



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 225
July 13, 1998

SEARCH INCIDENT TO ARREST

Reference: Robert W. Snider
 v.
 State of Alaska

Alaska Court of Appeals
Opinion No. 1592
 P.2d

May 22, 1998

FACTS:

Police received a call stating a man was walking along a road, "waving a handgun in the air and appeared to be hallucinating." Shortly after receiving the call, the responding trooper observed the suspect "walking down the road apparently leaving markers to identify his trail." The suspect was later identified as Snider. Upon contact, Snider appeared to be obviously intoxicated. His speech was slurred, his eyes were bloodshot, his gait was swaying and he had a strong odor of alcohol on his breath. Snider had a handgun strapped to his left leg. He was arrested for possessing a weapon while intoxicated.

A "pat down" search was conducted for additional weapons before placing him in the patrol car. During this search, the arresting trooper found a glass pipe, five to six inches in length, in one of Snider's pockets. The pipe was screened and blackened at both ends. The trooper stated that, based on his training and experience, the pipe appeared to be a crack or cocaine pipe and individuals who have this type of pipe also carry crack or cocaine with them. The trooper discovered a two-inch by two-inch black plastic box in Snider's upper pocket. Snider made an "unsolicited comment" that he had found both the pipe and the box along the road. The trooper opened the box and found rock cocaine.

ISSUE:

Did probable cause exist for the warrantless seizure and search of the contents of the black plastic box found on Snider's person?

HELD: Yes.

REASONING:

1. The trooper's discovery of the glass pipe, as well as his knowledge that such pipes are used to smoke cocaine and that people having such a pipe on them also commonly carry the drug on their person, objectively furnished probable cause for the arrest of Snider for unlawful possession of drugs as well as probable cause for a search of the contents of the plastic box for evidence of drug possession.

2. Snider had been arrested for possession of a weapon while intoxicated. Since intoxication includes being under the influence of drugs, the facts known to the trooper objectively justified the search of Snider's person for drugs.

NOTES:

A general review of Section E, "Search Incident to Arrest," is recommended--for instance, see Elson v. State, Legal Bulletin No. 51, where during a "pat down" search of a DWI suspect, the trooper discovered a Bic lighter and a cocaine sniffer which lead to the seizure of three vials of cocaine.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section E, "Search Incident to Arrest," of your Contents and Text. File Legal Bulletin No. 225 numerically under Section R of the manual.