

13-06: Step-Parent's Consent to Search Juvenile's Bedroom

Case: Tallman v. State, 38 Fla. L. Weekly D1444 (Fla. 1st DCA 2013)

Date: July 1, 2013

Subject: Step-Parent's Consent to Search of Juvenile's Bedroom

FACTS: A juvenile suspect lived in a home with his father and stepmother. The officers conducted a "knock and talk." The stepmother answered the door, and voluntarily consented to a search of the house, including her stepson's bedroom. The juvenile's father was not home at the time.

During the subsequent search of the bedroom, the officers found a box inside a dresser drawer. The officers then found contraband inside the box. The juvenile was charged accordingly, and he filed a motion to suppress, arguing that his stepmother lacked the authority to consent to a search of his bedroom drawer and the box contained therein.

RULING: Parents and step-parents can lawfully consent to a search of a juvenile's bedroom, including any containers found within the room.

DISCUSSION: As a general rule, a person who resides at a home cannot consent to the search of a bedroom, box, or other area, when that area is used exclusively by someone else. In other words, a person who resides at a house can only consent to a search of the person's own bedroom, or a common area, or other area over which the person normally exercises dominion and control.

However, this rule does not apply to a search of a juvenile's bedroom or other belongings. Unlike adults, juveniles do not have the right to exclude a parent from access or control over items located within their parents' home. Parents always have the authority to search a juvenile's belongings that are located within the parent's house. By this ruling, the Court has now extended that rule to step-parents. Thus, a parent or step-parent can lawfully consent to a search of their child or step-child's bedroom or other personal effects.

NOTE: The opinion does not indicate whether the juvenile affirmatively objected to the search of his room. Cases involving a present-and-objecting juvenile will be evaluated on the unique facts of each case, such as the age of the juvenile, and whether the juvenile's room was "off limits" to his or her parents/step-parents. This opinion does not provide a "bright line rule" as to whether a present-and-objecting juvenile can overrule a parent or step-parent's consent.

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Officers should consult with their agency legal advisors to confirm the interpretation provided in this Update and to determine to what extent the case discussed will affect their activities.