

1987

Little America Hotel v. Salt Lake City : Supplemental Submission

Utah Supreme Court

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OCT 1 1988

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October 13, 1988

Geoffrey J. Butler
Clerk of the Court
Utah Supreme Court
332 State Capitol
Salt Lake City, Utah 84114

Re: In the Interest of I., R.L.,
Case No. 870289

Dear Mr. Butler:

I wish to cite to the Court State v. Carter, 707 P.2d 656, 660 (Utah 1985) ("[W]here a defendant fails to assert a particular ground for suppressing unlawfully obtained evidence in the trial court, an appellate court will not consider that ground an appeal."), as support for the State's position in oral argument that RLI's probable cause argument should not be considered on appeal because RLI did not assert in the juvenile court lack of probable cause to arrest on the part of the officer present during the extraction of blood as a ground for suppression of the blood test evidence.

Additionally, as support for the State's alternative argument that a fourth amendment violation for lack of probable cause to arrest did not occur when RLI's blood was drawn, I wish to cite Karr v. Smith, 774 F.2d 1029, 1031 (10th Cir. 1985) ("Under the 'fellow officer' rule, 'probable cause is to be determined by the courts on the basis of the collective information of the police involved in the arrest, rather than exclusively on the extent of the particular officer who may actually make the arrest.'"); State v. Stebbins, 47 Wash. App. 482, 484, 735 P.2d 1353, 1355 (Wash. App. 1987) (discussing "fellow officer" rule); and State v. Clark, 218 Kan. 726, 731-32,

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police officers and law enforcement officers involved in an arrest can form the basis for probable cause, even though that information is not within the knowledge of the arresting officer[;]" and "fellow officer" rule applicable to police radio dispatched information), cert. denied, 426 U.S. 939 (1976).

These supplemental authorities are submitted pursuant to R. Utah S. Ct. 24(j).

Sincerely,


DAVID B. THOMPSON
Special Assistant Attorney General

DBT:bks

cc: John Chidester