

1986

Utah v. Sery : Unknown

Utah Court of Appeals

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UTAH COURT OF APPEALS
BRIEF

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DOCKET NO. 860333-CA



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December 21, 1987

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COURT OF APPEALS

Re: State v. Sery,
Case No. 860333-CA

Dear Mr. Shea:

I wish to cite to the Court one additional authority in support of an argument presented in the State's brief in State v. Sery. United States v. Sokolow, 831 F.2d 1413 (9th Cir. 1987) (amended opinion) supports the argument contained in Point II C (brief of respondent at 25) that the facts relied upon by the officer provided reasonable suspicion for a stop. The following passage is relevant:

Profile elements include aspects of a suspect's behavior that clearly are consistent with an ongoing crime, such as when a suspect takes an evasive or erratic path through an airport in a manner that demonstrates a desire to avoid detection. Traveling under an alias or evasive movements are part of the performance of the crime. These elements of the profile demonstrate behavior that, absent unusual circumstances, may demonstrate an ongoing crime. An officer seeking to justify a seizure based upon these profile characteristics can testify to the suspicious behavior, and if the court finds

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the testimony credible, the seizure will be justified. The seizure is justified not because a requisite number of profile elements have been satisfied, but because some elements of the profile may create a reasonable suspicion of an ongoing criminal enterprise.

. . .

Accumulating a certain number of positive responses to elements of the profile would not create reasonable suspicion. Profile elements that indicate ongoing criminal behavior, however, may be supplemented by other aspects of the profile that would not by themselves create reasonable suspicion. Hence, a traveler under an alias arriving from Miami may arouse a greater suspicion than a traveler arriving under an alias from Dubuque.

831 F.2d at 1419, 1421. This supplemental authority is submitted pursuant to Utah R. Ct. App. 24(j) (1987).

Very truly yours,



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cc: Joan Watt, Esq.
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