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NO. 53419-3-II

IN THE COURT OF APPEALS OF THE STATE OF  
WASHINGTON,

DIVISION II

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STATE OF WASHINGTON,

Respondent,

vs.

S.R.G.,

Appellant.

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RESPONDENT'S BRIEF

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**I. STATE'S RESPONSE TO ASSIGNMENT OF ERROR**

- A. Because the search was justified at its inception, reasonably related in scope, and the trial court considered and found applicable *McKinnon* factors, the search of S.R.G.'s bags was reasonable under all of the circumstances.
- B. Because the school officials limited the search to S.R.G.'s bags, when she told them they would find vape juice in violation of school policy, the school officials did not exceed the scope of the search.

**II. ISSUES PERTAINING TO THE STATE'S RESPONSE TO ASSIGNMENT OF ERROR**

- A. WHERE THE TRIAL COURT FOUND THAT THE SEARCH OF S.R.G.'S BAGS WAS JUSTIFIED AT ITS INCEPTION, REASONABLY RELATED IN SCOPE, AND FOUND APPLICABLE *MCKINNON* FACTORS, WAS THE SEARCH REASONABLE UNDER ALL OF THE CIRCUMSTANCES?
- B. DID THE SCHOOL OFFICIALS EXCEED THE SCOPE OF THE SEARCH WHEN THEY SEARCHED S.R.G.'S BAGS AFTER SHE TOLD THEM SHE HAD VAPE JUICE IN HER BAG?

**III. STATEMENT OF THE CASE**

On January 30, 2019, a student reported to Shaun Campbell, a teacher at Castle Rock High School that another student, S.R.G., was in possession of and had been observed using a vape pen. CP 63, 64; Ex. 1. Being in possession of or using vape products on school grounds was in violation of school policy. CP 63. In response, Mr. Campbell escorted S.R.G. to Principal Ryan Greene's office. CP 63; Ex. 1. When the school officials asked whether she had anything in her bags that she should not

have, S.R.G. responded that there was vape juice in her bag. Ex. 2. S.R.G. “started to dig in her bag,” and as she did, the school officials told her they were “going to search all of her bags.” Ex. 2. S.R.G. did not say or do anything further. Ex. 2. During the search, Mr. Campbell discovered marijuana, a vape pen, vape juice, cigarettes, and a glass pipe in one of S.R.G.’s bags. Ex. 1; Ex. 2. After discovering the contraband, Principal Greene called law enforcement. Ex. 1. The State charged S.R.G. with possession of 40 grams or less of marijuana while under the age of twenty-one. CP 4-5. S.R.G. moved to suppress the search. CP 17-19.

The trial court concluded that the search of S.R.G.’s bags was reasonable under all of the circumstances and denied S.R.G.’s motion to suppress. CP 64. Specifically, the trial court found it highly reliable that another student identified S.R.G. by name as the student using and possessing a vape pen, and then S.R.G. admitted to Mr. Campbell and Principal Greene that she had vape juice in her bag. CP 64. Because S.R.G. said the vape juice was in one of her bags, and Principal Greene searched only the bags she had with her in the office, the trial court found that the search was limited in scope. CP 64. The trial court held that the use of a vape pen, vape juice, or cigarettes are a problem in schools, and that to not search, after S.R.G. told the school officials she was in violation of school

policy, could have resulted in S.R.G. destroying or disposing of the vape juice. CP 64.

The parties agreed to a stipulated bench trial. RP 34, 37, 54, 64. The State admitted three exhibits: a statement by Mr. Campbell, a statement by Principal Greene, and the full police report. Ex. 1, Ex. 2, Ex. 3. Based on the statements and police report, the court found S.R.G. guilty beyond a reasonable doubt of possession of 40 grams or less of marijuana. RP 56.

