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NO. COA06-1245

NORTH CAROLINA COURT OF APPEALS

Filed: 17 April 2007

IN THE MATTER OF:
D.S.M.

Wake County
No. 06 JB 163

Appeal by juvenile from orders entered 9 May 2006 by Judge Craig Croom in Wake County District Court. Heard in the Court of Appeals 28 March 2007.

Attorney General Roy Cooper, by Assistant Attorney General Meredith Jo Alcoke, for the State.

Cheshire, Parker, Schneider, Bryan & Vitale, by John Keating Wiles, for juvenile-appellant.

TYSON, Judge.

D.S.M. ("the juvenile") appeals from adjudication, dispositional, and supplemental orders entered finding him to be delinquent for misdemeanor possession of a weapon on school property. We affirm.

I. Background

On 12 December 2005, Wake County Sheriff's Department Deputy James Lane ("Deputy Lane") and Leesville Road Middle School Principal Johnson opened the juvenile's locker and pulled out the juvenile's book bag. Principal Johnson pulled a closed pocketknife out of the juvenile's book bag and gave it to Deputy Lane. The pocketknife was a "[f]olding knife like a Swiss army knife with a

lot of gadgets and stuff with pliers and stuff like that." The knife's blade was almost three inches long.

On 8 March 2006, a juvenile delinquency petition was filed against the juvenile for possession of a weapon on school campus or property in violation of N.C. Gen. Stat. § 14-269.2(d). On 13 March 2006, a juvenile delinquency petition was filed against the juvenile for assault on a government employee in violation of N.C. Gen. Stat. § 14-33(c)(4).

On 9 May 2006, the trial court adjudicated the juvenile to be delinquent for possession of a weapon on school property. The trial court found that the allegation of assault on a government employee was not proven beyond a reasonable doubt. The trial court entered a Level 1 disposition and ordered the juvenile to be placed on probation for six months, to be confined on an intermittent basis in an approved detention facility for five twenty-four hour periods, imposed a curfew, perform twenty-four hours of community service, not associate with specified persons or be in specified places, and cooperate with a community-based program for six months. The juvenile appeals.

II. Issues

The juvenile argues the trial court erred as a matter of law when it found him responsible for possession of a weapon on school property where the evidence showed he possessed a closed pocketknife.

III. Standard of Review

Questions of statutory construction are reviewed *de novo*. *Piedmont Triad Airport Auth. v. Urbine*, 354 N.C. 336, 338, 554 S.E.2d 331, 332 (2001), *cert. denied*, 535 U.S. 971, 152 L. Ed. 2d 381 (2002).

IV. Analysis

The juvenile was adjudicated delinquent for possession of a weapon on a school campus or property. N.C. Gen. Stat. § 14-269.2(d) (2005) states:

(d) It shall be a Class 1 misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), firework, or any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, on educational property.

(Emphasis supplied). A closed pocketknife is a weapon under N.C. Gen. Stat. § 14-269.2(d). *In re B.N.S.*, ___ N.C. App. ___, ___ S.E.2d ___ (6 March 2007) (No. COA06-588).

Our Supreme Court stated in *Brown v. Flowe*, "Legislative intent controls the meaning of a statute. To determine legislative intent, a court must analyze the statute as a whole, considering the chosen words themselves, the spirit of the act, and the objectives the statute seeks to accomplish." 349 N.C. 520, 522, 507 S.E.2d 894, 895 (1998) (citations omitted). "N.C. Gen. Stat. § 14-269.2, was enacted for the purpose of 'deter[ring] students and others from bringing any type of [weapon] onto school grounds' because of 'the increased necessity for safety in our schools.'"

State v. Haskins, 160 N.C. App. 349, 352, 585 S.E.2d 766, 769 (quoting *In re Cowley*, 120 N.C. App. 274, 276, 461 S.E.2d 804, 806 (1995)), *appeal dismissed*, 357 N.C. 580, 589 S.E.2d 356 (2003).

N.C. Gen. Stat. § 14-269.2 does not require a showing of criminal intent. *Id.* "The question of operability is not relevant because the focus of the statute is the increased necessity for safety in our schools." *In re Cowley*, 120 N.C. App. at 276, 461 S.E.2d at 806. "A pocketknife has been recognized in this state as a deadly or dangerous instrumentality as a matter of law." *State v. Young*, 317 N.C. 396, 417, 346 S.E.2d 626, 638 (1986).

The statute under which the juvenile was charged specifically exempts:

(1) a weapon used solely for education or school sanctioned ceremonial purposes, (2) a weapon used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority, (3) firefighters, (4) emergency service personnel, (5) N.C. Forest Service personnel, (6) certain people, such as the military, law enforcement and the national guard, acting in their official capacity, (7) any private police employed by an educational institution when acting in the discharge of official duties, (8) home schools, or (9) a person who takes possession of a weapon from another person and immediately delivers the weapon, as soon as practicable, to law enforcement authorities.

Haskins, 160 N.C. App. at 354, 585 S.E.2d at 769-70; N.C. Gen. Stat. § 14-269.2(g) and (h); N.C. Gen. Stat. § 14-269(b). "[T]he exemptions to N.C. Gen. Stat. § 14-269.2 bear a rational relationship to a legitimate government interest. . . . [to] strike an appropriate balance between the safety of our children

and the furtherance of education in this state." *Haskins*, 160 N.C. App. at 354, 585 S.E.2d at 770.

The juvenile failed to show that any of the statutory exemptions apply to the facts before us. The juvenile possessed a pocketknife with a blade that was almost three inches long while upon school property. Although the knife's blade was closed, the operability of the weapon is irrelevant. *Cowley*, 120 N.C. App. at 276, 461 S.E.2d at 806. The juvenile possessed a "sharp-pointed or edged instrument" as prohibited by N.C. Gen. Stat. § 14-269.2(d) and merely had to open the pocketknife's blade. *See id.* (The trial court properly denied the juvenile's motion to dismiss even though his weapon was inoperable, unloaded, the juvenile did not possess bullets and the hammer had been filed and would not strike the firing pin.); *see also In re B.N.S.*, ___ N.C. App. at ___, ___ S.E.2d at ___ (A closed pocketknife is a weapon under N.C. Gen. Stat. § 14-269.2(d)).

It is well established that the purpose of N.C. Gen. Stat. § 14-269.2 is to deter students from bringing a weapon onto school grounds. *Haskins*, 160 N.C. App. at 354, 585 S.E.2d at 769. The trial court did not err in finding the juvenile to be delinquent for possession of a weapon on school property. This assignment of error is overruled.

V. Conclusion

The trial court properly found the juvenile to be delinquent for possessing a weapon on school property. The trial court's order is affirmed.

Affirmed.

Judges HUNTER and JACKSON concur.

Report per Rule 30(e).