

530 So.2d 514
District Court of Appeal of Florida,
Fourth District.

STATE of Florida, Appellant,
v.
Paul D. EDWARDS, Appellee.

No. 87-2448.
|
Sept. 7, 1988.

Synopsis

On appeal from nonfinal order of the Circuit Court, Palm Beach County, Marvin U. Mounts, Jr., J., the District Court of Appeal held that whether bus passenger consented to search by police officer was factual issue for trial court to resolve.

Affirmed.

West Headnotes (1)

[1] **Criminal Law** 🔑 Preliminary or introductory questions of fact

Whether bus passenger consented to search by police officer was factual issue for trial court to resolve. U.S.C.A. Const.Amend. 4.

Attorneys and Law Firms

*514 Robert Butterworth, Atty. Gen., Tallahassee, and Amy Lynn Diem, Asst. Atty. Gen., West Palm Beach, for appellant.

Joseph R. Dawson of Law Offices of Joseph R. Dawson, Fort Lauderdale, for appellee.

Opinion

PER CURIAM.

AFFIRMED. This is an appeal involving the alleged consent search of a bus passenger in a manner similar to that involved in *State v. Avery*, 531 So.2d 182 (Fla. 4th DCA 1988). However, unlike *Avery*, the trial court here also made a specific factual finding based upon the conflicting testimony of the appellee and the police officers that the appellee did not voluntarily consent to a search of his luggage. We affirm the trial court's ruling that the search was illegal based upon its resolution of the factual issue as to whether consent was given. *See Denehy v. State*, 400 So.2d 1216 (Fla.1980).

ANSTEAD, LETTS and WALDEN, JJ., concur.

All Citations

530 So.2d 514, 13 Fla. L. Weekly 2086