#### IV. ARGUMENT

##### **A. BECAUSE THE SEARCH WAS JUSTIFIED AT ITS INCEPTION, REASONABLY RELATED IN SCOPE, AND THE COURT CONSIDERED AND FOUND APPLICABLE *MCKINNON* FACTORS, THE SEARCH OF S.R.G.'S BAGS WAS REASONABLE UNDER ALL OF THE CIRCUMSTANCES.**

The search of S.R.G.'s bags was justified at its inception, reasonably related in scope, and the trial court considered and found applicable *McKinnon* factors, thus the search of S.R.G.'s bags was reasonable under all of the circumstances. School authorities can “conduct a search of a student without probable cause if the search is reasonable under all of the circumstances.” *State v. A.S.*, 6 Wn. App.2d 264, 268, 430 P.3d 703 (2018); *State v. Brooks*, 43 Wn. App. 560, 563-64, 718 P.2d 837 (1986); *New Jersey v. T.L.O.*, 469 U.S. 325, 342, 105 S. Ct. 733, 83 L. Ed.2d 720 (1985). S.R.G. claims that the school officials lacked reasonable suspicion to search her

bags. S.R.G.'s argument fails for two reasons. First, the search was justified at its inception and was reasonably related in scope. Second, the trial court considered the *McKinnon* factors, found that majority of the factors applied, and weighed the factors to conclude that the school officials had reasonable particularized suspicion to search S.R.G.'s bags.

**1. The search was justified at its inception and was reasonably related in scope.**

The search of S.R.G.'s bags by school officials was reasonable under all of the circumstances because the search was justified at its inception and was reasonably related in scope to the specific policy that school officials suspected her of violating. "A search is reasonable if it is: (1) justified at its inception; and (2) reasonably related in scope to the circumstances that justified the interference in the first place." *T.L.O.*, 469 U.S. at 341; *A.S.*, 6 Wn. App.2d at 268. S.R.G. argues that the search of her bags was not reasonable under all of the circumstances. However, the school officials searched for vape products that were prohibited by school policy, and the search was limited to S.R.G.'s bags where she told them the vape juice was located.

The school search exception allows school authorities to conduct a search of a student without probable cause if the search is reasonable under all of the circumstances. *T.L.O.*, 469 U.S. at 326; *A.S.*, 6 Wn. App.2d at 268.

“A search is reasonable if it is: (1) justified at its inception; and (2) reasonably related in scope to the circumstances that justified the interference in the first place.” *T.L.O.*, 469 U.S. at 341; *A.S.*, 6 Wn. App.2d at 268. “A search by a teacher or other school official will be ‘justified at its inception’ when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school.” *A.S.*, 6 Wn. App.2d at 268 (quoting *T.L.O.*, 469 U.S. at 341-42). “A search will be permitted in scope ‘when measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.’” *A.S.*, 6 Wn. App.2d at 268-69 (quoting *T.L.O.*, 469 U.S. at 342).

*T.L.O.* illustrates a search that was justified at its inception, and reasonably related in scope to the policy violation suspected. *T.L.O.* held that due to a teacher’s report that 14-year-old T.L.O. had been smoking a cigarette in the lavatory, it was reasonable for the vice-principal to suspect T.L.O. was carrying cigarettes on her against school policy. 469 U.S. at 345-46. The Court concluded that T.L.O.’s purse was the obvious place for her to be carrying cigarettes, and the vice-principal’s suspicion that she had cigarettes in her purse was not an “inchoate and unparticularized suspicion or ‘hunch.’” *Id.* (quoting *Terry v. Ohio*, 392 U.S., 1, 27, 88 S. Ct. 1868, 20

L. Ed. 2d 889 (1968). Instead, it was the sort of “common-sense conclusion[s] about ‘human behavior’ upon which ‘practical people’ – including government officials – are entitled to rely.” *Id.* (quoting *United States v. Cortez*, 449 U.S. 411, 418, 101 S. Ct. 690, 66 L. Ed. 2d (1981)).

