

3:04-CV-1506-H

PLENTY OF TIME FOR A SEARCH WARRANT

After the inspection of the exterior of my Motor Home with four K9 search dogs conducted at the police (DPS) station parking lot 10 miles from the actual location of the traffic stop, and relocated for the convenience of the police, a positive alert was given by each of the four K9 search dogs alerting to the suspicious smells emanating from the Motor Home refueling access door area where just inside a red shop rag was sitting on the gas cap of the 70 gallon vacuum tight gasoline tank. The gas cap on which the red shop rag was sitting on, protected the contents of the gasoline tank from evaporation. The single K9 search dog from the Cedar Hill police car alerted to the red shop rag which I recently wiped denatured alcohol with about 24 to 48 hours prior to 04.MAR.2001. This suspicious red shop rag that the Cedar Hill police K9 dog alerted to was carried away by the strong wind upon the opening of the locked refueling access door and it was not retrieved by the police (DPS) for evidence and analysis. Just at this point and while there was plenty of time the police (DPS) failed to obtain a search warrant for the interior search of my Motor Home from a senior member of the Criminal Justice system, an impartial Judge, to whom the police (DPS) could have presented their case against me and obtain the necessary legal authorization for the several hour long thorough interior search of my Motor Home. I believe had the police (DPS) were to consult with a Judge then they would have been advised that the

*"Police must have 'articulable suspicion' of criminal activity in order to make random stops of vehicles on roads." Delaware v. Prouse, 440 U.S. 648 (1979) (random stops of motorists to check driver's license and registration papers and safety features of cars)*

furthermore the police (DPS) would have likely been advised

*"Also, the Court ruled that the search must be reasonably contemporaneous with the stop, so that it was not permissible to remove the vehicle to the station house for a warrant less search at the convenience of the police." Preston v. United States, 376 U.S. 364 (1964)*

and finally the police could have been advised that the suspicious smells emanating from the Motor Home refueling access door area may allow the police (DPS) to collect as evidence and for analysis the red shop rag and a sample of the contents of the 70 gallon gasoline tank but does not permit the police (DPS) to conduct a several hour long thorough search of the interior living space of my Motor Home.

T6B

END

T6B

NOT USED

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