

SUPREME COURT OF GEORGIA

In re D.H., a child

663 S.E.2d 139 (Ga. 2008) · No. No. S08A0011 · Decided June 2, 2008

SUMMARY

The Supreme Court of Georgia affirmed a juvenile delinquency adjudication under OCGA § 20-2-1181 for disrupting or interfering with the operation of a public school. The court held that the statute was not unconstitutionally vague and declined to consider the appellant’s overbreadth challenge because it had not been properly raised in the trial court.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Sears, Chief Justice
JURISDICTION	Georgia
DECIDED	June 2, 2008
DOCKET	No. S08A0011
DISPOSITION	affirmed
PROCEDURAL POSTURE	D.H., a thirteen-year-old juvenile, appealed the trial court's adjudication that she committed the delinquent offense of disrupting a public school and the resulting probation disposition. She challenged the constitutionality of OCGA § 20-2-1181 as vague and overbroad.
STANDARD OF REVIEW	Constitutional challenges to statutes are reviewed under the applicable constitutional standard; a constitutional challenge not directly and properly made in the trial court and distinctly ruled upon is procedurally barred on appeal.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Georgia; precedential.
PARTIES	D.H. v. The State of Georgia

TOPICS

- void for vagueness
- overbreadth doctrine
- preservation of error
- appellate procedure
- statutory interpretation

PRACTICE AREAS

- constitutional law
- juvenile delinquency
- education law
- appellate procedure

QUESTIONS PRESENTED

1. Whether OCGA § 20-2-1181 is unconstitutionally vague because the terms "disrupt" and "interfere" are undefined.
2. Whether D.H. could raise on appeal an overbreadth challenge asserting that OCGA § 20-2-1181 punishes protected speech and conduct when that challenge was not properly raised or ruled upon in the trial court.

HOLDINGS

1. OCGA § 20-2-1181 is not unconstitutionally vague because the phrase "disrupt or interfere with the operation of any public school" uses words of ordinary meaning that provide fair notice of the conduct prohibited and sufficient guidance against arbitrary or discriminatory enforcement.
2. D.H. was procedurally barred from raising her overbreadth challenge on appeal because she did not identify overbreadth, protected speech or conduct, or the First Amendment in the trial court, and the trial court therefore did not distinctly rule on that challenge.

KEY QUOTATIONS

"A law may be unconstitutionally vague if it fails to provide the kind of notice that will enable ordinary people to conform their conduct to the law or if it fails to provide sufficient guidelines to govern the conduct of law enforcement authorities, thus making the law susceptible to arbitrary and discriminatory enforcement." (140)

"To properly raise a constitutional challenge to a statute, the party attacking the statute must show three things: "(1) [T]he statute or the particular part or parts of the statute which the party would challenge must be stated or pointed out with fair precision; (2) the provision of the Constitution which it is claimed has been violated must be clearly designated; and (3) it must be shown wherein the statute, or some designated part of it, violates such constitutional provision."" (141)

FACTUAL BACKGROUND

D.H. became boisterous, irate, and very loud during class, causing classroom activity to stop until she was removed. At the principal's office, she continued to act loudly and disrespectfully, refused to comply with the principal's requests, and left the office approximately five times, requiring school personnel to locate and return her. The trial court adjudicated her delinquent for disrupting a public school.

PROCEDURAL HISTORY

The trial court found D.H. delinquent after evidence that she disrupted classroom activity, remained loud and disrespectful in the principal's office, and repeatedly left despite instructions to remain. The court rejected her vagueness challenge and placed her on probation in her own home. On appeal, the Supreme Court of Georgia affirmed, holding that the vagueness challenge failed on the merits and that the overbreadth challenge was procedurally barred because it was not properly raised below.

DISPOSITION

affirmed

CASES CITED

- City of Chicago v. Morales, 527 U.S. 41, 56-62 (1999)
- State v. Fielden, 280 Ga. 444, 629 S.E.2d 252 (2006)
- Grayned v. City of Rockford, 408 U.S. 104, 108-112 (1972)
- Cameron v. Johnson, 390 U.S. 611, 616 (1968)
- Houston v. Hill, 482 U.S. 451, 453-467 (1987)
- In the Interest of J.R.R., 281 Ga. 662, 641 S.E.2d 526 (2007)
- Brewer v. State of Ga., 281 Ga. 283, 285, 637 S.E.2d 677 (2006)
- DeKalb County v. Post Properties, 245 Ga. 214, 218, 263 S.E.2d 905 (1980)
- Richmond Concrete Products Co. v. Ward, 212 Ga. 773, 774, 95 S.E.2d 677 (1956)
- Cooper v. State, 277 Ga. 282, 284, 587 S.E.2d 605 (2003)
- Wallin v. State, 248 Ga. 29, 30, 279 S.E.2d 687 (1981)

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