

REASONABLE SUSPICION RESISTING LAW ENFORCEMENT

On September 5, 2014, the Indiana Court of Appeals issued a decision in *Yates v. State*, 15 N.E.3d 1139 (Ind. Ct. App. 2014), affirming the defendant's conviction for resisting law enforcement.

An officer saw the defendant riding his bicycle in front of him. He observed the defendant was swerving across both lanes of travel, somewhat in an "S" pattern. The officer was on the bike unit and was familiar with bicycle laws and also noted the defendant did not have any type of audible device on his bike as required by law. The defendant turned and saw the patrol car and began to frantically pedal his bike. The officer then attempted to stop the defendant by turning on his lights and the siren three or four times. The defendant continued to pedal away from the officer and eventually fell off his bicycle. The officer got out of his car and yelled "Police, stop" but the defendant continued to run away from the officer. The officer eventually caught up to the defendant and arrested him for resisting law enforcement.

The defendant argued that he had no duty to stop when the officer ordered him to stop because he had no reasonable suspicion to stop the defendant. The Court of Appeals held that the officer had reasonable suspicion to order the defendant to stop because he saw the defendant commit two infractions, operating a bicycle left of center and operating a bicycle on a public roadway without an audible device.

SEARCH AND SEIZURE CONSENT TO SEARCH

On September 23, 2014, the Indiana Court of Appeals issued a decision in *Bulthuis III v. State*, ___ N.E.3d ___ (Ind. Ct. App. 2014), affirming the defendant's convictions.

An officer accompanied a DCS case manager to a home to investigate a report of unsupervised children and manufacturing methamphetamine. When they approached the attached garage they noticed a chemical odor, but the odor dissipated. Before they could get to the front door, a female came outside and addressed them. She said she lived there along with the defendant's two children. When the officer asked if they could look inside the house, the female said "sure" and let them inside. When the officers asked about "Dale", the defendant, the female told them that the defendant did not live there and wasn't there at the time. She allowed the officer to look in the home for the defendant who was found hiding in a bedroom closet.

The defendant was arrested on an outstanding warrant and removed to a police car outside. The officer then asked the female for consent to search the garage. She initially said "yeah," but then asked the officer why he wanted to look in the garage. He advised her that he had information that methamphetamine was being manufactured at the house. The female then told the officer to go ahead. The officer found evidence of meth manufacturing in the garage. The officer then got consent from the female to search the home again and eventually got a search warrant as well.

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The defendant was charged with various drug related crimes and was convicted after trial. The Court of Appeals found that the consent was freely and voluntarily given. Additionally the court found that the police were under no obligation to approach the defendant, who was detained outside, and ask if he had an objection to the search.