



Plowman's partner, Nebraska State Patrolman Lutter, went through the suitcase and found a receipt with Defendant Solochek's name on it. He also found a digital card that stored pictures and upon viewing them realized they were pictures of the Defendant Solochek.

The bag had not been checked with the railroad but had been placed in a common area on the passenger car reserved for luggage. Therefore, the removal of the bag from the storage area did not constitute a seizure as it was not under the care and control of Amtrack.

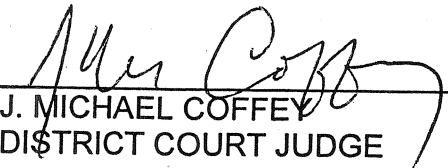
While the officers attempted to determine if the occupants of the passenger car in which the bag had been stored owned the luggage they declared it abandoned even though they had been advised that the probable owners had moved to the sleeping car. The Court finds that the Defendants had not abandoned the luggage and, therefore, the search conducted by Officer Plowman was an unlawful search under the Fourth Amendment and that any evidence seized from said search should be excluded.

Due to the unlawful search the seizure and questioning of the Defendants was also unlawful and, therefore, their statements, if any, should be excluded and the motions of the Defendants to suppress should be sustained.

IT IS SO ORDERED.

DATED this <sup>th</sup> 11 day of October, 2013.

BY THE COURT:

  
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J. MICHAEL COFFEY  
DISTRICT COURT JUDGE

cc: Matt McGill, Deputy County Attorney  
Mallory Hughes, Counsel for the Defendant