



seizure and subsequent search of Castle was justified: (1) Castle was a witness to Browning's arrest; (2) Castle's sudden exit from the car caused the officer to fear that Castle might assault him; and (3) Castle committed a crime by running into the middle of the street.

ISSUE:

During a routine traffic stop, when there are no circumstances to justify an investigative stop of the passenger, does the police officer have authority to order a passenger to remain in the car and not leave the scene? (emphasis added)

HELD: No.

REASONING:

1. When a police officer instructs a person to sit in a patrol car, the officer "seizes" that person.
2. It is clear that no exigency supported the officer's decision to detain Castle as a witness to a crime; the officer himself had personally observed the offense.
3. There is nothing in the record to support the assertion that Castle had presented an "officer safety" problem. By leaving the scene of the traffic stop, Castle "was trying to put as much distance as possible between himself and the officer."
4. Even if Castle broke the law (municipal ordinance) by running into the middle of the street, his conduct was the direct result of the officer's unjustified attempt to seize him.
5. The record does not support the State's argument that Castle could be temporarily detained at the scene of the traffic stop, either because he was a witness to a crime or because he posed a potential threat to officer safety.

NOTES:

Consent was not an issue in this case because the officer did not ask Castle for (1) his consent to remain at the scene, and/or (2) permission to search his person. Likewise, the

officer did not articulate any reasons (furtive movements, etc.) as to why he felt justified in making a search for his own safety.

**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. 241 numerically under Section R of the manual.