

Children's Law Center of Indiana



Delinquency

12/07/2007

In **D.L. v. State**, 877 N.E.2d 500 (Ind. Ct. App. 2007) the Court affirmed the juvenile court's judgment adjudicating the fifteen-year-old juvenile to be a delinquent child for committing the offense of Possession of Marijuana, a Class A misdemeanor if committed by an adult. On September 14, 2006, a female IPS schools police officer came into contact with the juvenile and two other students in the high school's second-floor hallway during a non-passing period. The officer asked the students if they had identification, cards, passes, or schedules and they responded that they did not. As the officer began patting down the juvenile for identification, the officer observed the juvenile put something down his pants. The officer handcuffed the juvenile and took him to the police office where a male officer conducted a search, during which he shook the juvenile's pant legs, and a clear plastic bag containing a dry, green leafy vegetation, later identified as marijuana, fell to the floor. The State filed a petition alleging the juvenile to be delinquent child. The juvenile moved to suppress all evidence obtained pursuant to the search. The juvenile court ultimately denied the motion and found the juvenile to be a delinquent child. The juvenile appealed, claiming that the pat-down search of his person, which led to his alleged attempt to place something into his pants, as well as to the discovery of the marijuana which dropped from his pants, violated the Fourth Amendment to the U.S. Constitution.

The Court concluded that, balancing the student's rights against the interests of school safety, a pat-down search for identification of a student on school grounds when the student fails to produce such identification does not violate the student's rights against unreasonable searches and seizures under the Fourth Amendment to the United States Constitution. *Id.* at 501. The Court applied the two-part test for determining the reasonableness of the search of a student in the school setting: (1) The action must be justified at its inception; and (2) the search as conducted must be reasonably related in scope to the circumstances which justified the interference in the first place. New Jersey v. T.L.O., 469 U.S. 325, 341 (1985). A search by a school official is justified at its inception when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or school rules. *Id.* at 341-42. The search will be permissible in scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. *Id.* at 342. T.L.O. at 503.

Regarding the first prong of the test, whether the action was justified at its inception, the Court reviewed the facts and holdings of T.L.O. and Indiana cases previously decided based on T.L.O.: Myers v. State, 839 N.E.2d 1154 (Ind. 2005); C.S. v. State, 735 N.E.2d 273 (Ind. Ct. App. 2000); D.B. v. State, 728 N.E.2d 179 (Ind. Ct. App. 2000); D.I.R. v. State, 683 N.E.2d 251 (Ind. Ct. App. 1997); S.A. v. State, 654 N.E.2d 791 (Ind. Ct. App. 1995); and Berry v. State, 561 N.E. 2d 832. T.L.O. at 504-05. The Court noted that the court has generally endorsed the justifications offered by the investigating school officials in conducting searches. The Court found that “in this post-9/11, post-Columbine age of increasing school violence, a public school police officer’s determination that she must identify the individuals with whom she is in contact similarly warrants endorsement.” Id. at 506. The Court observed that (1) the presence of an unidentified individual on school grounds has greater potential safety implications than does the mere scent of cigarette smoke as in D.B. or the fact of hearsay allegations regarding a student’s sale of marijuana as in Berry; (2) here, the juvenile was on school grounds during a non-passing period and was unable to present identification when asked. Id. The Court held that the limited pat-down search for identification, here, was justified at its inception given the school police officer’s clear need to determine the identities of the juveniles, and “this court’s” generally finding school searches to be reasonable under the circumstances. Id.

The juvenile did not argue under the second prong of the test that the scope of the search was excessively intrusive. The Court noted that (1) the stated objective of the pat-down was to look for the juvenile’s identification; (2) upon beginning to pat him down, the officer observed the juvenile appear to place something down his pants; (3) the officer then led the juvenile to the school police office where a male colleague conducted a pat-down search, including shaking the juvenile’s pant legs; and (4) the substance, later identified to be marijuana, fell out of the juvenile’s pant leg. Id. The Court held that, under the T.L.O. analysis limiting the scope of the search to being reasonably related to the search’s objectives and not excessively intrusive, it was not unreasonable for the officer to pat down and shake the juvenile’s pant leg and collect the green, leafy vegetation which fell out as a result. Id. The Court further concluded that the juvenile court had not abused its discretion in admitting the evidence disclosed as a result of the search. Id. at 506-07.

Baker, C.J., concurred with an opinion.