

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

STUDENT DOE
V.
DAVIES CAREER AND TECHNICAL
HIGH SCHOOL

Decision

Held: Student Doe was not in possession of a weapon by virtue of his unauthorized work on a piece of scrap metal while in machine technology shop.

APRIL 10, 1997

Travel:

Student Doe received a ten-day suspension for possession of a weapon in class on December 5, 1996. He is a sophomore in the machine processing program at the Davies Career and Technical High School and had been found in possession of a pointed piece of metal by his shop instructors. The matter was referred to the Director/Principal of the school, Stephen G. Thornton, who, after investigation and reconsideration of the matter, upheld the suspension.

The matter was appealed to Commissioner Peter McWalters on December 11, 1996 and hearing was held before the undersigned hearing officer on January 9, 1997. The record in this matter closed on January 29, 1997 upon receipt of the transcript and exhibits.

Issue:

Was Student Doe in possession of a weapon
in shop class on December 5, 1996?

Finding of Relevant Facts:

- Student Doe is a tenth grader enrolled in the machine processing program at the Davies Career and Technical High School.
- On December 5, 1996, Student Doe stood at the pedestal grinder in his shop class putting grooves on a pointed piece of aluminum, thirteen inches long and 3/8" diameter. Tr. p. 57-58, Davies Ex. 1,4,5.
- Student Doe had found and picked up the piece of aluminum, with the sharp point already on it, from the top of a nearby handsaw and walked a few steps to the grinder where he proceeded to cut grooves into the metal. Tr. p. 57-58. He assumed the metal was scrap. Tr. p. 59.
- As Student Doe was working on the scrap metal, one of the shop teachers came over, observed him, and took the pointed metal object away from him. Davies Ex. 4. Tr. p. 58.

- Student Doe had no authorization to work on the piece of metal found in his possession on December 5, 1996, and shop policy requires authorization for all student projects. Tr. p. 28, 29, 38.
- The material (an aluminum rod) is consistent with the type of material that is customarily worked on in the machine technology shop. Tr. p. 48.

Position of the Parties

Davies

At the hearing Stephen Thornton, representing Davies, articulated the basis for the rule prohibiting weapon possession on school grounds. He argued that consistent enforcement of such a rule is necessary to preserve a safe and secure instructional environment for students. Although he noted that there was no evidence that Student Doe manufactured the weapon, i.e. actually sharpened the point on the aluminum rod, the fact is that he was in possession of this dangerous object on the day in question. Given its sharp point and length, its obvious capacity to inflict bodily harm, it is a weapon. Mr. Thornton argues that Student Doe has clearly violated the school rule prohibiting possession of weapons on school grounds (page 17 of the Student Handbook).

The school's position is that Student Doe's actual intent is irrelevant to a consistent application of its weapons¹ ban. Therefore, even though this student may not have intended to hurt anyone with this object, or even have intended to remove it from shop class, he was still guilty of possessing this weapon on school grounds. Thus, he argues adequate grounds for the ten-day suspension have been proven.

¹i.e. it need not be shown that a student had any intent to inflict bodily harm.

Student Doe

Student Doe's case was presented by his mother. She argued essentially that although her son was holding a pointed aluminum rod and putting grooves on it at the pedestal grinder during shop class this did not constitute possession of a weapon. She points out that sharp objects are routinely used and even made during shop class, and introduced one of such tools-a scribe²- to substantiate her point. She also introduced blueprints for the design of an "automatic center punch," which is a tool constructed by students similar in shape to the "weapon" in question. The argument implicit in the presentation of this evidence is that potentially many objects found in this shop could be classified as "weapons", but are not so classified because they are tools used or objects fabricated as part of the school curriculum. The only distinction between her son's possession and work on the scribe (Ex. C) and his possession and work on the "weapon" is that his work on the latter was unauthorized. She admits that he violated the shop rule regarding the need for authorization prior to working on a project.

