

***** NOT FOR PUBLICATION *****

NO. 25664

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Interest of
JANE DOE,
Born on May 9, 1986,
Juvenile.

APPEAL FROM THE FAMILY COURT OF THE FIFTH CIRCUIT
(FC-J NO. 00-48022)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy JJ.)

The plaintiff-appellant State of Hawai'i [hereinafter, "the prosecution"] appeals from the findings of fact (FOFs), conclusions of law (COLs) and order of the family court of the fifth circuit, the Honorable Calvin Murashige presiding, granting the minor-appellee Jane Doe's [hereinafter, "the Minor"] motion to suppress items of evidence. On appeal, the prosecution contends that the family court erred in concluding that a security guard's decision to search another student prior to searching the Minor diminished any reasonable suspicion for the subsequent search of the Minor. In response, the Minor argues: (1) that the family court properly granted her motion to suppress because the security guard's action indicated that he never had reasonable suspicion to justify the search; and (2) that the prosecution misinterprets the family court's COLs by implying that the court believed that the security guard had a reasonable suspicion to search the Minor at any point during the circumstances of the present matter.

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Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we vacate the family court's findings of fact, conclusions of law, and order granting the Minor's motion to suppress items of evidence and remand this matter to the family court for further proceedings consistent with this order.

This court's decision in In the Interest of Jane Doe, Born on May 5, 1977, 77 Haw. 435, 881 P.2d 533 (1994) [hereinafter, "Jane Doe"], is dispositive of the present matter. In this case, the actions of security guard, Kevin Holt, were justified by reasonable suspicion. Id. at 442, 887 P.2d at 652. Although the family court expressly found that "Holt did not see any of [the three students] in possession of any contraband, nor did they appear to be concealing anything from him[,]"" we deemed the same circumstances in Jane Doe to satisfy the reasonable suspicion standard. Id. at 442-43, 887 P.2d at 652-53. Furthermore, Holt had sufficient individualized suspicion regarding the Minor to justify his search. Id. at 445, 887 P.2d at 655.

The security guard's actions in sending the Minor to class and allowing ten to fifteen minutes to elapse prior to his search constitute a distinction from Jane Doe without a difference, inasmuch as sending the Minor to class was essentially equivalent to having her wait in the office reception area. Jane Doe does not require that school officials detain students together or search them simultaneously and immediately in order to support reasonable suspicion. Aside from mandating that the search be reasonably related in scope to the underlying

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facts, the Jane Doe standards are less focused on the actions of school officials than on the behavior of the students and the surrounding circumstances. Id. at 441-42, 887 P.2d at 651-52. Therefore,

IT IS HEREBY ORDERED that the family court's findings of fact, conclusions of law, and order granting the Minor's motion to suppress items of evidence is vacated and this matter is remanded to the family court for further proceedings consistent with this order.

DATED: Honolulu, Hawai'i, January 20, 2004.

On the briefs:

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