

## **In re J.D.**

(2014) \_\_ Cal.App.4th \_\_ [2014 WL 1478598]

### **Issue**

Did school officers have sufficient grounds to search a high school student's locker?

### **Facts**

A student at Richmond High School in Contra Costa County notified campus security officers that she had witnessed a shooting the day before. The shooting occurred on an AC Transit bus and the shooter was another student whom she identified. Because the shooter was a minor, he was identified by the court as T.H.

After notifying school administrators, school security officers were directed to detain T.H. and determine if he was armed. Richmond PD officers were also notified and responded. Having determined that T.H. does not ordinarily use the locker assigned to him, officers learned that he usually "hangs around" the area of locker 2499. So they went there and saw T.H. talking with his girlfriend while facing a set of lockers, one of which was 2499. The officers were aware that students "often shared their assigned locker with other students" for the purpose of "concealing contraband such as drugs." So, after T.H. and his girlfriend left, they searched locker 2499 but found no weapons or drugs.

But because they did not know for sure that T.H. was using locker 2499 (they only knew that he "hangs around" it) they decided to search the adjacent lockers. One of the adjacent lockers was 2501 which was registered to a student identified as J.D., the defendant in this case. When the officers searched it they found a sawed-off shotgun and some of J.D.'s papers. A Richmond PD officer then questioned J.D. who admitted that the shotgun belonged to him. (At about this time, Richmond officers who were investigating the shooting had detained T.H. on campus and recovered a handgun from his backpack.) J.D. was subsequently charged with felony possession of a firearm in a school zone. After denying J.D.'s motion to suppress the gun, the juvenile court sustained the charge against him.

### **Discussion**

Because of the overriding need to provide students with a safe and secure environment in which to learn, the Supreme Court has ruled that school security officers and administrators may search a student's locker if (1) they have reasonable suspicion to believe that the student committed a crime or violated a school rule or regulation for which there may be physical evidence; and (2) the search was reasonable in its scope.<sup>1</sup> As the California Supreme Court explained, "[S]earches of students by public school officials

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<sup>1</sup> See *Safford Unified School District v. Redding* (2009) 557 US 364, 373 [reasonable suspicion that a student was carrying drugs "was enough to justify a search of [the student's] backpack and outer clothing"]; *New Jersey v. T.L.O.* (1985) 469 US 325, 342 [search for cigarettes in purse of student caught smoking in violation of no smoking rule]; *In re K.S.* (2010) 183 Cal.App.4th 72, 77 [reasonable suspicion standard applies when the search was conducted in conjunction with criminal investigation]; *People v. Lisa G.* (2005) 125 Cal.App.4th 801, 806 ["Ordinarily, a search of a student by a teacher or other school official will be justified at its inception when there are reasonable grounds for suspecting the search will disclose evidence the student has violated or is violating the law or school rules"].

must be based on a reasonable suspicion that the student or students to be searched have engaged, or are engaging, in a proscribed activity (that is, a violation of a school rule or regulation, or a criminal statute). There must be articulable facts supporting that reasonable suspicion.”<sup>2</sup>

Although it is not possible to quantify the amount of proof that is required for such a search, the court in *J.D.* explained that some flexibility must be given in situations where, as here, there exists an urgent need to take immediate action. Said the court:

Recent events have demonstrated the increased concern school officials must have in the daily operation of public schools. Sites such as Columbine, Sandy Hook Elementary, and Virginia Tech have been discussed in our national media not because of their educational achievements, but because of the acute degree of violence visited on these and other campuses—hostility often predicated on killings with firearms.

With these principles in mind, the court ruled that the search of J.D.’s locker was justified because of (1) the overriding need to locate the weapon that T.H. had used the day before, and (2) their reasonable belief that the weapon was located in a locker near locker 2499. As the court explained, the initial tip from a student about the shooting on the bus “triggered two responsible initiatives” by the school security officers: (1) to determine if T.H. was on the school property with a weapon, and (2) to inspect lockers that could be used by T.H. to conceal such an item. Consequently, the court rejected that J.D.’s argument that the officers needed a warrant to search a locker assigned to anyone other than T.H. Said the court, “Even if another student validly had the assigned use of a particular locker at the school, that fact did not make the official behavior here suspecting an alleged shooter also had access to the same lockers unreasonable. Privacy concerns needed to be balanced against the official need to address school safety.”

Accordingly, the court ruled that the seizure of the shotgun in J.D.’s locker was lawful. POV

**Date posted:** June 11, 2014

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<sup>2</sup> *In re William G.* (1985) 40 Cal.3d 550, 564.