

Law Enforcement Officer Making Truancy Arrest Has No Obligation to Ensure Student Attends Class

April 26, 2018

In re R.M. (April 19, 2018, A150319) __ Cal.App.5th __ [2018 WL 1870774]

The First Appellate District for the State of California clarified that under Education Code section 48265, a peace officer making a truancy arrest has a duty to deliver a minor “to the school from which the minor is absent” but has no duty to ensure that the student actually attends class. In this case, the truancy officer assigned to the school was asked by R.M.’s parent to escort her to school, which he did, accompanied by a deputy sheriff. When they arrived at the school, R.M. said she was not going to school and walked the other way. When the deputy sheriff told her to stop and go to class, R.M. ignored him and kept going. She was arrested, and the juvenile court sustained the allegation that she had resisted a peace officer in the discharge of his duties. (Penal Code, § 148). The appellate court overturned the juvenile court’s decision, holding that once the minor was delivered to the school, the arresting officer’s statutory duty had been fulfilled, and there is no further duty to ensure that the student goes to class. As a result, the student did not resist arrest when she disobeyed the sheriff’s command.

For more information about the interplay between law enforcement and school officials under compulsory education laws, please contact a DWK attorney.

PRACTICE AREAS

- Students and Special Education