



**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**

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

**DECEMBER, 2008**

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**Case:** Bedford v. State, 2008 WL 5070277 (Fla. 4<sup>th</sup> DCA 2008)

**Date:** December 3, 2008

**Subject:** Inferring Intent to Sell Narcotics

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**Facts:** Defendant goes to trial on charges of possession with intent to sell both cocaine and marijuana. Officer testifies that based on his training and experience, the number and type of packages found is consistent with sale of narcotics. Defendant argues that the State failed to prove intent to sell.

**Holding:** Proper to infer intent to sell from circumstantial evidence observed by officer such as the number of packages found, together with officer's testimony that the number and type of packaging was consistent with the sale of drugs.

**NOTE:** It's important for officers, especially those with narcotics training and experience, to be thorough and accurate when testifying at depositions and motions as to any factor they deem consistent with intent to sell narcotics such as quantity, manner of packaging, paraphernalia such as additional bags or scales, large quantities of cash, etc.

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**Case:** State v. Nowak, 2008 WL 5100389 (Fla. 5<sup>th</sup> DCA 2008)

**Date:** December 5, 2008

Subject: Inevitable Discovery

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Facts: Officers with the Orlando Police Department question defendant about her role in crime. She makes some admissions and tells police where her car is parked. Police search her car and seize evidence of crime. Trial court finds that defendant never waived Miranda and suppresses her statements as well as evidence from vehicle as “fruit of the poisonous tree.”

Holding: Because police officer testified about the normal investigative measures he would have employed to find out what vehicle the defendant drove and that his agency would have searched the hotel parking lot where the vehicle was found based on a map to the hotel found on the defendant as part of a search incident to arrest, the evidence from the vehicle is admissible under the inevitable discovery doctrine. For the inevitable discovery doctrine to apply, the State must establish by a preponderance of the evidence that the police ultimately would have discovered the evidence independently of the improper police conduct by means of normal investigative measures that inevitably would have been set in motion as a matter of routine police procedure.

NOTE: Another case that highlights how an officer’s thoroughness and accuracy while testifying can save a case.

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