



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 288

November 9, 2004

INVESTIGATORY STOP OF VEHICLE WITH OBSCURED LICENSE PLATES LEADS TO SEARCH WARRANT FOR MOBILE METH LAB

Reference: J. Lee Way
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 1954
P.3d
November 5, 2004

FACTS:

A State Trooper thought he recognized a van that drove past him as one belonging to Way. The Trooper heard the van contained a methamphetamine lab. The Trooper was unable to read the license plate, because it was bent upwards. He requested assistance from another Trooper to stop the van. A second Trooper stopped the van; it was being driven by Way. They could smell an odor of iodine coming from the van and noticed, in plain view, a small bag of white powder and items used in the manufacture of methamphetamine.

A search warrant was obtained for the van. Way was subsequently charged with misconduct involving a controlled substance. He was never charged with having an illegible license plate. Way argued that the evidence found in the van should have been suppressed on the basis that Troopers did not have probable cause to stop him for having an illegible license plate. Way also argued the stop was illegal because it was a pretext stop made only to allow police to investigate the methamphetamine tip.

ISSUE:

Did Troopers have probable cause to stop Way for having an illegible license plate?

HELD: Yes--AS 28.10.171(b) provides that all vehicle license plates must be clearly legible.

REASONING:

1. It is uncontested that Way's license place was mounted at an angle and bent upwards, which would violate the statute's requirement for plates to be secured with the upper edge of the plate horizontal.

2. When the Legislature passed a statute requiring vehicle license plates to be clearly legible, they did so in a large measure to allow police to readily identify vehicles for legitimate law-enforcement purposes.

3. The stop of Way's van was not pretextual, because the stop was based on a legitimate law-enforcement objective to identify the van.

NOTES:

Review of the following cases is recommended:

Legal Bulletin No. 202, Whern and Brown v. U.S.--where the U.S. Supreme Court upheld plainclothes officers' stopping a vehicle for a traffic violation; it passed the "reasonable officer test."

Legal Bulletin No. 263, Hamilton v. State--where the stopping of a car with an obscured license plate lead to arrest for murder.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section I, "Investigatory Seizure of Persons, Vehicles and Things," of your Contents and Text. File Legal Bulletin No. 288 numerically under Section R of the manual.