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Administration of Breathalyzer Tests to Group of Students at School Dance Found Lawful

A federal appellate court has found the administration of a breathalyzer test to a group of students, where there was a reasonable basis for believing they had consumed alcohol prior to attending a school dance was lawful. The Court there concluded that “since ‘the [school] is responsible for maintaining discipline, health, and safety’ of the students, the school had a legitimate government interest in conducting the breathalyzer tests on the students from the party bus before allowing them to enter the Prom or to drive themselves home.” [citation omitted] If the students tested positive, they would have been in violation of clear school rules and state law regarding underage drinking. The Court found that requiring a “minimally invasive breathalyzer test” for the students on the party bus was the only reasonable and conclusive way to determine which students might have consumed alcohol.

The Court emphasized that while “the administration of a breath test is a search,” the Supreme Court has recognized that “the physical intrusion[, consisting of blowing “into a straw-like mouthpiece that is connected by a tube to the test machine,”] is almost negligible,” and it entails “a minimum of inconvenience”; a breathalyzer test is unlikely to cause embarrassment and “does not implicate significant privacy concerns.” [Citation omitted]

The full decision in *Ziegler v Martin County School District* can be accessed at:

Ziegler v. Martin County School District

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School Officials Did Not Violate Student Rights by Conducting Breathalyzer Tests Before Allowing Them to Enter the Prom

While issues arose in this matter regarding the length of time that students were detained by school officials at the dance, even after being tested with results showing the students had not been drinking, the Court affirmed the authority of school officials to initially utilize a breathalyzer test for students attending the dance where school officials had a reasonable basis for concluding a group of students who arrived at the dance together had been drinking.

Facts

A Florida public school had scheduled its Prom at a local civic center. The dance started at 8:00 p.m. and was scheduled to run until midnight. The students involved arrived at the dance after 10:00 p.m. The school had a policy prohibiting alcohol and drugs at school or a school activity. The Prom was organized, sponsored and supervised by the school district. Each student attending the Prom had to sign a “Zero Tolerance” Form. The Form read in part:

“Jensen Beach High School, along with the Martin County School District, has a ZERO TOLERANCE POLICY for alcohol, drugs, or tobacco. Any form of tobacco, alcoholic beverages, or drugs is not permitted on property owned or controlled by the Martin County School District or at any school-sponsored activity, including activities conducted outside of Martin County. Students and guests attending such activities and events may be subject to a breath test.

... School policies are enforced.

Please be advised that failure to uphold these rules will result in immediate disciplinary action and possible recommendation for expulsion.

Please sign below to acknowledge receipt, and return this form to your class/club sponsor.”

The School District policies on search and seizure, also included breathalyzer testing:

“The School Board recognizes that the privacy of students or their belongings may not be violated by unreasonable search and seizure.

...

School authorities may search the person or property, including vehicles, of a student, with or without the student’s consent, whenever they reasonably suspect that the search is required to discover evidence of a violation of law or of school policies. The scope of the search will be reasonable. *This authorization to search shall also apply to all situations in which the student is under the jurisdiction of the School Board. Administrators are authorized to arrange for the use of a breath-test instrument for the purpose of determining if a student has consumed an alcoholic beverage.* [citation omitted]



There was a group of approximately 40 students who arrived at the Prom on a party bus. This group went to dinner before the Prom. The group rented a party bus for that night from 5:30 pm until 11:30 pm. The bus provided one-way transport to the Prom. The bus company prohibits alcoholic beverages for individuals under 21. The students would later report that the bus had not been cleaned and discarded and used cups were already on the floor of the bus (apparently left from a prior transportation). The bus got to the Prom just after 10:00 pm. As the students left the bus to enter the Prom, they were stopped by school officials and told their bus would be searched.

After all the students left the bus, school officials asked the driver for permission to search the bus for alcohol. The bus driver granted permission. School officials found an empty champagne bottle on the bus and at least twelve plastic cups. The bus driver told school officials the champagne belonged to the students who were on the bus. When asked the students denied the bottle was theirs.

School officials then told the group of students from the bus they would be required to pass a breathalyzer test before entering the Prom. The school official administering breathalyzer tests was certified to do so. The actual testing was somewhat delayed due to equipment issues and the arrival of the official to do the testing, so that the students completely missed the Prom. Following administration of the breathalyzer to all of the students, it was determined that none of the students had been drinking.

Court Analysis - Legal Standards for School Searches Involving Students

The court affirmed the principle that the appropriateness of a search of a student should depend simply on the reasonableness, under all the circumstances, of the search. The court noted that securing and maintaining order in school settings at times requires that students be subjected to greater controls than those applicable to adults. The maintenance of prompt, and informal discipline is necessary in schools and “in certain limited circumstances, the Government’s need to discover such latent or hidden conditions, or to prevent their development, is sufficiently compelling to justify the intrusion on privacy entailed by conducting such searches without any measure of individualized suspicion.” *[citations omitted]*

The reasonableness of a school search of a student depends on whether the search was justified at the start and whether the search which was conducted is reasonably related in purpose and scope to the school rule alleged to have been violated. A search is justified by

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school officials when they can point to a reasonable basis for believing the search will result in evidence that the student has violated the law or school rules.

Court Analysis – Circumstances Regarding Prom

Applying these standards to the Prom, the court found the school had authority to search the students, even at an off-campus event because school authority stems from the nature of school responsibilities for the students under their care, not school boundary lines. The court further found that the students had no expectation of privacy on the bus, as all students had already left the bus (and would not be returning to the bus) when it was searched. The school also was granted permission to enter the bus by the driver.

The court noted that the Zero Tolerance Form that all the students had signed indicated they could be subjected to a breath test for school activities conducted, including notice they could be breathalyzed.

The initial detention of the students for breath-testing met the legal standard of being justified at the start, because it was reasonably related to the circumstances that caused the suspicion to test: to determine if students on the party bus had been drinking. Finding an empty champagne bottle and twelve plastic cups on the bus and being told by the bus driver that the champagne belonged to the students gave reasonable and adequate cause for school officials to believe alcohol had been consumed by students on the bus. School officials can detain a student if they have a reasonable basis to believe the pupil has violated the law or a school rule. This was true even where there was no suspicion individualized to specific, individual students and where none of the students ultimately tested positive for drinking.

The court noted that school officials are responsible for maintaining discipline, health, and the safety of its students and have a legitimate government interest in conducting the breathalyzer tests on the students from the bus before allowing them to enter the Prom or to drive home. The court concluded that administering a minimally invasive test like a breathalyzer test to the whole group of students was the only reasonable and conclusive way to determine which students may have been drinking. While “the administration of a breath test is a search,” the Supreme Court has recognized that “the physical intrusion[, consisting of blowing “into a straw-like mouthpiece that is connected by a tube to the test machine,”] is almost negligible,” and it entails “a minimum of inconvenience”; a breathalyzer test is unlikely to cause embarrassment and “does not implicate significant privacy concerns.” Citing *Birchfield v. N. Dakota*, 136 S. Ct. 2160, 2173, 2176, 2178 (2016) (citations, internal quotation marks, and alteration omitted).

School officials acted lawfully because they had a reasonable basis to believe the students violated school rules and state law, and because the detention of the students and use of a breathalyzer was reasonably related in scope to the violation believed to have occurred.