

# Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed December 31, 2008.

Not final until disposition of timely filed motion for rehearing.

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No. 3D07-2879

Lower Tribunal No. 07-5601

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**E.P., a juvenile,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, William Johnson, Judge.

Bennett H. Brummer, and Gwendolyn Powell Braswell, Assistant Public Defender, for appellant.

Bill McCollum, Attorney General, and Nikole Hiciano, Assistant Attorney General, for appellee.

Before COPE and ROTHENBERG, JJ., and SCHWARTZ, Senior Judge.

SCHWARTZ, Senior Judge.

In this appeal from an adjudication of delinquency, no error has been demonstrated in the denial of a motion to suppress drug paraphernalia found on the

juvenile's person after a pat down which followed a Terry stop justified under section 984.13, Florida Statutes (2007) ("when the officer has reasonable grounds to believe that the child is absent from school without authorization . . . for the purpose of delivering the child without unreasonable delay to the appropriate school system site"), see *K.A.C. v. State*, 707 So. 2d 1175 (Fla. 3d DCA 1998), and justifiably preceded placing him in the police car for the purpose of taking him to school as the statute requires. See, e.g., *Jackson v. State*, 791 P.2d 1023 (Alaska Ct. App. 1990)("in the case of transportation in a police vehicle, however, or in the analogous circumstances here, the necessity of close proximity will itself provide the needed basis for a protective pat-down of the person."). See also *In re Kelsey*, 626 N.W.2d 777 (Wis. 2001); *State v. Evans*, 618 N.E.2d 162 (Ohio 1993).

Affirmed.