



**BILL McCOLLUM**  
**ATTORNEY GENERAL**  
**STATE OF FLORIDA**

**OFFICE OF THE ATTORNEY GENERAL**  
**Office of Statewide Prosecution**  
**William N. Shepherd**  
**Statewide Prosecutor**

**1515 North Flagler Drive, Suite 900**  
**West Palm Beach, FL 33401**  
**Telephone: (561) 837-5000**  
**Facsimile: (561) 837-5107**

---

**OFFICE OF STATEWIDE PROSECUTION**  
**CASE LAW UPDATES**

**JANUARY, 2009**

---

Case: Steadman v. State, 2009 WL 7663 (Fla. 5<sup>th</sup> DCA 2009)

Date: January 2, 2009

Subject: "Plain Feel" Doctrine

---

Facts: Defendant is passenger in car stopped by Orange County S.O. deputy who conducts pat-down and discovers baggie with over 20 grams of cannabis in defendant's pocket. During motion to suppress, deputy testified that upon feeling bulge he believed "there was a bag with something inside." He further testified that he initially thought it was some type of pills "or something" that was illegal contraband. So he then "reached inside his pocket and discovered what it was."

Holding: During the course of the pat-down the deputy did not immediately recognize the items in the defendant's pocket as contraband and instead needed to extract the baggie to discover what it contained, therefore the evidence is suppressed.

NOTE: In order to fall under **very limited** plain feel doctrine, officer will need to be able to say that based on his training and experience the object's contour or mass makes its identity as contraband immediately apparent without any manipulation of the object. It's generally much easier for officer to articulate that he believed object (bulge) to be dangerous weapon and potentially seize it under Florida's Stop & Frisk law.

---

Case: Gordon v. State, 2009 WL 127777 (Fla. 1<sup>st</sup> DCA 2009)

Date: January 21, 2009

Subject: Probationer Searches

---

Facts: Defendant is on felony probation. Probation officers receive anonymous tip that there are drugs inside defendant's home. Probation officers perform warrantless search of defendant's home with assistance from Escambia County S.O. narcotics agents who find trafficking amounts of hydrocodone. Defendant charged with violation of probation and new law offense.

Holding: Contraband discovered during a search by probation officers that is supported by reasonable suspicion may be used as a basis for a new law violation, however if the search is not supported by reasonable suspicion, the evidence may only be used in a probation revocation hearing.

NOTE: While the law permits deputies to accompany probation officers during a search, they should assure themselves that they have reasonable suspicion in order to be able to use any evidence found as part of a new law offense. A better practice is to attempt to secure a search warrant. You may utilize the fact that the subject of the investigation is on probation as part of the circumstances establishing the probable cause necessary to secure the warrant. (See Soca v. State, 673 So.2d 24 (Fla. 1996)).

Any questions, drop me a line or give me a call!

Luis R. Martinez  
Assistant Statewide Prosecutor  
Office of the Attorney General, State of Florida  
Office of Statewide Prosecution  
Email: [Luis.Martinez@myfloridalegal.com](mailto:Luis.Martinez@myfloridalegal.com)  
Cell Phone: 561-262-4214