

Children's Law Center of Indiana



Delinquency

03/05/2009

In **D.M. v. State**, 902 N.E.2d 276 (Ind. Ct. App. 2009), the Court reversed and remanded, with instructions, the trial court's judgment adjudicating the juvenile a delinquent child for committing acts that would have been two counts of Theft, a class D felony, had they been committed by an adult. On February 28, 2008, the juvenile entered his math teacher's classroom nearly one hour late and told the teacher he had missed his bus and had to walk to school. Later, the teacher overheard the juvenile tell another student that he had been shopping that morning and he "had a stack." The teacher had no idea what the juvenile meant by a "stack," but drugs and weapons had been discovered on some of the students at the school earlier that week. During a "free period" when the students were out of the classroom, the teacher searched the jackets of several students, where the jackets were hanging. In his search of the juvenile's jacket, the teacher found seventeen credit cards and keys to a car. It was subsequently discovered that the woman whose name appeared on the credit cards, had had her purse, containing twenty credit cards, stolen from a local grocery store about one hour before the juvenile had arrived at school that morning, and the keys belonged to a car which had been reported stolen from the car owner's driveway on the previous day. At the denial hearing, the juvenile's counsel orally moved to suppress testimony and all other evidence related to the search of the jacket, arguing that the search violated the juvenile's right to be free from unreasonable search and seizure because there was no "individualized suspicion" that justified the search. The trial court denied the motion to suppress and adjudicated the juvenile a delinquent child. The juvenile appealed.

The evidence seized from the jacket was improperly admitted into evidence inasmuch as the teacher's search of the juvenile's jacket was unreasonable from its inception because there were not reasonable grounds for suspecting that the search would produce evidence that the juvenile had violated either the law or a school rule. *Id.* at 277, 279. The Court noted that, although it would reverse a trial court's ruling on the admissibility of the evidence only for an abuse of discretion, it reviews de novo the ultimate determination of reasonable suspicion. *Id.* at 278. The Court reviewed the guidance provided by the U.S. Supreme Court in the leading case governing searches conducted by public school officials, New Jersey v. T.L.O., 469 U.S. 325, 333-36, 340-42 (1985): (1) school officials are state actors fulfilling state objectives and are therefore subject to the strictures of the Fourth Amendment; (2) however, a school setting requires some easing of the restrictions to which searches by public authorities are ordinarily subject; (3) therefore, the T.L.O. Court dispensed with the warrant requirement, modified the probable cause requirement, and held that the legality of a search of a student depends on the reasonableness, under all the circumstances of the search; (4) the T.L.O. Court announced a two-part test for determining the reasonableness of the search, the first part being "the action must be justified at its inception," and the second part being that "the search as conducted must be reasonably related in scope to the circumstances that justified the interference

in the first place;” (5) 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; and (6) 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. D.M. at 278. The Court then cited the Indiana Supreme Court’s recognition in Myers v. State, 839 N.E.2d 1154, 1159 (Ind. 2005) (quoting T.L.O. at 339), that a student’s privacy interests at school “must be balanced with ‘the substantial interest of teachers and administrators in maintaining discipline in the classroom and on school grounds, a task that has become increasingly difficult with the pervasive onslaught of drugs and violent crimes in schools.’” D.M. at 279. The Court noted that, here, (1) although the juvenile told the teacher that he was late for class because he had missed the bus, the teacher overheard the juvenile telling another student that he had been shopping earlier that morning and was carrying a “stack;” (2) the teacher had no idea what a “stack” was and specifically acknowledged that he had no “individualized idea of any jacket that might contain any contraband” when he decided to conduct the search; and (3) the teacher testified that he had randomly searched the jackets because the school administrators had told him to “keep eyes and ears out ... ‘cause that’s how we ended up catching other students because they were talking in class.” Id. The Court (1) observed that it was apparent that the teacher could not articulate a reasonable ground for suspecting that the juvenile possessed contraband; and (2) concluded that, although the State maintained that the search was warranted in light of the juvenile’s inconsistent explanations for his late arrival to class, his comments to the other student, and the fact that other students had recently been found in possession of weapons and drugs at the school, the Court could not agree that these circumstances provided ample justification for the search at its inception. Id. (citation omitted). In stating its ultimate determination, the Court opined that, although it was reluctant to interfere with a school’s disciplinary policies, the standard enunciated in T.L.O. commands that students’ legitimate privacy rights must, nonetheless, be balanced against the need of school officials to deal effectively with the threat of drugs and violence. D.M. at 279.