Third District Court of Appeal

State of Florida

Opinion filed October 16, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-1304
Lower Tribunal No. 18-357

O.P-G., a Juvenile,
Appellant,

vs.

The State of Florida,
Appellee.

An appeal from the Circuit Court for Miami-Dade County, Teresa Mary Pooler, Judge.

Carlos J. Martinez, Public Defender, and Maria E. Lauredo, Chief Assistant Public Defender, and Allen Kathir, Assistant Public Defender, for appellant.

Ashley Moody, Attorney General, and David Llanes, Assistant Attorney General, for appellee.

Before SALTER, MILLER, and GORDO, JJ.

MILLER, J.

Appellant, O.P-G., challenges his finding of guilt for disruption of a school function, in violation of section 877.13, Florida Statutes (2019). Appellant contends that the erroneous determination by the lower tribunal that off-campus conduct evidenced a statutory violation, along with the State's failure to assiduously heed its discovery obligations, necessitate reversal. For the reasons set forth below, we discern no error and affirm.

FACTS AND BACKGROUND

Two days after a deadly mass shooting claimed the lives of multiple students and staff members at Marjory Stoneman Douglas High School in Parkland, Florida, law enforcement officers were alerted to a threatening comment posted online in response to a YouTube video featuring the aftermath of the incident. The post, rendered under the username "Ninja Roos," reflected "I[']m going to shoot my school in [F]lorida[.] [I']m only 13[.] I got bull[ied] and [I']m getting my revenge with my guns[.] [T]he school is [M]iami [L]akes [M]iddle [S]chool." In response, Sergeant Jose Canaves propounded an "exigent circumstances" request upon Google, and obtained subscriber information, in the form of an internet protocol address ("IP address"), for Ninja Roos. Thereafter, Comcast furnished the address of the subscriber at the time of the posting. A search of a student database revealed that O.P-G., a resident at the address, was enrolled as a student at Miami Lakes Middle School.

Detective Hector Martinez responded to Miami Lakes Middle School and interacted with various administrators. After he was informed of the threat, the school principal directed that students be funneled through a single entrance, and further ordered a "pat down" of all backpacks. Supervisory staff was added, security monitors were positioned throughout the school, and classes did not commence in a timely manner.

O.P-G. was removed from class and escorted to the main office of the school. Upon arrival, he volunteered he was aware that law enforcement was at the school "because of some postings [he] placed on the internet." O.P-G. provided a written confession, which was later suppressed by the lower tribunal. He was charged with disruption of a school function and the case proceeded to trial.

At trial, Detective Martinez testified that O.P-G., when asked by the assistant principal whether he made a posting under the pseudonym "Ninja Roos," responded affirmatively. The defense lodged a Richardson[1] objection, contending the admission had not been properly disclosed in discovery. The defense then withdrew the objection, as the prosecutor represented that the contents of the statement had indeed been furnished prior to trial. Questioning resumed and thereafter, the defense unsuccessfully argued the admission constituted an involuntary confession, in

[1] Richardson v. State, 246 So. 2d 771 (Fla. 1971).

violation of Miranda.[2] The defense then re-raised a Richardson objection, contending the State failed to disclose the assistant principal as a witness.[3] Further inquiry ensued, and the trial court found no discovery violation and resumed the trial. Following the presentation of the evidence, the defense sought involuntary dismissal. The court denied the motion and found O.P-G. delinquent, as charged in the amended petition, withheld adjudication, and imposed a defined term of supervision.

Subsequent to trial, O.P-G. submitted a public records request to the Miami-Dade Schools Police Department which yielded a five-page supplement to a truncated offense incident report previously disclosed to the defense in discovery. Although the report did not reflect O.P-G.'s statement to the assistant principal, it contained other inculpatory evidence, including additional online threats purportedly penned by O.P-G. On the basis of the incomplete report, O.P-G. again sought involuntary dismissal. The lower court conducted a hearing and denied relief. The instant appeal followed.

