

In re Ivan J.

(March 28, 2001) __ Cal.App.4th __

Does a detainee violate Penal Code § 148.9(a) if he gives his correct name but lies about his date of birth?

FACTS

A Santa Barbara County sheriff's deputy detained Ivan because he was smoking a cigarette and appeared to be under 18 years of age.¹ Ivan gave his true name but said his date of birth was May 11, 1981, which would have made him 18 years old. Suspecting Ivan was lying about his age, the deputy ran a record's check and determined he had been born on May 11, 1982. Consequently, Ivan was cited for violating Penal Code § 148.9(a).

DISCUSSION

A detainee or arrestee violates Penal Code § 148.9(a) if, (1) he falsely represents or identifies himself as another person or as a fictitious person to any peace officer, and (2) his purpose in doing so was to, (a) evade the process of the court, or (b) "evade proper identification." Ivan contended that, although he lied about his date of birth, he did not violate Penal Code § 148.9(a) because he gave the deputy his true name.

The court disagreed, ruling that a person who lies about his date of birth is essentially creating a fictitious identity. This is because a person's name and date of birth "are two of the most important and widely recognized ways of identifying an individual in our society." As the court noted, "A person's age may be completely beside the point at a social gathering, but during an arrest or detention, an accurate date of birth is a critical piece of information. A person who gives a false date of birth might avoid detection on an outstanding warrant or a sex offender registration violation and will be more difficult to locate if he or she later fails to appear in court. For law enforcement purposes, a false date of birth creates a fictitious identity that may allow the real person to escape the consequences of his or her actions."

Ivan's conviction was affirmed.

¹ See Penal Code § 308(b).