



2004

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Katherine Kiemle

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Recommended Citation

Kiemle, Katherine (2004) "Recent Developments: In re Jason W.: Routine School Disturbances Do Not Warrant Juvenile Delinquency Charges," *University of Baltimore Law Forum*: Vol. 34 : No. 2 , Article 8.
Available at: <http://scholarworks.law.ubalt.edu/lf/vol34/iss2/8>

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In re Jason W.:

Routine School Disturbances Do Not Warrant Juvenile Delinquency Charges

By: Katherine Kiemle

The Court of Appeals of Maryland determined routine school disturbances do not warrant juvenile delinquency charges. *In re Jason W.*, 378 Md. 596, 837 A.2d 168 (2003). The court held a juvenile's mere writing on a school wall, without regard to its content, does not constitute a violation of Maryland Education Article Section 26-101(a). *Id.*

On December 13, 2001, a teacher at Washington County's Clear Spring Middle School caught a student, Jason W., writing "There is a Bomb" in pencil on a school hallway wall. The principal photographed the writing and called police and Jason's mother. The principal took no action to clear the school building or contact the fire marshal for bomb detection. Upon the deputy sheriff's arrival, Jason was *Mirandized* and questioned in the presence of his mother and a teacher. Jason was charged with juvenile delinquency based on his alleged violation of two criminal statutes. The first violation, of then Maryland Code Article 27 Section 9, alleged Jason committed a felony by threatening to explode a destructive device. The second violation of the Education Article Section 26-101(a) charged Jason with willfully disturbing or otherwise preventing the orderly conduct of activities, administration, or classes

of any institution of elementary, secondary, or higher education.

At the adjudicatory hearing, the State amended its petition to replace the violation of Article 27 Section 9 with a violation of then Article 27 Section 151A. The new charge alleged Jason had committed a felony by circulating or transmitting to another, with actionable intent, a known false statement or rumor about the location or possible detonation of a destructive device. The Circuit Court for Washington County found no violation of Section 151A. The court adjudicated Jason as delinquent for violating Education Article Section 26-101(a). The court concluded his conduct was intentional and disruptive to the school's administration, as it initiated an investigation and cleaned up his graffiti. Additionally, as a consequence of Jason's actions, administrators were taken out of the ordinary course of the school day.

Jason appealed and the Court of Special Appeals of Maryland reversed, stating no evidence was presented showing classes were halted or other students were aware of Jason's writing. Despite the fact Jason was disciplined and police were contacted, the disturbance did not constitute the type of disturbance contemplated by the statute. The court of appeals granted certiorari.

The Court of Appeals of Mary-

land began its discussion at the origin of the State's public education law. *Id.* at 600, 837 A.2d at 171. The court traced the Education Article allegedly violated through its origin in 1865 with the establishment of free public schooling, to 1966 and 1970, when the law was re-codified to punish disruptive student protestors. *Id.* at 602, 837 A.2d at 173.

The court examined the public and legislative commentary at the time of the law's re-codification in 1970. *Id.* A *Baltimore Sun* article published in 1970 documented the House of Delegates Judiciary Committee's heated debate over the Act. *Id.* at 603, 837 A.2d at 173. Lawmakers feared that if literally applied, the Act could be used to punish a kindergarten child for a temper tantrum. *Id.* The law was passed with assurances to the Governor that it would be helpful to diffuse student protests of the day. *Id.* at 604, 837 A.2d at 173.

The court determined the Education Article at issue must be read rationally, as it was enacted to provide school administrators with a remedy to keep schools orderly during the tumultuous student activism of the 1960s and 1970s. *Id.*, 837 A.2d at 174. It was not to be used to criminalize disobedient school children. *Id.* The court reasoned the trial court's reading of Section 26-

101(a) would make unlawful any unauthorized conduct requiring even a minimal response by a school official. *Id.*

The court explained statutes must be given a reasonable interpretation, not one contrary to common sense. *Id.* The typical school day is not without its disturbances, and it would be illogical to hold those student disruptions criminal. *Id.* Without a doubt, some student conduct is dangerous and serious enough to warrant criminal intervention. *Id.* at 605, 837 A.2d at 174. However, there is a level of disturbance involved in school activities and it is intended that school administrations deal with it. *Id.* Such disturbances are necessarily outside the application of Section 26-101(a). *Id.*

On these grounds, the court of appeals rejected the State's argument that there need not be an actual disturbance to warrant a violation of Education Article Section 26-101(a). *Id.* at 606, 837 A.2d at 175. The court applied a rational interpretation to the statute and determined it necessitated a disturbance be an actual one and more than simply minimal or routine. *Id.* The disturbance must be one that significantly interferes with the school's orderly activities, administration, or classes. *Id.* Therefore, in Jason's case, since the principal did not take Jason's writing as an actual threat and he was accurate in his assessment, the disturbance did not rise to the level warranted by the Education Article. *Id.*

With its decision, the court of appeals sought to counteract an increasing trend in discipline in educational institutions. School officials, eager to have disobedient students removed from school grounds, have been quick to categorize routine disturbances as serious. Such categorization has led to rising police involvement in schools and more frequent juvenile delinquency adjudications for offenses committed by students during school hours. Unfortunately, such increases have strained the already overburdened juvenile system. This decision is meant to discourage educators from using juvenile courts as a forum for punishing troublesome students. The court's holding is meant to send a message to both school officials and juvenile court authorities. Commonsense dictates routine school disturbances be dealt with in school by those most appropriate to discipline students – teachers and administrators.

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