

Sharp Pencil Not a Weapon Under Pennsylvania School Code

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S.A. v. Pittsburgh Pub. Sch. Dist., 2017 Pa. Commw. LEXIS 152 (Pa. Commw. Ct. May 1, 2017).

Summary and Factual Background

S.A. was a 10th grade student at Barack Obama International Academy, a high school in the Pittsburgh Public School District (PPS). She was sitting in class when another student threw the cap of a cologne bottle at her. When a third student came to retrieve the bottle cap, S.A. would not return the bottle cap and an argument ensued. During the course of the argument S.A. stabbed the third student in the neck multiple times with a sharpened pencil. This student was treated by the school nurse and sent home for the day. The nurse subsequently testified that the injury could have been worse had the pencil punctured an artery.

PPS charged S.A. with violating Rule 6 of the PPS student code of conduct which prohibited possessing, handling or transmitting a weapon while on school property. Rule 6 was modeled after Section 1317.2 of the Pennsylvania School Code. Section 1317.2 prohibits the possession of a weapon, defined as “any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.” Rule 6 contains a similar definition of a weapon, but also includes an “explosive” and “mace” within the list of specified items.

After a formal disciplinary hearing, the PPS Board voted to expel S.A. for one year. S.A. then appealed to the trial court, which reversed the school board. The trial court reasoned that a pencil did not come within the definition of a weapon under the language of Rule 6. PPS appealed this determination to the Pennsylvania Commonwealth Court, which affirmed the trial Court.

Discussion

The sole issue before the Commonwealth Court was the definition of a “weapon” under Rule 6 of the PPS student code of conduct and section 1317.2(g) of the Pennsylvania School Code.

The Commonwealth Court explained that whether a given item is a weapon in this context depends on how the item is typically intended to be used in a school setting. The fact that an item is used to commit an act of violence should have no bearing on whether the item is a weapon. Instead, “the inquiry must focus solely on the object in isolation (in a vacuum so to speak) and its inherent operational capabilities; that is, what the object is intended to do in the practical and functional sense.” A pencil, because it is typically used as a writing implement, is not a weapon under the Court’s formulation. A pellet gun on the other hand, would have no purpose in a school environment other than to inflict injury on another. Therefore, the Court explained that a pellet gun does come within the definition of a weapon.

The Court drew a distinction between Section 1317.2(g) of the School Code and Section 2301 of the Pennsylvania Crimes Code, which defines a deadly weapon as follows:

[a]ny firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or serious bodily injury, *or any other device or instrumentality which, in the manner in which it is used or intended to be used, is calculated or likely to produce death or serious injury.*

The above italicized language from the Crimes Code expands the definition of a deadly weapon to an item which, because of the manner in which it is used, is “calculated or likely to produce death or serious bodily injury.” This definition would potentially include a pencil used to inflict serious bodily injury. However, the Commonwealth Court pointed out that neither Rule 6 nor Section 1317.2(g) includes the type of broad language included in the Crimes Code. The Commonwealth Court declined to include a pencil within the definition of a weapon, explaining that if it were to do so, “then a classroom full of students taking a multiple choice exam would all be in violation of Rule #6 and, eventually, there would be no students in attendance at school.”

Practical Advice

An item (such as a pencil) that does not typically function as a weapon may not support student discipline for possession of a weapon under the Pennsylvania School Code, even when the item is used to inflict injury on another. A school district confronted with such an incident should consider assault charges under its code of student conduct, in addition to weapons possession charges.

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