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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re M.C., a Person Coming
Under the Juvenile Court Law.

2d Juv. No. B282779
(Super. Ct. No. VJ45596)
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

M.C.,

Defendant and Appellant.

In a juvenile court petition, the prosecution alleged M.C. possessed a knife on school property. (Pen. Code, § 626.10, subd. (a)(1).) M.C. moved to suppress evidence of the knife. (Welf. & Inst. Code, § 700.1.) The court denied M.C.'s motion. M.C. then admitted the allegation in the petition. The court declared the offense a misdemeanor, adjudged M.C. a ward of the court, and placed him home on probation. M.C. contends that the court erred when it denied his motion to suppress. We affirm.

FACTUAL AND PROCEDURAL HISTORY

M.C. appeared to be under the influence of drugs to one of his teachers. The teacher reported M.C. to the dean of students. A security guard escorted M.C. to the dean's office, where she and an assistant principal were waiting. The dean asked M.C. to remove all items from his pockets. M.C. removed a 3.5-inch-long switchblade and said he carried the knife for protection. The dean confiscated the knife and gave it to police.

DISCUSSION

M.C. contends the juvenile court erred when it denied his motion to suppress because the dean's search of his pockets was not reasonable. We disagree.

School officials may search a student based on an individualized suspicion of wrongdoing or pursuant to an established policy or procedure. (*In re Sean A.* (2010) 191 Cal.App.4th 182, 187-188.) In either case, the search must be reasonable. (*In re William G.* (1985) 40 Cal.3d 550, 564.) A search is reasonable if it is both "justified at its inception" [citation] and "reasonably related in scope to the circumstances which justified the interference in the first place" [citation]." (*New Jersey v. T.L.O.* (1985) 469 U.S. 325, 341 (*T.L.O.*)). A search is "justified at its inception" when there are reasonable grounds for suspecting that [it] will turn up evidence that the student has violated or is violating either the law or the rules of the school." (*Id.* at p. 342, fn. omitted.) It is "permissible in its scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction." (*Ibid.*, fn. omitted.)

On review of the denial of a motion to suppress, we uphold the court's factual findings if supported by substantial evidence, and independently determine whether those facts indicate that the search was reasonable. (*In re Joseph G.* (1995) 32 Cal.App.4th 1735, 1738-1739.)

Individualized suspicion

The dean's search of M.C. was reasonable because it was based on an individualized suspicion of wrongdoing. The dean searched M.C. after a teacher reported he may be under the influence of drugs, in violation of the Education Code and the policies in the student handbook. Such a search is permissible. (*T.L.O.*, *supra*, 469 U.S. at p. 342 [upholding search "when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school"].)

M.C. argues the teacher's report to the dean did not provide the reasonable suspicion necessary for a search. We are not persuaded.

In *In re K.S.* (2010) 183 Cal.App.4th 72, 80, a police officer's tip to the vice principal that K.S. possessed drugs was sufficient to establish reasonable suspicion. In *In re Joseph G.*, *supra*, 32 Cal.App.4th at page 1741, a tip from Joseph's mother that he had a gun at school was sufficient to establish reasonable suspicion. And in *In re Alexander B.* (1990) 220 Cal.App.3d 1572, 1577, disapproved on another ground by *In re Randy G.* (2001) 26 Cal.4th 556, 567, footnote 2, a student's tip to a police officer that Alexander possessed a weapon was sufficient to establish reasonable suspicion. The teacher's report to the dean was sufficient.

This case is unlike *In re William G.*, *supra*, 40 Cal.3d 550, and *In re Lisa G.* (2004) 125 Cal.App.4th 801, on which M.C. relies. In *In re William G.*, at page 555, an assistant principal saw William holding a calculator case with “an odd-looking bulge.” When the principal approached William, he held the calculator case behind his back. (*Ibid.*) The principal attempted to see the case. (*Ibid.*) William replied, “You can’t search me.” (*Ibid.*) The principal then took William to his office, opened the case, and found four baggies of marijuana inside. (*Ibid.*) Our Supreme Court determined that the principal “articulated no facts to support a reasonable suspicion that William was engaged in a proscribed activity justifying a search.” (*Id.* at p. 566.) He had no prior knowledge that William had illegal drugs. (*Ibid.*) And “William’s ‘furtive gestures’ in attempting to hide his calculator case from [the principal’s] view [could not], standing alone, furnish sufficient cause to search.” (*Id.* at p. 567.)

In *In re Lisa G.*, *supra*, 125 Cal.App.4th at page 804, a teacher would not let Lisa use the restroom. Lisa walked out of the classroom and left her purse on her desk. (*Ibid.*) When the teacher began to write Lisa a disciplinary referral, she looked in Lisa’s purse for identification. (*Id.* at p. 805.) A knife was inside. (*Ibid.*) The Court of Appeal determined the teacher’s search was illegal. (*Id.* at p. 808.) The teacher did not suspect Lisa was engaged in any proscribed activity. (*Id.* at p. 807.) She did not suspect Lisa had a knife. (*Ibid.*) And “[m]ere disruptive behavior does not authorize a school official to rummage through [a] student[s] personal belongings.” (*Ibid.*)

Unlike the assistant principal in *In re William G.* and the teacher in *In re Lisa G.*, the dean here reasonably suspected M.C. was engaged in proscribed activity: A teacher alerted her

that M.C. may be under the influence of drugs, in violation of school policy and the Education Code. That suspicion justified the search of M.C.'s pockets. (*T.L.O.*, *supra*, 469 U.S. at p. 342.)

Established policy or procedure

Even if the search of M.C. were not based on individualized suspicion, the juvenile court's denial of the motion to suppress was proper. School searches conducted without individualized suspicion "do not violate the Fourth Amendment where the government need is great, the intrusion on the individual is limited, and a more rigorous standard of suspicion is unworkable. [Citations.]" (*In re Latasha W.* (1998) 60 Cal.App.4th 1524, 1527.) The need to keep drugs out of school is great. (*In re Sean A.*, *supra*, 191 Cal.App.4th at p. 189.) The intrusion on M.C. was limited. (*Ibid.*; *In re Latasha W.*, at p. 1527.) And a more rigorous standard of suspicion would have been unworkable because the dean had few options to determine whether M.C.—who was suspected of being under the influence—had drugs hidden on his person other than requiring him to empty his pockets. (*Ibid.*)

M.C. argues there was no evidence that the search was conducted pursuant to "an established, documented, uniform school policy." But the dean described the school's policy at the juvenile court hearing: When she receives a report that a student may be under the influence, she holds a meeting with the student in the presence of at least two adults. As a precautionary measure, the dean will ask the student to empty their pockets to determine if they have drugs, paraphernalia, or anything else prohibited by the Education Code or student handbook. If the search reveals a prohibited item, it will be confiscated and catalogued.

Here, the search complied precisely with school policy, which “assure[d] that [M.C.’s] reasonable expectation of privacy [was] not “subject to the discretion of the official in the field.” [Citation.]” (*T.L.O.*, *supra*, 469 U.S. at p. 342, fn. 8.) It was valid. (*In re Sean A.*, *supra*, 191 Cal.App.4th at pp. 185, 190 [upholding search where its basis was stated in student handbook].)

DISPOSITION

The judgment is affirmed.

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TANGEMAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Fumiko Hachiya Wasserman, Judge

Superior Court County of Los Angeles

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