Secondly, Student Doe's mother argues that her son did not make the point on the aluminum rod, he merely introduced grooves to the object during a short period of time when he had no other assigned work to do and the teachers were trying to fix a piece of equipment in the shop. His work was in full view of all and he made no attempt to conceal his work in any way, even when observed by one of the shop teachers. There is no evidence, she stresses, that her son intended to use the object to harm anyone or even to leave the shop with it in his possession. Without such intent, she argues, and in the

² The scribe in comparison to the weapon allegedly in Student Doe's possession, was made of steel and had a much sharper point. See Doe Ex. C.

context of the shop environment, Student Doe's work on a sharp metal object was not "possession of a weapon" but merely the less serious offense of working on an unauthorized project.

Decision

Creation of a safe and secure school environment for all students in our state depends, in large measure, on consistent enforcement of rules prohibiting weapons in school. Generally, a violation of such rules occurs from the fact of possession and the presence of "scienter" the knowledge that one is in possession of the weapon. As Davies officials have argued in this case, the specific intent of a student to use the weapon is not a necessary element of proof. Generally, therefore, it does not assist a student to argue that his possession of a weapon was without any malicious intent or intent to harm others.

However, in a vocational school context and particularly in shop class, the possession of objects which would clearly be categorized as weapons is sanctioned under certain circumstances. Attendant to such possession by students are additional rules which govern the use and construction of such objects- for example instructors must give prior approval to the work, the objects are not to leave the confines of the classroom, etc. The student handbook at the Davies School (Davies Ex.3) alludes to this principle at page 17.

The handbook states:

...Administration understands that the inherent nature of some tooling as required in respective shops is a necessary requirement for a successful educational experience. However, these same tools can be regarded as weapons when they leave the shop environment. (paragraph 24).

Thus, the handbook recognizes that certain objects made or used in shop class, while they are technically weapons³, may also have a legitimate, sanctioned school related purpose. Possession of such an object in the shop environment does not, therefore, subject the possessor to penalty unless he or she intends to use the object as a weapon or actually uses the object as a weapon.

Based on this analysis, the pointed aluminum rod introduced in evidence as Davies Ex. 1 would clearly be a weapon outside of the confines of a shop class where sharp metal objects are fabricated and used in the school curriculum. It would also take on the characteristics of a weapon if Student Doe intended to use the rod to injure another or actually did so. There is no evidence in this case to substantiate either premise. Student Doe did not even attempt to conceal the rod at any time.

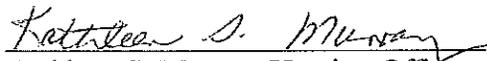
It is certainly possible that a shop student's unauthorized manufacture of a sharp metal object during class could constitute possession of a weapon, because under such circumstances, one could argue that the construction of the instrument was some evidence of intent to use the object for a purpose unrelated to the school curriculum. It is our impression that school officials reached this conclusion in considering the matter before them and it explains the discipline imposed at the school level. In the case before us, however, we have found as a fact that Student Doe did not create the sharp point on this aluminum rod⁴. While he did introduce grooves to the object, he did so in full view of all who would care to observe him, including teachers supervising the students. There is,

³ Capable of inflicting bodily harm.

⁴ Student Doe's testimony on this point stands uncontradicted. Although the initial finding of school administrators was that he "manufactured" a weapon, there was no evidence presented at the hearing before us that he made the point on the rod while at the grinder. See Tr. p. 2-3, 18.

therefore, no evidence of wrongful intent. Although he did not have approval of the shop teachers to do this work, we cannot find on these facts that his unauthorized work on the scrap metal he found constitutes possession of a weapon.

The appeal is sustained. The matter is remanded to school officials for appropriate correction to Student Doe's disciplinary record and adjustments to the penalty which should have been imposed for work on an unauthorized project. If a shorter suspension would be appropriate for that offense, then school officials should provide whatever remedial work will address any academic disadvantage incurred as a result of the longer suspension.


Kathleen S. Murray, Hearing Officer

Approved:


Peter McWalters, Commissioner

APRIL 10, 1997