
LEGAL UPDATE

By Walter E. Carson

The U.S. Supreme Court recently announced that the Fourth Amendment prohibition against unreasonable searches and seizures applies to searches and seizures conducted by school officials. The decision in this case, albeit a qualified application of the Amendment, extends yet another constitutional right to public school students.

In the case on which this ruling was made, a teacher found two students smoking in a lavatory in violation of a school rule. In response to questioning by the vice principal, one of the students denied she had been smoking. In fact, she denied that she smoked at all.

At this juncture, the vice principal demanded to see her purse. In it he found a packet of cigarettes and cigarette rolling papers. A more thorough search yielded a small amount of marijuana, a pipe, empty plastic bags, a substantial amount of money, and an index card listing students who apparently owed money to the student. She confessed that she had been selling marijuana and was subsequently charged as a delinquent.

At the trial the student's attorney sought to suppress her confession and the evidence found in the

purse, claiming an unlawful search and seizure under the Fourth Amendment to the U.S. Constitution. The motion was denied and the student was convicted.

The Supreme Court agreed to review this case to determine whether the Fourth Amendment controls search and seizure activity of public school officials. The Court concluded that the Amendment's prohibition on unreasonable searches and seizures does in fact apply to searches conducted by public school officials.

How does this case relate to the Adventist educational system? In my work as legal counsel to Adventist institutions, I have long held the belief that there is probably no definite link between constitutional decisions of the Supreme Court affecting public school officials and their parochial school counterparts. In particular, the Fourth Amendment prohibition against unreasonable searches and seizures is applicable to public school officials only through the Fourteenth Amendment, which affects a direct state action. Here the search by the public school official satisfied that requirement. In the case of officials from Adventist schools, however, such actions probably cannot be shown to equate with state action. Yet it may be advisable for Adventist school officials to adopt in principle the enlightened position taken by the Supreme Court in this case.

Although not mandated by law,

applying the standards imposed on public schools may offset the potential for any difficulty in a similar situation in an Adventist school. In the case under discussion, the Court proceeded to explain what standards would be applied in determining the appropriateness of any such searches. Searches and seizures must be reasonable but what is reasonable "depends on the context within which the search takes place." The Court thus called for a balancing of the need to search against the invasion that the search entails. The balance addresses, on the one hand, an individual's legitimate expectations of privacy and personal security, while considering, on the other, the government's need for effective methods to deal with breaches of the public order.

The Court rejected the state's argument that a child had no legitimate expectation of privacy regarding articles of personal property carried into the school. It did not accept that schools are to be equated with prisons for Fourth Amendment purposes. Balancing the child's right to privacy, however, must be the substantial interest of both teachers and administrators in maintaining discipline in the classroom and on school grounds. Preservation of order and a proper educational environment requires close supervision of school children and the enforcement of rules against conduct that would be perfectly permissible if undertaken by an adult. How can a reasonable balance be struck between such legitimate interests?

First, the Court recognized the need to ease some of the restrictions placed on school authorities by the Fourth Amendment. In this regard, it eliminated the requirement of a search warrant, since

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• “Requiring regular teachers to leave an ‘easily administered’ lesson plan and a seating chart. In case of lengthy absences, teachers also should be required to maintain a number of lesson plans on file in the administrator’s office.

• “A thorough evaluation of a substitute by the administrator who oversees the program and the regular teacher.”—*Ibid.*, vol. IV, No. 28, April 3, 1985.

Good Ideas

Making New Students Feel Welcome

• “A special coupon book was put together and distributed to all new students at Fairmont School in St. Charles, Mo.—the brainstorm of counselor Bob Stumpf. Each page of the book entitles the child to something special during his or her first two weeks in the school—a friend at lunch, on the playground and in the bus every day, lunch with the counselor, a tour of the building, an elevator ride with the adult of his/her choice, a free donut and a free call home.”—*It Starts in the Classroom*, November, 1983. Reprinted with permission from *It Starts in the Classroom*. Copyright 1983, National School Public Relations Association.

Request for Materials

A small Christian college run by the Nigerian State has written to request books. This school educates teachers for primary and postprimary schools. Its students include experienced Christian leaders from a number of denominations, including Seventh-day Adventists.

The school requests new or second-hand books on theology and other areas of study. They state that they need books on all levels,

including good-quality fiction.

Books should be packed securely and sent by surface mail. Label packages “gifts” or “second-hand books” so that the school will not have to pay duty.

Send materials to:

The Principal
Library of The College of
Christian Studies
Shuwa
PMB 16, Mubi
Gongola State, Nigeria. □

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this would “unduly interfere with the maintenance of the swift and informal disciplinary procedures needed in the schools.”

Secondly, a search may be undertaken based upon the reasonableness of all circumstances of the search. In determining “reasonableness,” school officials must consider (1) whether the search was justified at its inception; and (2) whether the scope of the search was sufficiently related to the circumstances that justified the initial confrontation.

Such a search will be permissible when the conduct of the teacher or school official is 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. The goal is not to unduly burden school authorities in maintaining order and yet prevent unrestrained intrusions upon the privacy of school children.

Familiarity with the guidelines set forth by the Supreme Court may assist Adventist educators in applying the new legal principles. A cursory reading of the case, *New Jersey v. T.L.O.*, which can be found in volume 105 of the Supreme Court Reporter at page

733, will provide the basic knowledge needed to address a similar situation.

Despite the fact that the new guidelines are not required to be applied in private schools, we need to recognize that they do fit within a Christian perspective. The Golden Rule is not passé in Adventist education; respect for individual rights as well as elements of fair play should be adopted as policies to help guide educators as they administer schools.

Specifically, in addressing an area of concern, such as search of a pupil and/or the seizure of student property, Christian educators must remain sensitive to the fundamental rights of privacy to which all persons—including students—are entitled. The attention given those rights in a potentially hurtful search situation, coupled with a basic awareness of proper legal procedure, may help to maintain order without harming the trust relationship between educators and students. □

Weeks of Spiritual Emphasis

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the evening worship period. It may be possible to arrange an early morning prayer group in boarding schools, in addition to the two regularly scheduled programs.

The program should not be too long. Thirty to 35 minutes is adequate. A brief program will be more likely to retain student interest and enthusiasm.

Selecting the Theme

The theme of the week should be selected by the class. Suggestions may be offered by the staff advisor if requested by the students, but the young people should be allowed to make the final decision. Once the theme has been selected,