



## NY Court Okays Search of Class Based on Generalized Suspicion



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In *New Jersey v. T.L.O.*<sup>i</sup>, the United States Supreme Court stated that, for a search of a student to be reasonable, it must be both (1) justified at its inception and (2) reasonable in scope. A search is “justified at its inception” when the school official has reasonable grounds for suspecting that the search will reveal evidence of a violation of law or a school rule. A search is “reasonable in scope” when the search method undertaken is reasonably related to the objectives of the search and is not overly intrusive in light of the nature of the violation and the age and sex of the student. Additionally, a school official must normally be able to articulate an “individualized suspicion,” meaning that there are reasonable grounds to believe a *particular* student has violated a school rule or the law. However, some courts have approved of searches based on a “generalized suspicion”, meaning there are reasonable grounds to believe that one student in a *group of students* have violated a school rule or the law. This was the case in *In re Elvin G.*<sup>ii</sup>, decided by the Supreme Court of New York, Appellate Division, First Department.

In *Elvin G.*, a middle school teacher notified the dean that a cellular phone was heard ringing in class. This was found to have caused a disruption and violated a rule that prohibited cellular phone usage. Neither the teacher nor the dean knew which specific student possessed the cellular phone. In an effort to locate the phone that had caused the disruption, the dean told the students to stand up, and he ordered them to empty their pockets. When Elvin G. realized that he was subject to this search, he removed a hunting knife from his pocket. He was charged and adjudicated a juvenile delinquent.

Elvin G. appealed the ruling based on the issue of *whether the search was illegal because the dean lacked individualized suspicion that he [Elvin G.] engaged in a violation of school rules or illegal activity.*

The New York Supreme Court stated the following:

*Although the dean may not have had reasonable suspicion that [Elvin G.] was the offending student, such individualized suspicion in the context of an administrative search such as this was not required. The dean clearly had a reasonable basis to believe that some student in the classroom was violating the school rules and there is no question that such breach was disrupting the class...The special need for an immediate response to behavior that threatens either the safety of schoolchildren and teachers or the educational process itself justifies the Court in excepting school searches from the warrant and probable-cause requirement, and in applying a standard balancing the relevant interests.<sup>iii</sup>*

The Court found that, in this case, the purpose of the search was to restore order to a disrupted classroom rather than a law enforcement search intended to obtain evidence of a crime. In light of the purpose of the search, the Court found that the dean did not need individualized suspicion that any particular student was the violator in this incident. Thus, the search was found to be justified at its inception, and in compliance with the first requirement of *T.L.O.*

As to the second requirement of *T.L.O.*, the court had to determine whether the search, which consisted of ordering students to empty their pockets, was reasonable in scope in light of the nature of the violation and the age and sex of the involved students. The court opined that asking students to empty their pockets in an effort to restore order to a disrupted classroom was not unreasonable or overly intrusive. Thus, the second prong of *T.L.O.* was satisfied and the search was upheld as constitutionally reasonable.

*Authors Note: Other states may be more restrictive regarding generalized suspicion than the court in this case.*

#### **CITATIONS:**

<sup>i</sup> 469 U.S. 325 (1985)

<sup>ii</sup> 2008 Slip Op 555; 47 A.D. 3d 527; 851 N.Y.S. 2d

<sup>iii</sup> *Id.*