

Critical Thinking / Problem Solving by Kirk Widra M.Ed.

Case name:

Safford Unified School District #1 et al. v. Redding, No. 08-479 (2009)

Issue:

This case involves the violation of Fourth Amendment rights. It is claimed that representatives of the Stafford School District, in this case identified as Wilson (assistant principle), Romero (administrative assistant), and Schwallier (school nurse), violated the Fourth Amendment when they had a student, Savana, remove her undergarments to check for the possession of drugs.

Rule(s):

The Fourth Amendment and state rules in this case concerning searches used in public schools are careful to specify that such a search should be undertaken only if the degree of reasonableness stops short of probable cause. The use of invasive searches, such as the one seen in this case, that include exposure of body parts need to be justified at its inception. Under the reasonable suspicion standard, a school search will be deemed permissible when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and or sex of the student and the nature of the infraction. The interpretation of the “reasonable suspicion” for a school administrator to conduct a search is that it raises a moderate chance of finding evidence of wrongdoing and possess a considerable threat to the safety and well-being of the school community.

Analysis

According to the facts presented in this case, a middle school student Savana Redding was taken from class to Assistant Principle Wilson’s (Wilson) office where she was shown a binder that was said to contain knives and additional unspecified contraband. “Though she claimed ownership of the binder she denied any knowledge of the contents citing the lending of the binder to her friend identified as Marissa” (Biskupic, J. 2009), which she suggested must have resulted in the binder containing contraband. Wilson then proceeded to produce prescription drugs that were banned from the school without permission, to which Savana denied any knowledge. At Wilson’s request Savana agreed to allow her belongings to be searched. Wilson, along with Helen Romero (Romero) an administrative assistant, searched Savana’s backpack but nothing was discovered. Wilson then instructed Romero to take Savana to the nurses’ office to further search her clothes and her person. Once there Romero and the nurse, Peggy Schwallier (Schwallier), asked Savana to shake out her bra and to expose her pelvic region for further investigation. No pills were found. In response to this search Savana’s mother filled suit against the School District (Safford) stating that the strip search violated Savana’s Fourth Amendment Rights.

Conclusions

This case to a large extent hinged on knowledge acquired from a third hand source that prompted school officials to act. “It was reported that Assistant Principal Wilson was acting in response to another student, later identified simply as Jordan, claiming to have been adversely affected by the drugs being distributed by Savana as well as citing additional concerns of weapon being brought into the school” (Reimink, T. (2009). On the day of the search Jordan handed Wilson a pill that he claimed came from Marissa. This formed the basis for his “reasonable suspicion” and the moved him to confront both Savana and Marissa and conduct the searches. After searching Marissa’s belongings and finding an unapproved over the counter medication, Wilson then further confronted Savana.

In this case, considering the circumstances and despite the potential impact to the school community, I feel that the school officials acted excessively. In pursuit of their investigation they clearly acted in a manner that was disproportionate to the situation. They already had strong evidence to support disciplinary action against the two students the strip search was in excess. The search of Savana's underwear clearly did violate the Fourth Amendment.

On the other hand it is important to consider the view from the school's perspective. There was a history of disruptive behaviors that served as additional factors in motivating Wilson et al. to act. "The girls, according to Wilson, had been identified as part of a disruptive group at a school dance that later resulted in the discovery of alcohol and cigarettes in the women's bathroom which Jordan also claimed originated at Savana's house" (Quinlan, K. 2009, July). This in conjunction with Marissa's claims formed reasonable suspicion against Savana and could have easily heightened the sense of urgency in the minds of school officials. School officials are charged with ensuring the health and well-being of everyone in the school community and given the issues that confront schools on a daily basis today that is a tall order. In this case it could be argued the strong sense of urgency was framed by the potential impact the presence of drugs could have on the school community. A delayed response could have threatened their ability to provide as safe school community.

In the end school officials must act with urgency to any and all threats to the school community however they must be ever vigilant not to over step their bounds and not infringe on the rights of the students in the process.

References

- Biskupic, J. (2009). Strip search review tests limits of school drug policy. USA Today. Retrieved September 29, 2009, from http://www.usatoday.com/news/washington/judicial/2009-04-15-stripsearch_N.html
- Quinlan, K. (2009, July). The Supreme Court Resists Drug War Hysteria- Ruling on strip-searching case is the latest sign that the High Court's drug war fever may finally be breaking. AlterNet. Retrieved September 29, 2009, from http://www.alternet.org/drugreporter/141116/the_supreme_court_resists_drug_war_hysteria/
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Supreme Court strip-search case draws attention to student rights. Grand Rapids Press. Retrieved September, 29, 2009, from http://www.mlive.com/opinion/grand-rapids/index.ssf/2009//supreme_court_stripsearch_case.html

***Reflections on Critical Thinking / Problem Solving**

The preceding IRAC case study was chosen to highlight an awareness of the legal issues facing education today and the critical thinking and problem solving needed to address such situations. Schools today are facing all manner of legal issues as never before in history. In the article entitled, A study of legal issues encountered by school counselors and perceptions of their preparedness to respond to legal challenges - Special issue: legal and ethical issues in school counseling by Mary Herman, highlights just some of them in the following excerpt.

Lawrence and Kurpius (2000), Remley and Herlihy (2001), and White and Flynt (2000) explained that failing to report suspected child abuse can result in civil and criminal liability. Lawrence and Kurpius noted that confidentiality can be a difficult legal issue, especially when counseling minors. Remley and Herlihy posited that counselors can be subpoenaed to produce records and appear at court proceedings. Failure to effectively manage a client's threats of violence and acting negligently when counseling suicidal clients can result in malpractice lawsuits as well (Ahia & Martin, 1993; Corey et al.; Glosoff, Herlihy, & Spence, 2000; Remley & Herlihy; Remley &

Sparkman, 1993).

The many legal issues facing education today clearly stem in part from the glaring socioeconomic inequities and no doubt further exacerbated by the growing pressure to attain NCLB standards. Many schools are faced with educating large segments of the population who are challenged on so many levels, socially and otherwise, and that in general feel disenfranchised. The responsible use and behaviors of the legal system rest with us all. Unfortunately it would be fair to say many schools today are reactive rather than proactive. As highlighted by the preceding IRAC case study many school officials are ill prepared to deal with the vast array of issues they are likely to encounter and in the heat of the moment do not follow proper legal procedures. School leaders must take the time to clearly spell out a code of conduct and make clear the definitions as they relate to established law for all stakeholders and further offer a system that ensures the correct legal procedures that need to be followed when circumstances arise. This is an imperative for all educational institutions if they hope to be able to deal with the many complex issues they will surely face. Again this is a matter of leadership and the building of a school community and culture. But as mentioned the bottom line is in the end school officials must act with urgency to any and all threats to the school community however they must be ever vigilant not to over step their bounds and not infringe on the rights of the students in the process.

Reference

Herman, M. (2002). A study of legal issues encountered by school counselors and perceptions of their preparedness to respond to legal challenges - Special issue: legal and ethical issues in school counseling. Retrieved on March 19, 2010 from http://findarticles.com/p/articles/mi_m0KOC/is_1_6/ai_93700935/

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