



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 134
July 12, 1989

INVESTIGATIVE VEHICLE STOP SEARCH OF GLOVE COMPARTMENT

Reference: Calvin Dunbar
v.
State of Alaska

Alaska Court of Appeals
677 P.2d 1275
March 2, 1984

FACTS:

At 10:15 p.m. on January 8, 1982, an armed robbery occurred at Taco John's in Anchorage. Witnesses described the suspect as a black male, about 25 years of age, medium build, 6'2" tall, 180 lbs. and with small clumps of facial hair on the sides of his neck. He was wearing a light-brown knee-length overcoat, dark stocking cap, and a purple and beige turtleneck sweater which had a zipper in front with a brass-colored ring. Immediately prior to the robbery, a green Cadillac with a black top was observed in the alley behind Taco John's. There was a black male in the driver's seat. A "locate" was broadcast to all police units.

Several hours after the robbery, police spotted a green and black Cadillac occupied by two black males. After a several block chase, the officers stopped the vehicle and ordered the driver and passenger to get out. The passenger, Calvin Dunbar, was wearing a sweater similar to the one described by witnesses; he also fit the description of the robber.

Before allowing Dunbar and the driver back into the vehicle, a police officer opened the unlocked glove compartment and found a loaded revolver which matched the description of the gun used in the robbery. Dunbar and Ernest Williams, the driver, were then arrested for the robbery.

Later that evening, police showed witnesses a photographic lineup that included pictures of Dunbar and Williams. The witnesses identified Dunbar as the robber.

ISSUE:

Was the gun found in the glove compartment during the investigative stop illegally seized?

HELD: No.

REASONING:

1. Police officers who make a legitimate investigative stop of an automobile may conduct a limited search for weapons for

their own protection, if they have a reasonable suspicion that occupants of the automobile are armed. The proper scope of such a search is co-extensive with the permissible limits of a search incident to a lawful arrest. (emphasis added)

2. The unlocked glove compartment was within easy reach of Dunbar and Williams when they were lawfully detained and a check of the glove compartment was justified because officers had good cause to believe they might be armed.

3. It is not significant that Dunbar and Williams had been removed from their vehicle when the glove compartment was opened and searched. The limits of a search incident to an arrest are determined by the location of the defendant at the time of the arrest. (emphasis added)

NOTES:

This case also involved an issue pertaining to the photographic lineup, which the court ruled as not being impermissibly suggestive.

Review of the following is recommended:

Section I--Investigatory Seizures--of the Alaska Legal Brief Manual; specifically Legal Bulletin No. 41, Hinkel v. Anchorage, regarding search of a vehicle as an incident to after defendant was removed from vehicle; Legal Bulletin No. 44, Uptegraft v. State, on search of a vehicle incident to arrest after an investigative stop; and Legal Bulletin No. 63, Dunn v. State, also about search of a vehicle incident to arrest after an investigative stop.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

Add this case to Section E, Search Incident to Arrest; and Section I, Investigatory Seizures; and Section O, Right to Counsel--Lineup and Handwriting, of your Index and Contents. File Legal Bulletin No. 134 numerically under Section R of the manual.