days later, the officer contacted a member of the statewide Drug Enforcement Agency; they confirmed that the powdery substance concealed in the coffee filters was methamphetamine. They also confirmed that the photocopied list from Johnson's wallet was a complete list of items necessary for manufacturing methamphetamine.

Two months later, the statewide Drug Enforcement Agency applied for a warrant to search Johnson's residence for a methamphetamine lab. The search warrant application was based, in large part, on the evidence seized during Johnson's initial encounter with the officer. When police executed the warrant, they discovered a clandestine methamphetamine lab. Johnson, her boyfriend Haugen and guest Baxter were subsequently charged with conspiracy to manufacture methamphetamine.

The defendants argued that all evidence should have been suppressed because Johnson did not knowingly and voluntarily consent to a search. They also argued that the officer had no authority to open and read the folded piece of paper he found in Johnson's wallet.

**ISSUE NO. 1:**

Did Johnson consent to the search of her person and, if so, did she do so with the requisite voluntariness?

**HELD:** Yes.

**ISSUE NO. 2:**

Was the post-arrest search of Johnson's wallet permissible?

**HELD:** Yes--this search was incident to arrest. The officer validly arrested her for driving without a license and he had probable cause to believe the wallet might contain drugs.

**ISSUE NO. 3:**

Was the officer allowed to unfold and read the paper in Johnson's wallet?

**HELD:** Yes--it could have contained evidence of the crime of methamphetamine possession.

**REASONING:**

1. The circumstance of a traffic stop can be coercive. At the suppression hearing, however, Judge Beistline concluded that Johnson had voluntarily consented to the searches at the scene of the traffic stop and she did not at any time indicate a desire to retract her consent.

2. An individual may withdraw or limit--see Marino v. State, Legal Bulletin No. 216--their consent to a search at any time before the search is completed, by either verbal or physical act indicating the consent has been withdrawn.

3. Because the officer had arrested Johnson for driving without a valid license and because he had probable cause to believe Johnson was guilty of possession of illicit drugs, he could search Johnson's person and, in particular, her wallet for evidence of possession of illicit drugs as part of the search incident to arrest. (emphasis added)

4. In addition, the officer's search of Johnson's wallet was authorized because it was done with Johnson's consent (she had not withdrawn original consent).

5. When the officer searched Johnson's wallet, he only had probable cause to believe that she was guilty of drug possession. When a person is arrested for drug possession,

the papers on their person may contain notations identifying the source of the drugs, a name, address or telephone or pager number or identifying price paid for the drugs. It was reasonable for the officer to examine the folded paper in Johnson's wallet.

**NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:**

Add this case to Section B, "Consent," and Section E, "Incident to Arrest," of your Contents and Text. File Legal Bulletin No. 272 numerically under Section R of the manual.