

When Minor Classroom Misbehavior Escalates to a Federal Court Lawsuit



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In a recent case, a seventh grade boy was written up by his teacher because she saw him selling candy in class. The student told an assistant principal that he had hidden the candy in the bottom of a garbage can, and a later search uncovered candy right where the student said it would be. A search of the student's backpack revealed multiple school-owned calculators as well as other property that appeared to be stolen. The student was disciplined. The parent filed a police report alleging an unlawful search during which a school administrator inappropriately touched the student. The police department found that the allegations "were not supported by the facts" and closed the case as "unfounded." But this was only the beginning. The parent later filed a lawsuit, alleging violations of constitutional rights under the Search and Seizure Clause of the Fourth Amendment, the Involuntary Servitude Clause of the Thirteenth Amendment, and the Due Process Clause of the Fourteenth Amendment, as well as alleging state tort claims for assault and negligence. The school prevailed in federal district court, but the determined parent took an appeal. Earlier last month, the appellate court dismissed the case and admonished the parent, bringing this nearly three-year saga to a close.

Lessons Learned

Complexity of Constitutional Litigation. Although the facts of the case seem relatively straightforward, the legal issues were numerous and nuanced. Anytime that schools engage in constitutional litigation as in this case, it takes skilled lawyering to navigate the complexity. The school filed timely, strategic motions resulting in dismissal of the lawsuit in federal district court. In this recent decision by the appellate court, the school prevailed. Given the facts of the case, the school was certainly deserving of this outcome. However, its victory was by no means preordained. Even when the facts are on your side, it still takes strategic motions and timely navigation of court procedure to win.

Some Cases Will Escalate. It would be easy to criticize the school and prescribe a different course of conduct with the benefit of hindsight. However, the school mostly handled the situation correctly. Specifically relating to the allegation that an assistant principal had inappropriately touched a student, there were two adults present for the search and the questioning of the student. Further, the administrators handling the search followed the school's policy. The case developed as a classic he-said-she-said situation, the student and the administrators telling conflicting stories about the touching. It was not until later, when the student was subject to cross-examination, that he admitted he was not inappropriately touched. The sad reality for educators is that a parent or student determined to lie can escalate a small situation, such as selling candy in class, into a multi-year federal court battle. This is rare of course, but it does happen, and schools must navigate these situations carefully.

Cost controlling measures. In the end, one appellate judge stated that "the appeal is demonstrably frivolous on the face of counsel's briefs" and he would have demand that the parent's lawyer explain why

this frivolous appeal was not sanctionable. This judge also pointed out that the briefs “not only contain countless misspellings and grammatical errors—they also appear to appeal to prejudice.” These are harsh words for the parent’s lawyer, but they reveal just how strongly the judge felt that the appeal lacked merit and attention to detail. Even when meritless, litigating cases like this can take years, and can be extremely expensive for schools. Attorneys’ fees and costs can be highly variable and make budgeting a challenge. It would be wise for schools to consider all avenues for controlling this cost, including flat fee representation, fixed fee menus, fee caps, and other alternative fee arrangements. Decisions like the one discussed above send an important message to parents looking to sue a school over a meritless issue: the parent’s lawyer needs to base litigation on facts and not “frivolous” issues or “appeals to prejudice.” At the end of the day, all students are better served when legal costs are controlled, keeping tax dollars in the classroom rather than in the courtroom.

Case reference: *S.O. v. Hinds Cnty. Sch. Dist.*, No. 19-60650 (5th Cir. Feb. 7, 2020).