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Regional News

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Parents Sue to Fight Expulsion Over Toy-Gun Incident

They Seek to Get Their Son Reinstated

The Legal Intelligencer
By Daniel Casciato
September 13, 2007

The parents of a suburban Pittsburgh high school senior who was expelled last month because two airsoft guns and a drywall saw were found in the trunk of his car in April have filed a lawsuit against the school district to get their son permanently reinstated.

Among the claims in *Stay, a Minor v. Bethel Park School District* are that his constitutional rights were violated because the initial search was conducted without reasonable suspicion.

Recently Allegheny County Judge Paul F. Luty granted a preliminary injunction - requested in the lawsuit - against the expulsion of Stay and ordered the school district to allow him to attend classes until a full hearing can be held on the matter.

According to the lawsuit, on April 11, Tyler Stay's AP chemistry teacher discovered that a roll of magnesium tape was missing from the classroom. He was concerned because, if ignited, the tape will burn at a very high temperature that could cause serious bodily injury. After questioning all eight students in the class about the tape, the teacher turned the matter over to the high school principal.

A week later, Stay, 17, was questioned by the principal and the school security officer. He denied taking the tape. At this point, Stay's attorneys, Craig Lee and Bill Clifford, allege that the principal and the school security officer demanded that they search his vehicle. Stay consented to the search.

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Upon searching the trunk of his parents' car, which he was driving at the time, school officials found two airsoft guns and a drywall saw in its original packaging. According to the lawsuit, the magnesium tape was not found and no other students were ever questioned about the tape.

Tyler was suspended for three days. On April 23 an informal hearing was held and he was suspended for 10 more days. That same day another student turned himself in for stealing the magnesium tape.

On May 23 a formal hearing was held. Following the hearing Tyler remained suspended and missed the entire last quarter of classes. The superintendent recommended that Stay be expelled for one school year but needed board approval to do so.

The action to expel Stay was on the agenda of regular school board meetings in June and July but was pulled from both agendas. On Aug. 8 the matter was voted on at a special board meeting and Stay was expelled by a 4-3 vote with one abstention. The lawsuit was filed on Aug. 17

Stay's attorneys asked the Allegheny County Court of Common Pleas to allow Stay to attend classes pending the outcome of a full hearing.

In their brief in support of a motion for a preliminary injunction, which was later granted, Lee and Clifford wrote that the school district "had no basis whatsoever for searching Tyler's person or his parents' vehicle in connection with the missing tape."

The brief claims that the guns were toys purchased by Stay's mother and the saw was a gift from a man Tyler works for as a handyman.

The attorneys further allege that his constitutional rights were violated because "the only basis stated by the school district for the individualized interrogation of Tyler was that he was a member of the third period AP Chemistry class."

According to the brief, the only reason he was searched was because he was nervous during the first interrogation. The attorneys also allege that there were no reasonable grounds to search his car. His nervousness was relied upon to initiate this search and "as a result, the search that resulted in the discovery of the airsoft pistols and drywall saw was unconstitutional and this evidence cannot form the basis of any school board action," the brief alleges.

Clifford declined comment for this story, citing that they are in the middle of the litigation and it is not an appropriate time to comment. Michael L. Brungo, the school district solicitor, could not be reached for comment.

A hearing has not been scheduled and Stay began classes Sept. 4.



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