

1986

Utah v. Sery : Unknown

Utah Court of Appeals

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David Wilkinson; Attorney General; Attorney for Respondent.

Karen Stam; Joan C. Watt; Salt Lake Legal Defender Assoc.; Attorneys for Appellant.

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SALT LAKE LEGAL DEFENDER ASSOCIATION

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Felony-Misdemeanor Divisions

CKET NO. 860333-CA

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December 28, 1987

Mr. Timothy Shea
Clerk of the Court
Utah Court of Appeals
400 Midtown Plaza
230 South 500 East
Salt Lake City, UT 84102

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COURT OF APPEALS

Re: State v. Sery, Case No. 860333-CA
State's Letter Citing Supplemental Authority

Dear Mr. Shea:

Pursuant to Utah Rules of the Court of Appeals 24(j)(1987), Appellant Mark Joseph Sery wishes to respond to the State's Citation to United States v. Sokolow, 831 F.2d 1413 (9th Cir. 1987) in its letter dated December 21, 1987. In United States v. Sokolow, the Court held that a reasonable suspicion to stop the defendant did not exist. The Court stated:

We conclude that arriving on a connecting flight from a three-day trip to Miami with only carry-on luggage [. . .] are also the type of general characteristics shared by a large category of innocent travelers that cannot support a Terry stop absent particularized evidence of criminal activity.

Mr. Timothy Shea
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The Sokolow Court looked at three additional factors and concluded that a reasonable suspicion to stop the defendant did not exist. The dictum quoted by the state was not one of the factors involved in that case. In addition, United States v. Sokolow involved a conditional plea of guilty whereby the right to apply was preserved (See Appellant's Reply Brief at 1-6).

Very truly yours,



Joan C. Watt
Appellate Attorney

JCW/kj

cc: Kimberly Hornak, Assistant Attorney General