

DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 262 October 29, 2002

WARRANTLESS POLICE VIEWING OF VIDEOTAPE SEIZED FROM A PRIVATE RESIDENCE BY A CITIZEN/SEXUAL-ASSAULT VICTIM

Reference: Alfred H. Paul v. State of Alaska Alaska Court of Appeals Opinion No. 1840 _____P.2d____ October 25, 2002

FACTS:

P.B. contacted the Sitka Police Department and told an officer that he had broken into his Uncle Alfred Paul's locked bedroom and obtained a videotape that he watched. He told the officer that the tape showed Alfred Paul having sex with C.P., P.B.'s fifteen-year-old cousin. Members of the Sitka police reviewed the entire eight-hour videotape. Segments of the tape contained recordings of television commercials and shows in addition to recordings of Alfred Paul and C.P. having sex in various ways.

Based on the evidence observed on the videotape, police obtained a warrant to search Paul's residence. That search resulted in the seizure of another videotape, as well as other evidence that was subsequently used against Paul.

Paul argued that police were required to obtain a warrant prior to viewing the videotape.

ISSUE:

Were police required to obtain a warrant prior to viewing the videotape?

HELD: No.

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REASONING:

<u>1.</u> A wrongful search or seizure conducted by a private party does not violate Fourth Amendment rights. Such private wrongdoings do not deprive the government of the right to use evidence it acquired lawfully.

NOTES:

Atkinson v. State, Legal Bulletin No. 184, is a case where a juvenile burglarized a residence to steal marijuana and a warrant was issued based on the illegal entry; all evidence subsequently seized was properly used against the defendant. Review of this case is recommended.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section N, "Probation Officer and Private Person Searches," of your Contents and Text. File Legal Bulletin No. 262 numerically under Section R of the manual.