

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

Student R.J. Doe
v.
Davies Career & Technical School

DECISION

Held: In this case the petitioning parents are appealing from a decision of officials at the Davies Vocational School to suspend their son for the first two quarters of the 2005-2006 school year, for the detonation of an explosive chemical device in the school. We conclude that the Davies School had the authority to impose the suspension now at issue, and therefore affirm the suspension that was imposed in this case. We also direct Davies to ensure that the alternative education program that is being provided will meet this student's needs.

DATE: November 21, 2005

Jurisdiction and Travel of the Case

This is a school suspension case concerning a ninth grade student at the Davies Regional Vocational High School. Jurisdiction is present under R.I.G.L.16-39-1 and R.I.G.L.16-39-2. In this case the petitioning parents are appealing from a decision of officials at the Davies Vocational School to suspend their son for the first two quarters of the 2005-2006 school year (i.e. until January of 2006) as the result of the detonation of a chemical device in a restroom at the school. The incident now at issue happened in May, toward the end of the 2004-2005 school year.

Positions of the Parties

The Petitioning Parents

The petitioning parents contend that under R.I.G.L.16-21-18 (**Students prohibited from bringing or possessing firearms on school premises**) the device at issue does not qualify as a prohibited explosive device. The petitioners also contend that R.I.G.L.16-2-17 (**Right to a safe school**), in effect, prohibits a school from suspending a student for an initial offense, even if the offense is extremely egregious in nature.

The Davies School

The Davies School submits that this student was directly and causally involved in the creation of a dangerous and disruptive situation at the school which could have resulted in very serious injuries. It therefore submits that a suspension for two quarters of the school year is certainly justified. The school also argues that it had the legal right to impose the suspension. The school further submits that during this suspension the student will be provided with an alternate tutoring program to allow him to complete his required schoolwork.

Findings of Fact

1. The petitioning student collaborated with two other students to bring material to school that they fashioned into a low powered explosive device.¹
2. The device consisted of certain chemicals that were put into a plastic bottle with material to act as a timing agent.
3. The student in this case had stored the chemicals needed for the device in his locker. He then encouraged another student to actually plant the device in the rest room. When the other student displayed a bit of reluctance to actually plant the device, the petitioning student overcame this reluctance by offering the other

¹ For obvious reason we refrain from discussing the exact method used to create the device at issue.

- student five dollars to execute the plan. The device was planted, and, as planned, it went off, causing the incident now at issue
4. While the device may not have been extremely powerful the record shows that the detonation caused a loud noise and at least minor damage to the toilette. The detonation also produced a noxious odor. Fumes and smoke produced by the detonation hampered breathing and caused a burning sensation to the eyes. A chemical film was also deposited on the walls of the rest room.
 5. The noise of the detonation was so loud that a teacher thought a firearm had been discharged. At least one teacher locked the doors of his classroom out of concern that a weapon had been fired.
 6. We have no doubts that the caustic material used in the device had the potential for causing injury to any student who might have been in the vicinity of the detonation. Fortunately, however, the rest room was not occupied when the device went off.
 7. This is the first suspension that this student has received at the Davies School. An initial interim suspension of 10 days was imposed in this case which was later extended to include the first two quarters of the 2005-2006 school year.²

Conclusions of Law

We reject the suggestion that R.I.G.L.16-2-17, in effect, prohibits a school from suspending a student for an initial offense, even if the offense is extremely egregious in nature. A careful reading of R.I.G.L. 16-2-17 shows that its progressive discipline provision only relates to *disruptive students*, as that term is defined in the statute itself:

16-2-17. Right to a safe school. – (a) Each student, staff member, teacher, and administrator has a right to attend and/or work at a school which is safe and secure, and which is conducive to learning, and which is free from the threat, actual or implied, of physical harm by a disruptive student. *A disruptive student is a person who is subject to compulsory school attendance³, who exhibits persistent conduct which substantially impedes the ability of other students to learn or otherwise substantially interferes with the rights stated above, and who has failed to respond to corrective and rehabilitative measures presented by staff, teachers, or administrators.* (Emphasis added)

² Although the issue was not raised in this case we note that the Commissioner has held that in appropriate cases a school suspension may carry over into the following school year. See: *In the Matter of Student R.I.G.L.C. Doe*, Commissioner of Education, May 14, 2001.

³ The compulsory attendance law applies not only to students who are under age 16, but also to students over age 16 who are enrolled in school. R.I.G.L. 16-19-1 (b) Because of this the school suspension law applies to all students.

(b) The school committee, or a school principal as designated by the school committee, may suspend all pupils found guilty of said conduct [i.e. disruptive conduct] *or* of violation of those school regulations which relate to the rights set forth in subsection (a), *or* where a student represents a threat to those rights of students, teachers or administrators, as described in subsection (a). Nothing herein shall relieve the school committee or school principals from following all procedures required by state and federal law regarding discipline of students with disabilities. (Emphasis added)

A careful reading of the statute therefore demonstrates that a student, even if he or she has not been deemed to be a *disruptive student*, may be suspended for violating school rules or for violating the rights of the school environment, even for a “first offense.” Accepting the petitioners’ argument to the contrary would mean that even if a student detonated a dynamite bomb in a school, the student could not be suspended from school if this was his or her “first offense.” In interpreting a statute it can never be assumed that the legislature intended to bring about an absurd or unreasonable result.⁴

In any event the Commissioner has held that the Rhode Island law (R.I.G.L.16-12-3) that requires teachers to “implant...the principles of morality and virtue” creates:

[A] *good cause* standard for disciplining a student whose misconduct violates the fundamental rules of decent behavior in a context which impacts the school program, but which does not fall within the exact domain of a specific item in a general school discipline code. The standard of good cause is, of course, constitutional.⁵

We therefore conclude that the Davies School had the authority to impose the suspension now at issue. We also reject the argument that the device that was detonated in the rest room did not qualify as an explosive device under R.I.G.L.16-21-18. (**Students prohibited from bringing or possessing firearms on school premises**) and its associated reference to the Federal statute found at 18 U.S.C. § 921, which contains a definition of explosive devices. A reading of 18 U.S.C. § 921 shows that under this Federal statute a device that emits a gas, as the device in this case did, is considered to be an explosive device. Of course, in any event, the device at issue in this case qualifies as an explosive device for the simple reason that although it may not have contained gunpowder, it did, in fact, explode.

Conclusion

We affirm that the suspension that was imposed in this case. We also direct Davies to keep close watch on the alternative education program that is being provided to this student to be sure that it meets the needs of this student. In saying this we of course recognize that the student himself must be willing to do the work to make an alternative education program a success.

⁴ *Coletta v. State*, 263 A.2d 681 (R.I.G.L.I. 1970)

⁵ *In the Matter of Student R.C. Doe, Commissioner of Education*, May 14, 2001.

APPROVED:

Forrest L. Avila, Hearing Officer

Peter McWalters, Commissioner

November 21, 2005
DATE