



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 135
July 12, 1989

INVESTIGATIVE SEIZURE AND EMERGENCY
SEARCH OF VEHICLE

Reference: Kenneth Sather
v.
State of Alaska
Div. of Motor Vehicles
Dept. of Public Safety

Alaska Supreme Court
Opinion No. 3462
P.2d
June 30, 1989

FACTS:

A police officer observed an individual slumped over the wheel of a car. The engine was running and the headlights were on. The officer was concerned for the safety of the individual inside. Upon opening the door, the officer smelled a strong odor of alcohol. The driver, identified as Kenneth Sather, was found to be under the influence of alcohol; he was arrested for driving while intoxicated.

Sather argued that the officer violated his right to privacy when he opened the car door and that there was a lack of probable cause to make a warrantless search of his car.

ISSUE:

Did the officer violate Sather's right to privacy, Article I - Section 22, or make an illegal seizure, Article I - Section 14, under Alaska's Constitution?

HELD: No.

REASONING:

1. The interference with Sather's right to privacy was minimal when weighed against the important social interest of ensuring that the driver did not pose a public danger nor need immediate medical attention.

NOTES:

The officer in this case had a legitimate concern that the person slumped over the wheel of the car might be in need of medical attention. The investigative seizure of the car led to an emergency entry, whereupon the officer inadvertently discovered that the driver, who was in his plain view, was intoxicated.

Review of the following in the Alaska Legal Brief Manual is encouraged:

Section C, Emergency--especially Legal Bulletin No. 26, Anchorage v. Cook, on emergency search of a vehicle.

Section I, Investigatory Seizures--especially Legal Bulletin No. 3, Coleman v. State, regarding the investigative stop.

The decision in this case reiterates that of Stephen J. Stewart v. State of Alaska, 763 P.2d 515 (no Legal Bulletin issued), which you may also want to review.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

Add this case to Section C, page 2, and Section I, page 7, of your Contents and to Section C, page 3, and Section I, page 7, of the Text. File Legal Bulletin No. 135 numerically under Section R of the manual.