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Schools May Search Student Vehicles on School Grounds Without Warrant and on Less Than Probable Cause

By James A. Kellar, Esq.

Recently, a New Jersey appellate court held that a school may search a student's vehicle parked on school grounds without a warrant and without probable cause. Such a search is permissible as long as the school has an individualized and reasonable suspicion that a search of the student's vehicle will yield evidence of criminal activity. In *State v. Best*, a student suspected of drug use told the school nurse that he had purchased a green pill from another student earlier in the day. Upon learning this information, the assistant principal questioned the alleged seller and performed a search of that student's person. The search yielded three white pills (but no green pills), which the student admitted he had sold to another student. In accordance with school policy, the assistant principal then searched the student's locker but found no contraband. A subsequent search of the student's car revealed a variety of contraband.

The student made a motion to suppress the evidence found in his vehicle. The trial judge denied the motion, and on November 10, 2008, the Appellate Division affirmed the trial court's ruling. The Appellate Division's decision focused on the obligation of school officials "to maintain discipline and provide an orderly and safe learning environment." The court observed that due to the rise in crime and drug use within schools, the United States Supreme Court has lessened both the procedural requirements and the level of suspicion required to justify a search in a school setting. Rather than require a warrant and probable cause, a search will be justifiable if it is reasonable (1) at its inception, and (2) in its scope. Additionally, the New Jersey Supreme Court has noted that schools have a strong interest in preserving a drug-free environment and that this interest has justified random student drug testing in the absence of individualized suspicion.

While there was no New Jersey case law directly on point, the Appellate Division looked to a variety of other states that had decided similar issues. The court noted that every state and federal court had rejected probable cause in favor of the reasonable (cont'd ➔)

suspicion standard in this context. In evaluating the student's level of privacy, these courts have noted that a car is one of the few places that a student could transport and conceal contraband. The court equated a student's privacy interest in his car to that of his locker or bookbag.

Ultimately, the court held that school officials "may conduct such [a] search whenever, under the totality of the circumstances, the search was justified at its inception and officials reasonably suspect that evidence of illegal activity will be found in the vehicle." However, the court was also clear that its decision was limited to the specific facts presented by this case. Specifically, the high school in this case had a policy where students had to receive special permission to park their cars on school grounds. The auto mechanics class had been performing work on the student's vehicle, and he had to leave his keys with the auto mechanics teacher. The court explicitly left for another day "the more difficult question of the standards to be applied" when the student's vehicle is parked on school grounds without advance permission.

The court applied the reasonable suspicion standard to the facts of the case and concluded that the search was permissible. The initial search of the student's person yielded only white pills, which provided the basis for the assistant principal's belief that the green pills could have been located in the student's locker or car. The court found that the search was also reasonable in its scope. The assistant principal searched the student's person and his locker before turning to the car "which, logically, was the only remaining place the green pills could have been hidden." On this factual basis, the search of the student's vehicle did not run afoul of the student's constitutional rights.



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