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When is Corporal Punishment a Crime?



Know Your Rights

by Atty.
Jay C.
Howell

Drawing a legal line between prohibited child abuse and permissible corporal punishment, often administered by parents or school officials who believe in this form of discipline, is one of the most difficult tasks facing our appellate courts. Our public policy on such issues is typically set by our legislature and then interpreted by our courts.

A school administrator at a private academy in Florida recently appealed his judgment and sentence for a conviction of felony child abuse. The charges resulted from the paddling of one of his students. One of the disciplinary policies at the private academy was the use of corporal punishment, and the parent of each enrolled student signed a form consenting to the administration of the punishment.

The defendant administrator testified that he spanked an 8-year-old student two times on her clothed buttocks with a wooden paddle as a punishment for cheating and lying. The paddling took place in a classroom away from other students and was witnessed by a school volunteer and the administrator's wife. The student suffered significant welts and bruises as a result of the paddling, but did not require any medical treatment.

The child's mother testified that she had become withdrawn after the paddling, but there was no evidence that the child had suffered any discernible impairment in her ability to function within her normal range of performance and behavior.

The State charged the administrator with child abuse under a Florida law which makes it a third degree felony to knowingly or willfully abuse a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child. To abuse a child and cause great bodily harm, disability, or

disfigurement is a second degree felony. Child abuse itself is defined by the Statutes as intentionally inflicting physical or mental injury, committing an intentional act that is reasonably expected to result in physical or mental injury, or actively encouraging any person to commit such an act.

In a previous appellate court opinion, a Florida court had ruled that a father's "privilege" to reasonably discipline a child did not bar a criminal prosecution for simple child abuse when the beating resulted in bruising severe enough to require the child's treatment at a hospital. In that case, the appellate court ruled that the conduct involved was not a typical spanking by a parent who believed in the value of corporal punishment, and as such, was subject to criminal prosecution.

The appellate court in the school administrator case cited this legal precedent as authority for the proposition that a charge of felony child abuse requires "more serious

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