

Review of Recent Juvenile Cases (2009)

by
The Honorable Pat Garza
Associate Judge
386th District Court
San Antonio, Texas

Routine administrative searches at alternative school were considered permissible under the Fourth Amendment.[In the Matter of P.P.](09-2-2)

On February 11, 2009, the San Antonio Court of Appeals held that a routine administrative search, at alternative school, which required students to take off their shoes, socks, and belt, and submit to a pat down was permissible under the Fourth Amendment.

¶ 09-2-2. **In the Matter of P.P.**, MEMORANDUM, No. 04-08-00634-CV, 2009 WL 331887 (Tex.App.-San Antonio, 2/11/09).

Facts: Officer Jaime Perales performs routine searches of students entering an alternative high school in Edgewood Independent School District. During these searches, students must take off their shoes, socks, and belt, and submit to a pat down. During one of these routine searches, Officer Perales felt a little bulge inside P.P.'s right front pocket. The officer swiped his finger into P.P.'s pocket and pulled out a plastic baggy containing a green leafy substance. The substance was tested and came back positive for marihuana.

Held: Affirmed

Memorandum Opinion: Administrative searches at schools have been upheld in various circumstances. See [Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646, 664-65 \(1995\)](#) (upholding random drug testing of athletes without any individualized suspicion); [Earls, 536 U.S. at 838](#) (approving random drug testing for all students participating in extracurricular activities). In [In re O.E., No. 03-02- 00516-CV, 2003 WL 22669014 \(Tex.App.-Austin Nov. 13, 2003, no pet.\)](#), a student, O.E., was adjudicated for possession of marihuana in a drug free zone, just as in this case. The student was subjected to a routine search upon entering an alternative learning center. *Id.* at *1. Upon entering the school each day, all students had to pass through a metal detector, be patted down, empty their pockets onto a tray, remove their shoes, and place their shoes on a table for inspection. *Id.* at *2. Before attending the center, all students and their parents were required to attend an orientation session at which they were informed of school policies, including the search policy. *Id.* An officer found marihuana in O.E.'s shoe during the routine search. *Id.* at *1. O.E. appealed the denial of his motion to suppress, and our sister court held:

The search procedure was justified at its inception as a method of furthering the State's interest in maintaining a safe and disciplined learning environment in a setting at high risk for drugs and violence.... [The search procedure was] tailored to meet the needs of a school setting at higher risk than usual for disciplinary problems involving weapons and drugs. The intrusion on the students' more limited expectation of privacy is reasonable. Accordingly, the search was an administrative search of the sort permissible under the Fourth Amendment. *Id.* at *3-4.

The analysis and reasoning utilized in *In re OE* can be applied to the case at hand.

As was the case in *In re O.E.*, the record in this case established that prior to entering the alternative school, all students and parents are required to complete an orientation session which includes an overview of the school rules and policies, and the students are required to sign a contract which includes an agreement to be searched each day before entering the school. P.P. clearly had notice of the routine search requirement, which reduced his expectation of privacy. See [Shoemaker v. State, 971 S.W.2d 178, 182 \(Tex.App.-Beaumont 1998, no pet.\)](#) (noting that a student had no reasonable expectation of privacy in a locker when the student handbook warned lockers could be searched any time there was reasonable cause to do so).

In light of a student's diminished expectation of privacy, the search procedure imposed on the students was relatively unobtrusive. As noted, administrative searches at schools have been upheld in various circumstances. In addition, the court in *In re O.E.* upheld a school search which mirrored the search conducted in the present case. [In re O.E., 2003 WL 22669014 at *4](#). Consequently, we hold the search conducted on P.P. and his fellow students was not overly obtrusive.

Finally, the needs of the alternative school were met by the uniform search instituted for students entering the school. Officer Perales testified that the main objective of the search was the security of the students and staff at the school. Officer Perales stated that students were not allowed to come into the school with anything on them other than their uniform; everything else was provided for them. He also noted that the school employed a uniform search procedure such that every student was searched upon entering the school, no matter the circumstances. See [In re O.E., 2003 WL 22669014 at *4](#) (stating that "[s]uch uniformity serves as a safeguard against an abuse of discretion on the part of school officials in making a determination of which persons will be searched"). Accordingly, the search was an administrative search of the sort permissible under the Fourth Amendment. See [Earls, 536 U.S. at 838](#); [Vernonia, 515 U.S. at 664-65](#)

Conclusion: The trial court did not abuse its discretion in denying P.P.'s motion to suppress all physical evidence and statements taken from him. Accordingly, we affirm the trial court's judgment.