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2013 IL App (3d) 120193-U

Order filed January 18, 2013

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2013

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
Plaintiff-Appellant,)	Rock Island, Illinois,
)	
v.)	Appeal Nos. 3-12-0193 and 3-12-0384
)	Circuit No. 11-CF-810
)	
TIMOTHY E. SATTERLY,)	Honorable
)	F. Michael Meersman,
Defendant-Appellee.)	Judge, Presiding.

PRESIDING JUSTICE WRIGHT delivered the judgment of the court.
Justices Lytton and Schmidt concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court erred in granting defendant's motion to suppress evidence.

¶ 2 Defendant, Timothy E. Satterly, was charged with unlawful possession with intent to deliver cannabis on school property (720 ILCS 550/5(b), 5.2(d) (West 2010)). The trial court granted defendant's motion to suppress evidence. The State appealed, arguing that the trial court erred in granting the motion to suppress evidence. We reverse and remand.

¶ 3 **FACTS**

¶ 4 On January 17, 2012, a hearing took place on defendant's motion to suppress evidence, and the following facts were adduced: On September 2, 2011, at 9:45 a.m., a student reported in a letter to school officials that she saw defendant with marijuana on the bus earlier that morning. The student personally handed the note to a school staff member. School officials knew her identity. Upon receiving the letter from the student, defendant's social worker called defendant out of class and brought him to a meeting room with four other school staff members, including Randy Newburg. Newburg asked defendant to turn his pockets inside out. When defendant did so, nothing came out of his pockets, but Newburg heard a crinkling noise and saw a bulge in defendant's watch pocket. Newburg said, "What's this?" and reached into defendant's pocket, pulling out a bag of marijuana. Defendant left the school premises.

¶ 5 Deputy Eric Lawrence testified that after he was called by school officials on September 2, 2011, he saw defendant walking a few blocks from the school. Lawrence asked defendant his name, and defendant identified himself. Lawrence arrested defendant and placed defendant into his squad car. After Lawrence drove defendant back to the school, school personnel told Lawrence what had transpired with defendant and turned over the cannabis that was found in defendant's pocket. Lawrence brought defendant to the police station.

¶ 6 After the suppression hearing, the trial court granted the motion to suppress evidence, finding that the informant's tip was not corroborated and there was no indicia of reliability that defendant was in possession of marijuana. The State filed a motion to reconsider, which the trial court denied. The State filed an appeal and a certification of impairment.

¶ 7 ANALYSIS

¶ 8 On appeal, the State argues that the trial court erred by granting defendant's motion to

suppress evidence. We review the circuit court's ruling on a motion to suppress evidence under a two-part test. *People v. Hackett*, 2012 IL 111781. The trial court's factual findings are entitled to deference and will be reversed only if manifestly erroneous. *Id.* The ultimate ruling on whether to grant the motion to suppress evidence is a question of law reviewed *de novo*. *Id.*

¶ 9 Both the federal and Illinois constitutions protect citizens from unreasonable searches and seizures. U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6. The fourth amendment specifies that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. Const., amend. IV. Thus, the fourth amendment attaches where a search or seizure takes place. *People v. Bartelt*, 241 Ill. 2d 217 (2011).

¶ 10 The prohibition against unreasonable searches and seizures also applies to searches conducted by public school officials. *New Jersey v. T.L.O.*, 469 U.S. 325 (1985); *People v. Kline*, 355 Ill. App. 3d 770 (2005). A student has a legitimate expectation of privacy in both his person and possessions. *T.L.O.*, 469 U.S. 325. Although the fourth amendment applies to school officials, it does not have the same effect in a school context as it does in a street encounter between police and citizens. *Id.*; *Vernonia School District 47J v. Acton*, 515 U.S. 646 (1995). A relaxed standard of reasonableness is applied to searches by school officials due to the need to provide a safe and orderly environment conducive to learning. *T.L.O.*, 469 U.S. 325.

¶ 11 Therefore, school officials do not need a warrant based upon probable cause before searching students, but the fourth amendment requires that school officials have reasonable suspicion. *T.L.O.*, 469 U.S. 325; *Kline*, 355 Ill. App. 3d 770. With regard to an informant's tip, the general rule is that a magistrate should look to the totality of circumstances when assessing

the informant's tip for probable cause to issue a search warrant. *Illinois v. Gates*, 462 U.S. 213 (1983). By adopting the totality-of-the-circumstances approach, the United States Supreme Court abandoned its former tests of evaluating an informant's tip set out in *Aguilar v. Texas*, 378 U.S. 108 (1964), which required an assessment of the informant's "veracity" and "basis of knowledge." *People v. Tisler*, 103 Ill. 2d 226, 238 (1984) (citing *Gates*, 462 U.S. 213). Illinois adopted the *Gates* totality-of-the-circumstances approach for resolving questions of probable cause. *Tisler*, 103 Ill. 2d 226; *Kline*, 355 Ill. App. 3d 770.

¶ 12 Similarly, the legality of a search of a student by a school official is dependent upon reasonableness under all the circumstances of the search. *T.L.O.*, 469 U.S. 325; *Kline*, 355 Ill. App. 3d 770. The reasonableness of a search in this case should be determined under a two-prong test: (1) whether the action was justified at its inception; and (2) whether the search was reasonable in scope to the circumstances which justified the interference in the first place. *T.L.O.*, 469 U.S. at 325 (citing *Terry v. Ohio*, 392 U.S. 1 (1968)). In the school context, the reasonableness standard has been extended in situations of: (1) school officials initiating the search or police involvement is minimal; or (2) school police or liaison officers acting on their own authority conduct the search. *People v. Dilworth*, 169 Ill. 2d 195 (1996); *People v. Williams*, 339 Ill. App. 3d 956 (2003). However, courts have applied the probable cause standard when outside police officers initiate the search or school officials act at the request of police. *Dilworth*, 169 Ill. 2d 195; *Williams*, 339 Ill. App. 3d 956.

¶ 13 In this case, school officials were acting on their own authority, without outside police involvement, when defendant was removed from class by staff members and asked to empty his pockets. Accordingly, reasonable suspicion is the proper standard to be applied to the actions of

school officials in this case.

¶ 14 Here, the school officials received information from a known student whose reputation could be assessed by the school officials and who could have been held responsible by the school if her allegations were fabricated. See *Kline*, 355 Ill. App. 3d 770 (unlike a tip from a known informant, an anonymous tip alone seldom demonstrates the informant's basis of knowledge or veracity). School officials knew the identity of the reporting student and received both a written and prompt complaint from that student concerning defendant's possession of contraband. For understandable reasons, the school officials elected not to disclose the student's identity to the police after discovering defendant was carrying contraband in his pocket.

¶ 15 Based on the totality of the circumstances in this case, it was reasonable for school officials to investigate the student's personal observations, as reported to the school staff without delay, indicating the student saw defendant, on the bus that day, when he was in possession of drugs. We conclude a reasonable suspicion existed for school officials to remove defendant from class and request that he empty his pockets. After defendant turned his pockets inside out, a crinkling noise came from a bulge in his watch pocket, which provided additional suspicion for Newburg to reach into defendant's pocket and remove the baggies. Once the baggies of marijuana were discovered, probable cause existed for defendant's arrest by a police officer who arrived after the marijuana was discovered and defendant voluntarily left school property. Consequently, the trial court erred by granting defendant's motion to suppress evidence.

¶ 16

CONCLUSION

¶ 17 Therefore, the judgment of the circuit court of Rock Island County is reversed, and this case is remanded for further proceedings.

¶ 18 Reversed and remanded.