

ANCHORAGE POLICE DEPARTMENT

BUREAU BULLETIN

LEGAL BULLETIN NO. 32

April 2, 1980

WARRANTLESS SEIZURE OF
PERSON AND EVIDENCE BY ROADBLOCK

Reference: Harold LACY
v.
State of Alaska

Alaska Supreme Court
File No. 3741
608 P.2d 19
March 14, 1980

FACTS:

During the early morning hours of June 26, 1977, two young women left an Anchorage nightclub and walked to their vehicle; just as they entered their vehicle, a man holding a pistol opened a car door and got in. The man directed the two women to drive to an area outside the city, to exit at an arterial, and to take the one and only road up the mountain. The suspect raped one woman but was unsuccessful in his attempt to rape the other one. After the rape, the car became stuck in the mud. The suspect left the two women in the car and instructed them not to leave while he went to a friend's house for help. The women remained in the car for about an hour before making their way to the nearest house and calling the police.

A police officer arrived and interviewed the women. After he learned of the event, the officer radioed for assistance and ordered a roadblock to be set up across the road leading down the mountain---another officer responded and accomplished this. After being there about three minutes, a car came down the road; it was occupied by two males, one of whom was asleep. The officer asked the driver for some identification. The driver said he left his wallet at home. The officer, however, was able to see a wallet sticking out from under the seat and removed the wallet asking the driver (LACY) if it belonged to him; when he said it did, the officer examined the contents. While the interview was taking place, the officer heard a description of the suspect being broadcast by the investigating officer. The description fit LACY in every detail.

LACY was arrested; the car he was driving was subsequently impounded and searched and the items stolen from the victims' vehicle were recovered. LACY was identified by the victims and subsequently convicted.

ISSUE:

Was the roadblock stop and subsequent warrantless seizure of LACY and other evidence from his vehicle in violation of the Fourth Amendment of the U.S. Constitution or Article I, Sections 14 and 22, of the Alaska Constitution?

HELD: No.

REASONING:

1. A serious crime had recently been committed. The investigating officers had reason to believe that the criminal was in the area and would be exiting from it on the road where the roadblock was established.

2. Roadblocks can properly be established when a serious crime has been committed for purposes of investigation or apprehension of a suspect where exigent circumstances exist and where the roadblock is reasonable in light of the particular circumstances of the case (emphasis added).

NOTES:

In this opinion, the court also quoted:

" . . . the placement of the roadblock must itself be reasonable; that is, there 'must be some reasonable relation between the commission of the crime and the establishment and location of the roadblock.' "

Remember---we are not talking here about "random stops" for possible traffic violations. A serious crime had been committed and, even though there was no way to tell what type of car was the escape vehicle, it was not unreasonable to stop all vehicles leaving the area in an attempt to apprehend the suspect.

The court's opinion does not indicate whether a search warrant was obtained for the search conducted after the car was impounded.

Likewise, the search of the wallet is not addressed. We do not know if the wallet search can be justified as "incident to arrest" (See McCoy v. State, APD Legal Bulletin No. 6) or if we are in a ZEHRUNG situation (See APD Legal Bulletin No. 1). The "thrust" of this opinion surrounds the stopping of the vehicle.

We do know that the court has continued to say "searches without warrants are per se unreasonable unless made pursuant to one of the recognized exceptions to the search-warrant rule. (See Clark v. State, APD Legal Bulletin No. 12).