STANDARD OF REVIEW

"The standard of review that applies to a motion for judgment of dismissal in a juvenile case is the same standard that applies to a motion for judgment of acquittal

[2] Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).
[3] Neither party sought to call the assistant principal as a witness.

in a criminal case." A.P.R. v. State, 894 So. 2d 282, 284 (Fla. 5th DCA 2005) (citing J.P. v. State, 855 So. 2d 1262, 1264 n.1 (Fla. 4th DCA 2003) ("Though referred to as a judgment of acquittal, under the Rules of Juvenile Procedure, the proper title of the motion should have been a Motion for Judgment of Dismissal. Notwithstanding, this court uses the same standard on review as for a judgment of acquittal.") (citations omitted); E.A.B. v. State, 851 So. 2d 308 (Fla. 2d DCA 2003); W.E.P. v. State, 790 So. 2d 1166 (Fla. 4th DCA 2001)); see also J.L.F. v. State, 887 So. 2d 432 (Fla. 5th DCA 2004); M.N. v. State, 821 So. 2d 1205 (Fla. 5th DCA 2002) (applying standard of review for motions for judgment of acquittal in a juvenile case). Accordingly, "[o]ur review . . . is de novo." J.W.J. v. State, 994 So. 2d 1223, 1224 (Fla. 1st DCA 2008) (citing E.A.B., 851 So. 2d at 310). "A motion for judgment of dismissal should not be granted unless there is no legally sufficient evidence on which to base a guilty verdict." Id. (citing G.D. v. State, 497 So. 2d 1318, 1319 (Fla. 3d DCA 1986)). "We view the evidence and all reasonable inferences in a light most favorable to the State." Id. (citing D.E. v. State, 904 So. 2d 558, 561 (Fla. 5th DCA 2005)). Finally, "[u]nder Richardson, when a discovery violation is alleged, the standard of appellate review is whether the trial court abused its discretion in determining if a violation occurred and if so, whether it was inadvertent, and not prejudicial to the preparation of the defense." Mascolo v. State, 774 So. 2d 827, 829 (Fla. 4th DCA 2000).

LEGAL ANALYSIS

I. Section 877.13, Florida Statutes

O.P-G. first asserts that the fact that the threat was dispatched into cyberspace from an off-campus location is fatal to the integrity of the court's finding of guilt, contending section 877.13, Florida Statutes, solely proscribes on-campus actions. Alternatively, he argues state regulation of his off-campus speech renders the applicable statutory scheme unconstitutionally vague and overbroad.

In the seminal student speech case, Tinker v. Des Moines Independent Community School District, 393 U.S. 503, 506, 89 S. Ct. 733, 736, 21 L. Ed. 2d 731 (1969), the United States Supreme Court held:[4]

> First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. This has been the unmistakable holding of this Court for almost [fifty] years.

[4] "Freedom of speech . . . , which [is] protected by the First Amendment from infringement by Congress, [is] among the fundamental personal rights and liberties which are protected by the Fourteenth Amendment from invasion by state action." Chaplinsky v. New Hampshire, 315 U.S. 568, 570-71, 62 S. Ct. 766, 768, 86 L. Ed. 1031 (1942) (citation omitted). "Freedom of speech is also guaranteed under article I, section 4 of the Florida Constitution. The scope of the protection accorded to freedom of expression in Florida under article I, section 4 is the same as is required under the First Amendment." Dep't of Educ. v. Lewis, 416 So. 2d 455, 461 (Fla. 1982) (footnote omitted) (citation omitted). Thus, this Court "must apply the principles of freedom of expression as announced in the decisions of the Supreme Court of the United States." Id.

Nonetheless, the Court recognized the necessity of balancing these rights with "the need for affirming the comprehensive authority of the States and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools." Id. at 507, 89 S. Ct. at 737 (citations omitted). Accordingly, the regulation of speech is permissible where the utterance at issue might reasonably lead officials to "forecast substantial disruption of or material interference with school activities," or where it would "impinge upon the rights of other students." Id. at 509-14, 89 S. Ct. 738-40.

