



DPS TRAINING BULLETIN



Reference: Kenneth Arnold Wahl
V
State of Alaska

LEGAL BULLETIN NO. 381
August 8, 2017
Alaska Court of Appeals
Opinion No. 2502
August 4, 2017

OWNER OF CAMPER ON HER PROPERTY OCCUPIED BY GUEST HAD AUTHORITY TO CONSENT TO SEARCH

FACTS:

WAHL, who was homeless, approached Colette FRY and asked her if she needed any yard work done. She did, and hired him. When she learned WAHL was homeless, she offered him to stay in a camper located on her property. The camper was situated on FRY'S lawn; it was raised off the ground, held up by jacks and wooden pallets.

About six weeks later, FRY'S next-door neighbor, Elisa ORCUTT was found murdered in her home. Anchorage police detectives quickly identified WAHL as a suspect. FRY, the property owner, gave police consent to search camper. The police looked under the camper and found blood-stained boots that were later identified as belonging to WAHL. The boots were subsequently used as evidence against WAHL at his trial.

WAHL argued the boots should not have been admitted into evidence because FRY did not have the authority to give police consent to search the camper. He claimed that, because he was the occupant, a search warrant was required.

ISSUE:

Did the police violate WAHL's Fourth Amendment rights when they searched under the camper?

HELD:

No. A warrantless search does not violate the Fourth Amendment if the police have obtained the consent of a person having actual or apparent authority over the property. (Emphasis added)

REASONING:

1. FRY had sufficient authority over the camper to consent to the search.
2. FRY testified that even after she gave WAHL permission to live on the property, she continued to store her belongings both inside the camper and in the space beneath it. She stored fishing and camping gear in the camper itself, and she stored seat cushions, buckets, hoses, and jack fluid beneath it.
3. FRY also testified at trial that she did not need to ask WAHL's permission to retrieve these items.

NOTES:

Review Hilbish v State, Bulletin No. 189 (body under blue tarp) where guest camping on defendant's property had authority to give Ketchikan Police consent to look under tarp located in the yard.

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File Legal Bulletin No. 381 numerically under Section R of the manual.