

Mathis

## CICI VIGIL & THE RIO LARGO SCHOOLS

FACTS: Cici Vigil, a student at Rio Largo High School for two years, was having some difficulty adjusting to school before she took up an interest in the school's science club. She developed an idea for the Spaceport Flight Competition which required students to develop ideas for air transport fueled by solar power, wind power, propane, other fuels and propellants. Half of the competitors developed rockets. The others built balloons or assisted gliders. Cici's project, a propelled rocket, took first place. Cici was awarded a \$10,000 scholarship and her project was put on display at the school.

J.J. Vigil, Cici's brother, was having more difficulty adjusting to school than Cici. He wore black clothes, skipped classes and sat alone in the school cafeteria reading *The Anarchist's Cookbook*, a family heirloom that his mother had from her college days. This book includes, among other things, ideas for the building of weapons. After Cici won the Spaceport Flight Competition, a school security guard confiscated J.J.'s copy of *The Anarchist's Cookbook*. It is not clear why the security guard seized the book from J.J. when he did, but school officials had suspected J.J. as being the person who had called in an anonymous bomb threat to the school the year before, although it had never been proven that he was the one who called in the threat.

As the security guard leafed through J.J.'s copy of *The Anarchist's Cookbook*, he discovered that the ingredients for making bombs in the book were the same ingredients that Cici had used in her project for the Spaceport Flight Competition. The security guard contacted the local sheriff who, concerned that Cici and J.J. might be involved in terrorist activities, arrested Cici. It is not clear whether J.J. was also arrested. As a result of her arrest and the school's determination that Cici had violated the Rio Largo Schools zero tolerance policy, Cici was stripped of the scholarship that she had been awarded.

## **ISSUES PRESENTED:**

**ISSUE NUMBER 1.** Does J.J. have the right to read *The Anarchist's Cookbook* book in school or does the school have the right to confiscate the book?

**LAW:** The First Amendment guarantees the right of students to possess and read books through the right of the press and the right to free speech.

**ARGUMENT:** The right to read books, even those that may contain unpopular opinions, is one of our most important constitutional rights. The school's concern about the book's ideology and how the information contained in the book could potentially be put to use in a way that could hurt others, such as students and teachers, is not a sufficient reason to justify the school's actions in confiscating the book. School officials cannot confiscate books simply because they dislike the ideas contained in those publications. The First Amendment protects the reader of a book just as much as it protects the person who wrote it. The First Amendment also protects J.J.'s right to read a broad range of material so that he can form his own opinions about the information contained in those publications. Rio Largo School's own zero tolerance policy acknowledges that "(S)tudents shall have the right to encounter diverse points of view." Otherwise, students would only be exposed to points of view that school officials think are appropriate.

J.J. was not sharing the contents of the book with other students nor does it appear that he was plotting with others to use the information in a way that might justify the school's interest in providing a safe environment. It appears as if the school singled out J.J. due to the color of his clothing, the fact that he skipped class, sat alone in the cafeteria reading a controversial book along with an unsubstantiated belief that he had called in a bomb threat to the school a year before.

**CONCLUSION:** The school was wrong in confiscating the book from J.J.

**ISSUE NUMBER 2.** Did the sheriff violate Cici's Fourth Amendment rights by seizing the rocket, resulting in her arrest and loss of her scholarship?

**LAW:** The Fourth Amendment prohibits unreasonable searches and seizures and requires, in most cases, a warrant.

**ARGUMENT:** Students do not shed their constitutional rights at the schoolhouse door. The Fourth Amendment applies to students at school. The Fourth Amendment, as it has been applied to students at school, requires that such seizures must be based upon reasonable individualized suspicion that a student is violating the law or school policy. Probable cause is not required for the justification of searches and seizures at school as it would have been had the sheriff seized the rocket from Cici's home.

The sheriff's belief, based upon the information provided to him by the school's security guard that Cici and J.J. *could be engaged in terrorist activities*, is not enough to rationalize the seizure. The rocket was on public display and was not discovered under circumstances that would warrant a reasonable person to believe that it was going to be used in a way that would harm someone. There are simply not enough facts for the sheriff to conclude that Cici had violated the law or the school's zero tolerance policy. Students cannot be subjected to searched and seizures on a mere hunch by school personnel or law enforcement personnel.

**CONCLUSION:** Cici's Fourth Amendment right to be free from unreasonable searches and seizure was clearly violated.

**ISSUE NUMBER 3:** Does the school's zero tolerance policy apply to Cici's conduct?

**LAW:** Zero tolerance policies are designed to prevent or deter illegal conduct that could disrupt the educational process and endanger the safety of students and school personnel. They are valid as long as they provide due process to students who are alleged to have violated the policy.

**ARGUMENT:** The Rio Largo Schools zero tolerance policy is typical of policies that have been adopted by schools across the nation. In Cici's case the issues are whether the provisions of the policy apply to what she did.

First we have to determine whether Cici possessed a weapon as it is defined in the policy. The policy defines "weapon" as an object " that has a potentially violent use... if, *under the surrounding circumstances, the purpose of keeping or carrying the object is for use or threat of use as a weapon,*" (emphasis supplied). In addition, the term "possession" as defined in the policy requires possession with "*intent to cause bodily harm,*"(emphasis supplied).

There is no indication the Cici intended to design, keep or carry the rocket for use as a weapon or that she intended to harm anyone with the rocket. It was on public display and was not discovered under circumstances that could lead a reasonable person to think that it was going to be used in a wrong way.

Zero tolerance policies are effective only if they are applied in a way that is meant to accomplish the purpose for which they are adopted. That doesn't appear to be the case in Cici's situation. It does not appear as if Cici's parents were notified or involved. The investigation by school officials appears to have been minimal. It seems as if the school officials jumped the gun and imposed the disciplinary measure on Cici, in large part on her brother's activities and not on anything that she may have done wrong. Other students also developed and submitted propelled rockets for the Spaceport Flight Competition. Were they investigated and disciplined in the same way that Cici

was?

Conclusion: The school's zero tolerance policy does not apply to Cici's conduct. The policy is generally a good policy but its application to Cici Vigil was wrong. In the event that it would be determined that the policy did apply to Cici's actions, school officials should consider a much less severe sanction than to strip Cici of her scholarship. In essence, Cici was penalized for her scholastic achievement. Even if we were to assume that Cici had obtained the ingredients for her propelled rocket from *The Anarchist's Cookbook*, she put it to beneficial, not villainous, use. The zero tolerance policy should not penalize scholastic achievement under the guise of school safety.