

ANCHORAGE POLICE DEPARTMENT



LEGAL BULLETIN NO. 22

BUREAU BULLETIN



April 3, 1979

WARRANTLESS SEARCH OF A HOTEL ROOM

Reference: Charles S. FINCH
v.
State of Alaska

Alaska Supreme Court
File No. 3242
592 P2d 1196
Opinion No. 1821
March 30, 1979

FACTS:

Police officers interviewed the victim of an assault. The victim, a female prostitute, indicated she had been in a motel room with the suspect, FINCH, who had beat her and hit her over the head with a partially-empty bottle of Galliano. She received a two-inch laceration on the back of her head and a black eye.

The victim said that the man who had assaulted her said he was going to dispose of all signs of the incident. Police officers contacted motel personnel who stated that the victim had come to the motel office, told them of the assault and requested a taxi to transport her to the hospital. One police officer remained outside the motel room of the suspect while another officer went to the office and called the room but received no answer. The desk clerk could not leave the desk, so she gave the officer the key to the room. The officer knocked on the door and received no answer, observed that no light was coming from under the door, and did not hear any sounds indicating the presence of anyone in the room. The officer opened the door and went inside. They did not have a warrant authorizing them to do so.

The officers seized fragments of glass from the room which were later sent to the laboratory. At trial, the officer testified that the evidence (based on what the victim told him) was going to be disposed of so he felt compelled to enter the room and seize it. The Superior Court admitted the evidence and the defendant appealed.

ISSUE:

Can the evidence found in the room without a search warrant be admitted as an exception where there is no apparent danger of imminent destruction of known evidence?

HELD: No.

REASONING:

1. There must be probable cause to believe that evidence is present and the officers must reasonably conclude, from surrounding circumstances and the information at hand, that the evidence will be destroyed or removed before a search warrant can be obtained. Here, the court held that such a conclusion was not reasonable.

2. The only valid course of action under the circumstances would have been to secure the room and station one officer there while the other sought a search warrant.

NOTES:

The evidence found as a result of the illegal search was not needed to sustain the conviction of FINCH because of the testimony of the victim which was, in part, corroborated by the desk clerk.

In State v. SPIETZ (see A.P.D. Legal Bulletin No. 18), the Supreme Court likewise felt there were no exigent circumstances to justify the warrantless intrusion of a house. In CLARK v. State (see A.P.D. Legal Bulletin No. 12), the court found that exigent circumstances did exist to justify the warrantless search of a car known to contain "destructible evidence". Keep in mind that since statehood the Alaska Supreme Court has never overturned a search warrant; that may be a clue as to the importance they place on search warrants.