The vice-principal was justified in believing T.L.O. had cigarettes with her at school after the report of her smoking a cigarette in the lavatory, and he searched for the cigarettes in her purse, which was a common-sense place to search a student for cigarettes. *Id.* at 345-46. Therefore, the search was justified at its inception and reasonably related in scope to searching for evidence of the identified school policy violation. *Id.*

Here, the search of S.R.G.’s bags was justified at its inception. A student reported that S.R.G. had been seen using a vape pen at school. Ex. 1. When confronted by Mr. Campbell and Principal Greene, S.R.G. confirmed the student’s report by admitting she had vape juice in her bag. Ex. 2. She did not tell either school official which bag the vape juice was in. Ex. 2. Since using or possessing vape products violated school policy, the search of S.R.G.’s bags was justified at its inception. The school officials identified the specific policy S.R.G. was suspected of violating, and had reliable information prior to the search that caused them to believe S.R.G. was in possession of vape products at school.

The search of S.R.G.'s bags was also limited in scope. The measures used, searching S.R.G.'s bags, were reasonably related to the objective of the search for vape products. S.R.G. had identified to the school officials which item she had in her possession that violated school policy, and stated that the vape juice was "in her bag." Ex. 2. Just as it was not excessively intrusive to search 14-year-old T.L.O.'s purse for cigarettes, since a purse is a common-sense place to search for cigarettes, it was also not excessively intrusive to search 15-year-old S.R.G.'s bags for vape juice. *T.L.O.*, 469 U.S. at 345-46. Even if S.R.G. had not stated that the vape juice was in one of her bags at all, the bags she carried on her person were a common-sense place to search a high school student for vape products. 469 U.S. at 345-46. Purses and bags have little practical difference when carried to school by students. Here, the school officials limited the scope of the search to S.R.G.'s bags, even when a more expansive search of her locker or person may have been justified. They discovered all of the contraband in the same bag. Ex. 2.

S.R.G. claims she "clearly indicated which bag held the vape juice." *Appellant's Brief* 5. However, nowhere is this supported in the record. S.R.G. did not tell either school official which bag the vape juice was in. See Ex. 1; Ex. 2. She merely began to dig in a bag, but produced nothing. See Ex. 2. S.R.G.'s claim on appeal that she was digging for the vape juice

is speculative. The record also does not support that the school officials instructed S.R.G. to stop digging through her bag. Ex. 2. Mr. Campbell and Principal Greene told her they were going to search all of her bags, and then they searched the bags on her person. Ex. 2. Last, nothing in the record suggests that after the school officials discovered the vape juice, they continued searching. Instead, they discovered all of the contraband in “her bag.” Ex. 2.

The search in this case was justified at its inception and reasonably related in scope. S.R.G. admitted to violating a specific school policy, and the school officials searched only bags she carried on her person for evidence of the violation she admitted to. The trial court did not err by ruling that based on meeting the two-part reasonableness under all of the circumstances standard, the school officials had reasonable suspicion to search S.R.G.’s bags. The search in this case was lawful, and S.R.G.’s conviction should be upheld.

**2. The court considered, and properly applied the *McKinnon* factors.**

The trial court considered, and properly applied the *McKinnon* factors to the circumstances of this case. The standard for school searches pursuant to the Fourth Amendment and Wash. Const. art. I, § 7 is “reasonableness under all of the circumstances.” *T.L.O.*, 469 U.S. at 326;

*Brooks*, 43 Wn. App. at 568; *A.S.*, 6 Wn. App.2d at 268. S.R.G. claims that the trial court refused to apply the *McKinnon* factors to determine the reasonableness of the search in this case. *Appellant's Brief* 6. However, the trial court considered the *McKinnon* factors and ruled that majority of the factors were applicable. CP 63-64. After weighing the applicable factors, the trial court ruled that the search of S.R.G.'s bags was reasonable under all of the circumstances.

