



rights. After first denying any involvement in the homicide, he later admitted having "some part in the crime."

The officers later testified that they "routinely" use handcuffs for safety purposes when transporting individuals.

**ISSUE:**

Did police in this case violate the Fourth Amendment rule that a confession obtained by exploitation of an illegal arrest may not be used against a criminal defendant?

**HELD:** Yes--he was arrested before he was questioned and the State did not claim that police had probable cause to detain him.

**REASONING:**

1. Although certain seizures may be justified on something less than probable cause--like a Terry stop, the U. S. Supreme Court has never sustained against Fourth Amendment challenge the involuntary removal of a suspect from his home to a police station for investigative purposes...absent probable cause or judicial authorization.

2. Kaupp's "okay" in response to police is not consent. There is no reason to think Kaupp's answer was anything more than a mere submission to a claim of lawful authority.

3. It cannot seriously be suggested that, when detectives began to question Kaupp, a reasonable person in this situation (see Dunaway v. NY, Legal Bulletin No.33) would have thought he was sitting in the interview room as a matter of choice, free to change his mind and go home.

4. Stressing the officers' motivation of self-protection by routinely handcuffing individuals they transport does not indicate cooperation from the transported person.

**NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:**

File Legal Bulletin No. 294 numerically under Section R of the manual.