



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 277

February 12, 2004

INVESTIGATORY STOP OF VEHICLE BASED ON ANONYMOUS CALL LEADS TO DWI ARREST

Reference: Byron S. Smith
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 1912
P.3d
January 9, 2004

FACTS:

Ketchikan police received an anonymous telephone call reporting there was an intoxicated man getting into a white Toyota Tercel with Arkansas license 599GHN. Officer Bryan Perez responded to the call and observed the suspect vehicle pulling away from the curb. Officer Perez stopped the vehicle and determined that the driver, Smith, was intoxicated. Smith was arrested for driving while intoxicated; he submitted to a breath test, which produced a reading of .225.

Smith had four prior DWI convictions from Arkansas; three were for misdemeanors and one for a felony. Smith was charged with and convicted of felony DWI. He contends that the conviction should be set aside because he was subjected to an illegal investigative stop.

ISSUE:

Was this investigative stop supported by reasonable suspicion to believe that Smith was driving intoxicated?

HELD: Yes--the anonymous call to the police station provided reasonable suspicion to allow the stop.

REASONING:

1. According to the telephone report, the informant saw an intoxicated man getting into a white Toyota; it was reasonable for police to infer that the informant had a good view of Smith and was reporting something he actually and recently saw.

2. A situation where police receive a credible report that someone is driving while intoxicated requires immediate police action to prevent dangerous conduct and presents an exigent circumstance.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section I, "Investigatory Seizure of Persons and Things," of your Contents and Text. File Legal Bulletin No. 277 numerically under Section R of the manual.