“Washington courts have established . . . factors (*McKinnon* factors) as relevant in determining whether school officials had reasonable grounds for conducting a warrantless search.” *A.S.*, 6 Wn. App.2d at 269. The factors include: the student's (1) age, history, and school record, (2) the prevalence and seriousness of the problem in the school to which the search was directed, (3) the exigency to make the search without delay, and (4) the probative value and reliability of the information used as a justification for the search. *State. v. McKinnon*, 88 Wn.2d 75, 81, 558 P.2d 781 (1977); *A.S.*, 6 Wn. App.2d at 269.

While the *McKinnon* factors assist in the trial court's reasonableness determination under the school search exception, “[A]rticle 1, section 7 affords students no greater protections from searches by school officials

than is guaranteed by the Fourth Amendment.”<sup>1</sup> *Brooks*, 43 Wn. App. at 568. The factors are “relevant in determining whether school officials had reasonable grounds for conducting a warrantless search.” *A.S.*, 6 Wn. App.2d at 269. “Although all the foregoing factors need not be found, their total absence will render the search unconstitutional.” *Brooks*, 43 Wn. App. at 568; *A.S.*, 6 Wn. App.2d at 269. The standard under the Fourth Amendment and Wash. Const. art. I, § 7 is reasonableness under all of the circumstances. *T.L.O.*, 469 U.S. at 326; *Brooks*, 43 Wn. App. at 568; *A.S.*, 6 Wn. App.2d at 268. Therefore, while the lack of any *McKinnon* factors will never produce a reasonable search, it is not required that all of the factors be found.

*T.L.O.* illustrates how to consider the student’s age when determining whether a search was reasonable under all of the circumstances. *T.L.O.* explains that measures adopted to conduct a search must not be “excessively intrusive in light of the age of the student and the nature of the infraction.” *T.L.O.*, 469 U.S. at 342; *A.S.*, 6 Wn. App.2d at 268-69. *T.L.O.*, a 14-year-old high school student, was suspected of having cigarettes with her at school based on a report that she was observed smoking in the lavatory. *T.L.O.*, 469 U.S. at 325. The Court held that

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<sup>1</sup> While S.R.G. originally argued that a higher standard applies in the context of the school search exception under Wash. Const. art. I, § 7 than the Fourth Amendment, she subsequently withdrew the argument. CP 63-64.

searching T.L.O.'s purse for the cigarettes was reasonable at her age, even after school officials questioned T.L.O. about smoking and she denied the allegation. *Id.* at 328.

*McKinnon* and *T.L.O.* both considered the prevalence and seriousness of the problem of drugs in schools. *McKinnon* concluded “[d]rug use and abuse by secondary students are not unknown, and eyes should not be closed to the practices.” 88 Wn.2d 75 at 82. *McKinnon* did not consider drug use at the specific school in the case, but looked broadly at the problem among secondary school students. *Id.* *T.L.O.* also considered drug use in a broad sense, rather than at the school T.L.O. attended. That case stated: “[I]n recent years, school disorder has often taken particularly ugly forms; drug use and violent crime in the schools have become major social problems.”<sup>2</sup> *T.L.O.*, 469 U.S. at 339. Both Courts accepted as true that drugs are disruptive to the school learning environment.

*McKinnon* concluded there was an exigent circumstance where “delay could greatly enhance the possibility that the drugs might be destroyed or otherwise disposed of.” 88 Wn.2d at 82. In *McKinnon*, the drugs searched for were inside two high school students’ pockets. The Court held that “[m]aintaining discipline in schools oftentimes requires immediate

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<sup>2</sup> The U.S. Supreme Court cited 1 NIE, U.S. Dept. of Health, Education, and Welfare, Violent Schools – Safe Schools: The Safe School Study Report to Congress (1978).

action and cannot await the procurement of a search warrant based on probable cause.” *Id.* at 81.

