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# DPS TRAINING BULLETIN

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LEGAL BULLETIN NO. 119  
May 26, 1988

## SEIZURE OF GARBAGE AS ABANDONED PROPERTY

Reference: California  
v.  
Billy Greenwood and  
Dyanne Van Houten

United State Supreme Court  
56 LW 4409  
No. 86-684  
May 16, 1988

### FACTS:

Acting on information that Greenwood might be engaged in narcotics trafficking, police twice obtained from his regular trash collector garbage bags left on the curb in front of his home. On the basis of items in the bags which were indicative of narcotics use, the police obtained warrants to search the house, discovered controlled substances during the searches and arrested Greenwood and Van Houten on felony narcotics charges. The defendants argued, successfully in the California courts, that they had a right to privacy of their garbage. The State of California appealed to the United States Supreme Court on Fourth Amendment issues.

### ISSUE:

Does the Fourth Amendment prohibit the warrantless search and seizure of garbage left for collection outside the curtilage of a home? (emphasis added)

HELD: No.

### REASONING:

1. Defendants voluntarily left their trash for collection in an area particularly suited for public inspection. Their claimed expectation of privacy in the inculpatory items they discarded was not objectively reasonable.
2. It is common knowledge that plastic garbage bags left along a public street are readily accessible to animals, children, scavengers, snoops and other members of the public. (emphasis added)
3. The refuse was placed at the curb for the express purpose of conveying it to a third party, the trash collector, who might himself have sorted through it or permitted others, such as the police, to do so.
4. The police cannot reasonably be expected to avert their eyes from evidence of criminal activity that could have been observed by any member of the public.

NOTES:

The Alaska Supreme Court has ruled that there is no expectation of privacy in garbage discarded in a dumpster. The United States Supreme Court cited the Smith v. State; 510, P.2d 793 (no Legal Bulletin); case in support of their decision in this case.

Review of the following is recommended:

The "Text" in Section A of the manual on abandoned property.

Robert Lupro v. State of Alaska, Legal Bulletin No. 29--regarding search of an abandoned vehicle.

State of Alaska v. Michael Salit, Legal Bulletin No. 36--search of abandoned carry-on luggage at the airport and search of an abandoned hotel room.

The "Text" in Section K of the manual regarding plain view.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

Add this case to Section A on Page 1 of your "Contents" and to A-3 of "Text". File Legal Bulletin No. 119 numerically under Section R of the manual.

Cross-referencing this case to Section K on Page 9 of your "Contents" and to K-5 of "Text" is advised.