



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 292

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DRUG DOG'S SNIFF TEST DURING LAWFUL TRAFFIC STOP

Reference: Illinois United States Supreme Court
v. No. 03-923
Roy I. Caballes January 24, 2005

FACTS:

After an Illinois State Trooper stopped Caballes for speeding and radioed it in, a second Trooper overheard the transmission and drove to the scene with his narcotics-detection dog. With Caballes in the first Trooper's vehicle, a warning citation for driving in excess of the speed limit was being written for him. Meanwhile, the second Trooper walked his dog around Caballes' vehicle. The dog alerted at the trunk. Based on this alert, the officers searched the trunk, found marijuana and arrested Caballes.

Caballes was convicted of a narcotics offense and sentenced to twelve (12) years' imprisonment and a fine of \$256,136 (the street value of the drugs). The Illinois Supreme Court reversed the conviction and the State of Illinois appealed to the U. S. Supreme Court.

ISSUE:

Does a dog sniff, conducted during a concededly lawful traffic stop that reveals no information other than the location of a substance that no individual has any right to possess, violate the Fourth Amendment?

HELD: No--this was not an unnecessarily prolonged stop and the dog alert was sufficiently reliable to provide probable cause to conduct the search.

REASONING:

1. A seizure that is justified solely by the interest in issuing a warning ticket to the driver can become unlawful if it is prolonged beyond the time reasonably required to complete that mission.

2. In this case, the dog sniff was performed on the exterior of Caballes' car while he was lawfully seized for a traffic violation.

3. Conducting a dog sniff would not change the character of a traffic stop that is lawful at its inception and otherwise executed in a reasonable manner, unless the dog sniff infringed Caballes' constitutionally protected interest in privacy.

NOTES:

This case was decided on the U. S. Constitution, not Alaska's. So far, our Courts have not adopted the "vehicle exception" to the warrant requirement. If you find yourself in a situation similar to this case, you should consider seizing the vehicle and then apply for a search warrant.

In a similar case, Willie v. State, Legal Bulletin No. 168, two Village Public Safety Officers first seized a carton from a four-wheeler and then applied for a search warrant to look for alcohol.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

The entire Alaska Legal Briefs Manual has been updated and revised through January 2005. Revisions may be downloaded from the Alaska Police Standards website:

www.dps.state.ak.us/apsc/bulletins/index.asp

File Legal Bulletin No. 292 numerically under Section R of the manual.