Here, the trial court considered the *McKinnon* factors and found that majority of the factors applied. The court considered that S.R.G. was a 15-year-old high school student. CP 64. Age goes to the scope of the search, and after considering S.R.G.’s age, the trial court stated “[t]he school officials only searched those bags of the Respondent there in the school office with her, so the search was limited and reasonably related in scope.” CP 64. Like in *T.L.O.*, a search of a high school student’s bag or purse for tobacco products is not excessively intrusive. The search of S.R.G.’s bags was not excessively intrusive in light of her age.

The trial court also found that the use and possession of vape products in school are problematic. CP 63. The court ruled that the “use of vape pens/juice, cigarettes, are a problem in schools.” CP 63. The court noted that “[h]aving or using vape products, such as a vape pen and/or juice, on school grounds is prohibited by school policy.” CP 63. Vape products, which are often used to consume nicotine or marijuana, are disruptive to the school environment. Even the *McKinnon* Court that introduced the factors acknowledged “eyes should not be closed” to drug use. *McKinnon*, 88 Wn.2d at 82. *T.L.O.* agreed, and neither case looked to the specific school the student attended.

The Surgeon General has recently issued an advisory on e-cigarette use among youth, warning that nicotine is harmful to the developing brain and is disruptive to learning, memory, and attention.<sup>3</sup> See <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf> (last accessed 12/30/19). Schools are justified in prohibiting the use and possession of vape products on school grounds because vape products pose health risks to students and are disruptive to the learning environment. Therefore, the trial court did not err in holding that vape products are a problem in schools.

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<sup>3</sup> E-cigarettes entered the U.S. marketplace around 2007, and since 2014, they have been the most commonly used tobacco product among U.S. youth. E-cigarette use among U.S. middle and high school students increased 900% during 2011-2015, before declining for the first time during 2015-2017. However, current e-cigarette use increased 78% among high school students during the past year, from 11.7% in 2017 to 20.8% in 2018. In 2018, more than 3.6 million U.S. youth, including 1 in 5 high school students and 1 in 20 middle school students, currently use e-cigarettes.

E-cigarette aerosol is not harmless. Most e-cigarettes contain nicotine – the addictive drug in regular cigarettes, cigars, and other tobacco products. Nicotine exposure during adolescence can harm the developing brain – which continues to develop until about age 25. Nicotine exposure during adolescence can impact learning, memory, and attention. Using nicotine in adolescence can also increase risk for future addiction to other drugs. In addition to nicotine, the aerosol that users inhale and exhale from e-cigarettes can potentially expose both themselves and bystanders to other harmful substances, including heavy metals, volatile organic compounds, and ultrafine particles that can be inhaled deeply into the lungs.

Many e-cigarettes also come in kid-friendly flavors. In addition to making e-cigarettes more appealing to young people, some of the chemicals used to make certain flavors may also have health risks. E-cigarettes can also be used to deliver other drugs, including marijuana. In 2016, one-third of U.S. middle and high school students who ever used e-cigarettes had used marijuana in e-cigarettes. See <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf> (last accessed 12/30/19).

The trial court found that there was an exigency to make the search without delay. The court concluded that “[t]o not search, the vape juice could have been destroyed or disposed of. The intrusion is outweighed by the school’s interest in maintaining good order and discipline.” CP 64. It is likely that after being questioned by school officials about possessing vape products, and then admitting to having vape juice in her bag, S.R.G. would have the incentive to dispose of the vape juice if the school officials were required to obtain a warrant prior to searching her bags. The trial court did not err in ruling that there was an exigent circumstance. However, the presence of an exigent circumstance was not necessary because S.R.G. admitted she possessed vape juice.

