

NMDPS - CONSENT - JUVENILE

Farmington Police officer stopped a vehicle for a traffic violation. Upon making contact with the driver, a juvenile, the officer noticed a very strong odor of marijuana from inside the car. After getting consent to search the vehicle, he found clear plastic bags of marijuana.

The conversation was friendly. From the time of the stop to the end of the search only ten minutes had gone by. In court the following issue was raised: Should an officer be required to advise juveniles (something they don't have to do for adults) that they can refuse consent when asking for consent?

When there is a Fifth Amendment interrogation, the Children's Code and case law does give more rights to juveniles. But this was a vehicle search, under the Fourth Amendment. Court of Appeals declined to provide an additional right that would require officers seeking consent from juveniles to advise them they could refuse consent.

Was the consent voluntary? Court of Appeals observed the conversation took place in a public setting, the juvenile was seventeen years old, and no unusual pressure was put on him by police. Consent was voluntary and the marijuana was admissible. State v. Carlos A. (2012).

--- ADA Elliott Guttman, Law Enforcement Academy



Yer Honor, the insidious actions of this officer violated the sensitive temperament of my juvenile client, this mere child that stands before you.