



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
OCTOBER, 2008

Case: Stabler v. State, 2008 WL 4361853 (Fla. 1st DCA 2008)

Date: September 26, 2008

Subject: Warrantless K-9 Sniffs

Facts: Officers receive info that individual trafficking in cocaine and liquid codeine out of apartment. Front door of apartment was open to public access and to a common area. Officers bring K-9 to front door of apartment and it alerts to drugs. Officers get search warrant for apartment based in part on the K-9 sniff. Find cocaine inside apartment.

Holding: Because the dog was located on a common walkway within the apartment, the dog sniff did not constitute a 4th Amendment search. Proper for court to consider evidence of K-9 sniff in determining that probable cause existed for issuance of search warrant.

Case: State v. Jardines, 2008 WL 4643082 (Fla. 3rd DCA 2008)

Date: October 22, 2008

Subject: Warrantless K-9 Sniffs

Facts: Officers from Miami-Dade P.D. receive tip that premises being used as indoor marijuana grow house. Officer walks K-9 up to front door of residence. K-9 alerts to drugs and Officer smells raw cannabis and hears a/c units running continuously. Based on K-9 alert and

Officer's observation, he obtains a search warrant for the premises. Subsequent search found that premises was in fact a grow house.

Holding: Because the Officer and the K-9 had the right to be at the defendant's front door, a warrant was not necessary for the drug dog sniff and the results of the sniff were properly considered as a basis for issuance of the subsequent search warrant.

NOTE: Both Stabler and Jardines are in direct conflict with State v. Rabb, 920 So.2d 1175 (Fla. 4th DCA 2006) which requires a warrant for a K-9 sniff.

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
Cell Phone: 561-262-4214