Last, the trial court considered and found that the information Mr. Campbell and Principal Greene relied on as a justification for the search was highly reliable. CP 64. The court based its finding of reliability both on the fact that “another student reported seeing S.R.G. in possession of and using a vape pen,” and S.R.G.’s corroborating admission to Mr. Campbell and Principal Greene that she possessed vape juice in her bag. CP 64. The trial court stated, “[t]he statement of the Respondent is something the [c]ourt finds very reliable: a person admitting possession of something in violation of school policy.” CP 64. The trial court considered the reliability of the information known to Mr. Campbell and Principal Greene prior to

searching, and found that where a student reported S.R.G.'s use and possession of a vape pen at school, and S.R.G. corroborated the report by admitting to having vape juice in her bag, it was reasonable for the school officials to believe she had vape products in the bags she carried on her. The court did not error that the information Mr. Campbell and Mr. Greene knew prior to searching S.R.G. was highly reliable.

S.R.G. argues that Mr. Campbell and Principal Greene lacked a reasonable belief that she was in violation of a school policy because they did not mention her history or school record in their statements. S.R.G. relies on *A.S.*, because in that case the trial court did not mention A.S.'s history or school record. However, *A.S.* is distinguishable because in *A.S.*, the Court did not find any of the *McKinnon* factors. *A.S.*, 6 Wn. App.2d at 269-70. As illustrated by *Brooks*, while at least one *McKinnon* factor must be present, all factors are not required for a search to be reasonable. *Id.*

In addition, neither *McKinnon* nor *T.L.O.* mentioned school history or school record at all. The absence of a discussion of a student's history and school record is not dispositive under the school search exception. What is important is that the factors present must weigh in favor of reasonableness under all of the circumstances.

To apply the *McKinnon* factors in such a rigid manner as S.R.G. suggests – to require that every factor be met as elements, rather than factors

– would prevent and dissuade school officials from utilizing the school search exception. Where time is of the essence, such a requirement could result in danger to students and greater disruptions to the learning environment. The reason probable cause is not the standard for school searches is the need to “spare teachers and school administrators the necessity of schooling themselves in the niceties of probable cause and permit them to regulate their conduct according to the dictates of reason and common sense.” *T.L.O.*, 469 U.S. at 343.

In Washington, at least one *McKinnon* factor must be present, and the reasonableness of a school search is based on the totality of the circumstances. The trial court properly applied the reasonableness standard, stating that to not treat the factors as guidelines that may or may not be present in a given case “does not recognize the diversity of issues, [and] the diversity of students that are faced on a daily basis by school officials.” CP 64. After applying and weighing the applicable *McKinnon* factors, the trial court ruled that the school officials had reasonable belief under all of the circumstances to search S.R.G.’s bags. The trial court did not err, and S.R.G.’s conviction should be upheld.

**B. BECAUSE THE SCHOOL OFFICIALS LIMITED THEIR SEARCH TO S.R.G.'S BAGS, WHEN SHE TOLD THEM THEY WOULD FIND VAPE JUICE IN HER BAG IN VIOLATION OF SCHOOL POLICY, THE SCHOOL OFFICIALS DID NOT EXCEED THE SCOPE OF THE SEARCH.**

The trial court properly held that the search of S.R.G.'s bags was reasonable under all of the circumstances because the search was limited in scope to searching for evidence of the specific policy violated. "For a school official to have reasonable grounds for a warrantless search of a student, there must be a nexus between the item sought, and the infraction under investigation." *State v. B.A.S.*, 103 Wn. App. 549, 553, 13 P.3d 244 (2000). S.R.G. claims that the school officials exceeded the scope of the search because she "clearly indicated which bag contained the vape juice," and "started reaching in the bag to get it out," but "was stopped" by a school official. *Appellant's brief* 19. However, the record does not reflect why S.R.G. reached into one of her bags or that school officials instructed her to stop. Ex. 1; Ex. 2. Here, there was a direct nexus between the item sought, vape juice, and the infraction under investigation, possessing vape products at school.

