

**ADVICE FOR LAW ENFORCEMENT COMMANDERS AND
SUPERVISORS TO IMPART TO NEW LAW
ENFORCEMENT OFFICERS**

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DISORDERLY CONDUCT IN PUBLIC AND PRIVATE EDUCATIONAL INSTITUTIONS: "WHAT'S GOING ON HERE?"

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**A NOTE FROM REECE TRIMMER
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Due to a number of business obligations, travel, recreational activities, and quality time with my grandchildren, I found myself a tad bit behind in my research and writing this month. Therefore, I have asked my pal Ralph to fill in for me with an article on a subject of his choosing. He originally chose to write on quantum physics and molecular biology. Ralph's a good boy, means well, practices proper dental hygiene, and his mother loved him a lot – but I had to direct him to a more “manageable “ topic. By the way, his second choice for this article was the sexual morphology of the ice cream cone. Remember: his mother loved him a lot.

THE NORTH CAROLINA COURT OF APPEALS DECIDES THREE CASES IN JUST TEN MONTHS ON DISORDERLY CONDUCT IN OUR SCHOOLS AND THE SCORE IS: SCHOOLS 2, KIDS 1

WHAT FATHER THOMAS MERTON (TRAPPIST MONK AND POET, 1915-1968, AND ONE OF THE FAVORITE AUTHORS OF MR. TRIMMER & MR. STRICKLAND) PROPHECIZED:

Is it any wonder that there can be no peace in a world where everything possible is done to guarantee that the youth of every nation will grow up absolutely without moral and religious discipline, and without the shadow of an interior life, or of that spirituality and charity and faith which alone can safeguard the treaties and agreements made by governments?

NOW, LET'S TAKE A LOOK AT THAT STATUTE:

G.S. 14-288.4(a)(6), Disorderly conduct, prohibits the following: (a) Disorderly conduct is a public disturbance intentionally caused by any person who: (6) disrupts, disturbs or interferes with the teaching of students at any public or private educational institution or engages in conduct which disturbs the peace, order or discipline at any public or private educational institution or on the grounds adjacent thereto.

ONE MORE POINT:

The definitive case on the meaning of the “*disruptive conduct*” is *State v. Wiggins*, 272 N.C. 147, 158 S.E.2d 37 (1967), where our Supreme Court said,

When the words “interrupt” and “disturb” are used in conjunction with the word “school,” they mean to a person of ordinary intelligence a substantial interference with, disruption of and confusion of the operation of the school in its program of instruction and training of students there enrolled.

Therefore, when dealing with disorderly or disruptive conduct in a school we are looking at conduct that substantially interferes with the instruction and training of students.

CASE ONE:

Neither the slamming of a classroom door in a school by an irate student nor the student’s temper tantrum is disorderly conduct in a school environment.

In the Matter of Christopher Brown, North Carolina Court of Appeals, CA00-1501, May 7, 2002.

The evidence in this case discloses a student who talked during a test, slammed a classroom door, and begged a teacher in the hallway not to send him to the office. The teacher said he “threw” a temper tantrum, whining and crying. It was probable that the door slam and the sounds of a student crying in the hallway briefly distracted some students. The class was without its teacher while this occurred. The teacher was probably away from her class for several minutes. The Court of Appeals held that this evidence was insufficient to show a substantial interference with the operation of the school.

CASE TWO:

Use of the “F” word in a loud voice to a student and teacher, requiring the teacher to escort the student to the office, leaving her students alone, was deemed disorderly conduct on the part of Brandon Pinault. The next day, while being physically restrained by the principal for another use of the “F” word, he kicked a hole in a wall, resulting in disorderly conduct again.

On August 6, 2002, following Brown by three months, the Court of Appeals decided the case known as *In the Matter of Brandon Pinault*, COA-1152.

The facts are more egregious here than in the *Brown* case. In *Pinault* there were two situations. The **first** occurred when his teacher heard him tell another student in a class on mapping skills “Fuck you.” Quickly realizing that this was *not* a geographical location on any standard map, the teacher escorted Pinault to the principal’s office. On the way he said to her “Fuck you bitch,” demonstrating absolutely no class and a future full of dejection, grief and imprisonment.

The **second** fact situation occurred the following day. Once again his teacher heard Pinault tell another student “Fuck off, bastard.” Once again she took him to the principal’s office. However, this time his behavior was so belligerent that he stopped in the first aid room, refusing to go further. The principal came there to escort Pinault to his office. He had to restrain Pinault by holding him by his “trunk,” picking him bodily from the floor and pinning his arms down. As he was carried, Pinault kicked indiscriminately and ultimately kicked a door so hard the doorstop punched a hole in the wall. This time he was charged with damage to real property and disorderly conduct. His adjudication as delinquent on all three charges by the juvenile court was upheld by the Court of Appeals.

