

Children's Law Center of Indiana



Delinquency

07/31/2008

In **A.M. v. State**, 891 N.E.2d 146 (Ind. Ct. App. 2008), the Court affirmed the juvenile court's adjudication of Juvenile as delinquent for carrying a handgun without a license, a Class A misdemeanor if committed by an adult. At 1:00 a.m., police officers were on patrol in a specific area because they had received reports of gunshots fired in the area between 10:00 p.m. and midnight. They observed two young men walking down the street and the driving officer (Officer 1) pulled their vehicle to the curb because he believed the two were violating curfew. Officer 2 recognized Juvenile as a juvenile (1) to whom he had previously issued a curfew violation summary, (2) who had been shot in the leg while Officer 2 was working on a previous night, and (3) who frequented the area with other individuals Officer 2 had arrested. When the two young men approached the patrol car, Officer 1 immediately got out of the vehicle, directed them away from the vehicle, and performed pat-down searches on them. During the search, Officer 1 found a handgun in Juvenile's right front pocket. Juvenile filed a motion to suppress the handgun. The juvenile court denied the motion and adjudicated Juvenile a delinquent child. On appeal, Juvenile contended that the pat-down search violated the Fourth Amendment to the US Constitution and Article I, Section 11 of the Indiana Constitution, and therefore, the juvenile court abused its discretion when it admitted the handgun into evidence.

The juvenile court did not violate Juvenile's Fourth Amendment rights by admitting the handgun into evidence, inasmuch as the decision of Officer 1 to conduct a pat-down search was reasonable because the facts known to the officers justified their belief that their safety or that of others, was in danger. Id. at 150. The Court opined: (1) when a search is conducted without a warrant, the State has the burden of proving that an exception to the warrant requirement existed at the time of the search; (2) one such exception to the warrant requirement is when a police officer makes a Terry (Terry v. Ohio, 392 U.S. 1, 27 (1968)) stop, if he has reasonable fear of danger, he may conduct a carefully limited search of the outer clothing of the suspect in an attempt to discover weapons that might be used to harm him; and (3) Terry permits a reasonable search for weapons for the protection of the police officer where he has reason to believe that he is dealing with an armed person, and the officer need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger. A.M. at 149 (citations omitted). The Court distinguished L.A.F. v. State, 698 N.E.2d 355 (Ind. Ct. App. 1998) which was relied upon by Juvenile. According to the Court, here, there are additional circumstances that were not present in L.A.F.: (1) the officers had received reports of gunshots fired in the area; (2) Officer 2 knew Juvenile was a juvenile, and he was several miles from home; (3) Juvenile was walking down the street after curfew at 1:00 a.m.; and (4) Officer 2 knew Juvenile previously had been shot in the leg and that he frequented the area with other individuals that Officer 2 had arrested. A.M. at 150.

Under the totality of the circumstances, Juvenile’s rights were not violated under Article I, Section 11 of the Indiana Constitution when the officers conducted a pat-down search of his person, inasmuch as the intrusion to the juvenile was outweighed by the officers’ justifiable concern that a violation had occurred and their reasonable concern that the juvenile might be armed which raised a justified concern for their safety Id. at 150. The Court opined: (1) Section 11’s purpose is to protect from unreasonable police activity those areas of life that Hoosiers regard as private; (2) in determining whether the police behavior was reasonable under Section 11, courts must consider each case on its own facts and construe the constitutional provision liberally so as to guarantee the rights of people against unreasonable searches and seizures; (3) the burden is on the State to show that under the totality of the circumstances its intrusion was reasonable; and (4) in determining reasonableness, the courts balance (a) the degree of concern, suspicion, or knowledge that a violation has occurred, (b) the degree of intrusion the method of the search or seizure imposes on the citizen’s ordinary activities, and (c) the extent of law enforcement needs. Id. at 150 (citations omitted). The Court noted that, here, (1) Juvenile was walking down the street at 1:00 a.m. well after curfew; (2) the officers were aware that gunshots had recently been fired in the area; and (3) Juvenile was miles from home and known to frequent the area with other individuals that the officer had arrested on prior occasions. Id.