Several cases have considered the lawful scope of a search under the school search exception to the warrant requirement. "[A] search will be permissible in its scope when the measures adopted are reasonably related

to the objectives of the search and not excessively intrusive in light of the student's age and sex and the nature of the infraction." *T.L.O.*, 469 U.S. at 326. "There must be a nexus between the item sought, and the infraction under investigation." *State v. B.A.S.*, 103 Wn. App. 549.

In *B.A.S.*, a search of a student's pockets exceeded the scope of the alleged violation of being in the school parking lot without permission. *Id.* at 555. The court concluded that violating the parking lot rule, without more, does not warrant an automatic search. *Id.* School officials made B.A.S. empty his pockets. However, the search of B.A.S.'s pockets was unlikely to reveal evidence that B.A.S. was in the parking lot during lunch.

Here, S.R.G. was suspected of violating the school policy that prohibited using or possessing vape products at school. After receiving a report that S.R.G. had been observed using a vape pen at school, Mr. Campbell and Principal Greene asked S.R.G. whether she had anything in her bags that she should not have. After S.R.G. told Mr. Campbell and Principal Greene that she had vape juice in her bag, they advised her they were going to search her bags. Ex. 1; Ex. 2. Principal Greene then searched the bags she had on her person. Ex. 1; Ex. 2. In one of S.R.G.'s bags, the school officials located the vape products and the marijuana that led to a criminal charge in this case. Ex. 2. The school officials had reasonable suspicion to search the bags S.R.G. carried with her into the office to

discover evidence of the school policy violation. They did not expand the search to her locker or her person, even though such a search was likely justified under the circumstances.

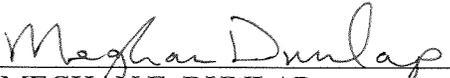
Unlike *B.A.S.*, which lacked a nexus between the student's pocket search and evidence of being in the parking lot during lunch, S.R.G.'s bags were a common-sense place to search for the vape juice. At all times, the search was of S.R.G.'s bags, and the search concluded when the school officials recovered S.R.G.'s prohibited contraband, which included the vape juice from one of the bags. There was a nexus between the item searched for, the vape juice, and the specific policy violation broken. The search in this case was reasonably related in scope to the circumstances that justified the interference in the first place.

After a report by another student of S.R.G. possessing and using a vape pen at school, S.R.G. admitted she had vape juice in her bag, and then school officials searched the bags she carried on her for the vape juice, discovering vape products and other contraband. Under the totality of the circumstances, and considering the applicable *McKinnon* factors, the court properly ruled that the school officials had reasonable suspicion to search S.R.G.'s bags, and that the search was limited in scope. The trial court did not err in concluding that the search of S.R.G.'s bags was reasonable under all of the circumstances.

V. **CONCLUSION**

For the above stated reasons, S.R.G.'s conviction should be affirmed.

Respectfully submitted this 13th day of January, 2020.

  
\_\_\_\_\_  
MEGHAN E. DUNLAP  
WSBA #52619  
Deputy Prosecuting Attorney  
Representing Respondent

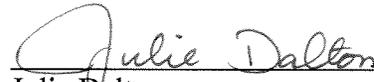
**CERTIFICATE OF SERVICE**

I, Julie Dalton, do hereby certify that opposing counsel was served RESPONDENT'S BRIEF electronically via the Division II portal:

Stephanie Alice Taplin  
Newbry Law Office  
623 Dwight St  
Port Orchard, WA 98366-4619  
[stephanie@newbrylaw.com](mailto:stephanie@newbrylaw.com)

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Kelso, Washington on January 13, 2020.

  
\_\_\_\_\_  
Julie Dalton

**COWLITZ COUNTY PROSECUTING ATTORNEY'S OFFICE**

**January 13, 2020 - 1:47 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 53419-3  
**Appellate Court Case Title:** State of Washington, Respondent v S.R.G., Appellant  
**Superior Court Case Number:** 19-8-00026-3

**The following documents have been uploaded:**

- 534193\_Briefs\_20200113134534D2279783\_7170.pdf  
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