CASE THREE:

Use of the “F” word again, with a phys ed teacher away from his duties, results in disorderly conduct.

In re M.G., North Carolina Court of Appeals, COA02-487, March 2003.

M.G. was a mighty muddled middle schooler. He shouted, “Shut the fuck up!” to a group of students in a hallway. The phys ed teacher heard him a good 30 yards away. At the time of the expletive deleted, classes were in session in the four classrooms on the hallway.

The phys ed teacher, on his way to his assigned cafeteria duty, took M.G. to the school’s detention center. There he told the SRO, a deputy sheriff, what had taken place. The phys ed teacher was away from his assigned duties for several minutes. The Court of Appeals ruled that this was sufficient to establish substantial interference for disorderly conduct under the statute.

WHAT I THINK ABOUT ALL THIS:

These cases do have similar facts. Of course, kicking a hole in the wall is clearly a crime anywhere that it occurs. In *Brown*, while it appears that the student substantially disrupted other students during their exam by whining, crying, and door slamming, his behavior was not sufficient to rise to the level of disorderly conduct. In *Pinault* there were the curse words heard loudly throughout the classroom, and in *M.G.* the phys ed teacher heard the curse words from 30 yards away. I am certain the students were also substantially disrupted in both cases, more so than in *Brown*.

A real difference exists here, though all the students challenged authority, and caused their teachers to leave the classroom, because Pinault and M.G. used curse words, especially the “F” word, and that is clearly more serious behavior than Brown.

In fact, the Court of Appeals noted that *Brown*’s behavior is commonplace in our schools, and stated: “...if we were to hold that the present actions are of such gravity that they warrant a conviction of disorderly conduct, every child that is sent to the office for momentary lapses in behavior could be convicted under such precedent.”

In a footnote the Court distinguished *Pinault* from *Brown*. I quote: “In *Brown*, the respondent’s conduct occurred during an examination and at the end of the examination, not while the teacher was conducting a class as here. Moreover, in *Brown*, neither the respondent’s language nor his behavior was as egregious or severe as here. Accordingly, *Brown* is not controlling.”

BOTTOM LINE FOR SROs AND LAW ENFORCEMENT OFFICERS RESPONDING TO SCHOOL DISTURBANCES:

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BONUS SECTION:

Here are two further examples facts sufficient to show substantial interference.

1. In *State v. Wiggins*, 272 N.C.147, 158 S.E.2d 37 (1967), students picketed a high school. Testimony in that case showed that classes stopped because other students were leaving their seats and classrooms to see the demonstration. A class that was being conducted outside on the school grounds had to be canceled. The disorder in the entire school created as a direct result of the picketing sustained the convictions of the defendants of disorderly conduct.
2. In *State v. Midgett*, 8 N.C. App. 230, 174 S.E.2d 124 (1970), defendants took over the school office. In fact, they were so bold as to tell the school's secretary that "they were going to interrupt [the school] that day." Defendants barricaded themselves in the office, overturned cabinets, and operated the school's bell system. The disruption of the school's proper functioning was so great that it necessitated an early dismissal. The court held that the evidence "amply" satisfied the statute and affirmed the convictions.

And here are two further examples facts insufficient to show substantial interference.

1. The Court of Appeals reversed a conviction of disorderly conduct under G.S. 14-288.4(a)(6) in *In re Grubb*, 103 N.C. App. 452, 405 S.E.2d 797 (1991). Respondent momentarily disrupted class when she was talking loud during class. She had to be reprimanded several times before she would cease the loud talking. The *Grubb* Court held that this evidence alone was insufficient upon which to base a conviction, and respondent's motion to dismiss should have been granted.
2. The Supreme Court also reversed a disorderly conduct conviction for substantially interfering with school in the case of *In re Eller*, 331 N.C. 714, 417 S.E.2d 479 (1992). In that case, the teacher saw one defendant swing something at another student. Upon first inquiry, that defendant willingly gave the teacher a carpenter's nail he had in his hand. On another occasion, another student joined that same defendant in banging the classroom's radiator while class was being conducted. They did so a couple of times, distracting the class of 15 each time. The Supreme Court held that the evidence did not show substantial interference within the meaning of *Wiggins*.