In M.C. v State, 695 So. 2d 477, 481 (Fla. 3d DCA 1997), this Court examined the constitutionality of section 877.13, Florida Statutes, penalizing the "disrupt[ion] or interfer[ence of] normal school functions or activities," in light of this precedent, and ultimately determined the statute was neither overbroad nor void for vagueness. We premised our conclusion upon the dispositive finding that the "statute prohibits deliberate or wilful activity at fixed times (i.e., when school administrators and students are engaged in normal school functions or activities) and at a sufficiently fixed place (i.e., on school board property)." Id. at 482. We further found the "statute was enacted specifically for the school setting, where the prohibited disturbances can easily be measured by their impact on the normal school functions and activities," thus, it was narrowly tailored. Id.

Accordingly, today, in adhering to our precedent, we only consider whether the statute indeed regulates off-campus conduct, and if so, whether that regulation passes constitutional muster.

A. Statutory Construction

Section 877.13, Florida Statutes (2019), provides, in relevant part:

> (1) It is unlawful for any person:
>
> (a) Knowingly to disrupt or interfere with the lawful administration or functions of any educational institution, school board, or activity on school board property in this state.
>
> . . .
>
> (3) Any person who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

In construing a statute, courts must examine the actual statutory language as "[t]he text is the law, and it is the text that must be observed." Antonin Scalia, A Matter of Interpretation: Federal Courts and the Law 22 (Princeton Univ. Press, 1997). If the statutory language is clear, "courts have no occasion to resort to rules of construction—they must read the statute as written, for to do otherwise would constitute an abrogation of legislative power."[5] Nicoll v. Baker, 668 So. 2d 989, 990-91 (Fla. 1996) (citation omitted).

[5] "As in any case of statutory construction, our analysis begins with 'the language of the statute[,]' [a]nd where the statutory language provides a clear answer, it ends

Here, although "section 877.13(1) is limited to the disruption of activities 'on school board property,'" it does not, by its express terms, insulate conduct that occurs off-campus. G.O. v. State, 606 So. 2d 452, 452 (Fla. 3d DCA 1992) (citation omitted). Rather, it penalizes behavior, regardless of where initiated, that "create[s] a foreseeable risk of substantial disruption within a school," and ultimately impairs school function. Wisniewski v. Bd. of Educ. of Weedsport Cent. Sch. Dist., 494 F.3d 34, 39 (2nd Cir. 2007). This limitation is consistent with the following observation in Tinker, wherein the Supreme Court declined to expressly confine offending conduct to the classroom:

> [C]onduct by the student, **in class or out of it**, which for any reason—whether it stems from time, place, or type of behavior—materially disrupts classwork or involves substantial disorder or invasion of the rights of others is . . . not immunized by the constitutional guarantee of freedom of speech.

393 U.S. at 513, 89 S. Ct. at 740 (emphasis added) (citing Blackwell v. Issaquena Cty. Bd. of Educ., 363 F.2d 749 (5th Cir. 1966)).

It is not difficult to conceive of any number of scenarios in which materially disruptive behavior would avoid the reach of the statute were we to limit its application to activities physically originating on-campus. For example, an individual could launch an incendiary device from his window into an adjacent

---

there as well." Hughes Aircraft Co. v. Jacobson, 525 U.S. 432, 438, 119 S. Ct. 755, 760, 142 L. Ed. 2d 881 (1999) (internal citations omitted).

school yard, during school hours while students were outside in physical education class. Despite ensuing panic, untold injuries, and an emergency services response, because the perpetrator did not throw the missile while standing on school grounds, he could not be deemed to have disrupted a school function. The same could be said for a student seeking to interrupt standardized testing by telephoning the school from an off-campus location with a bomb threat hoax. Accordingly, we decline to undermine the legislative intent by importing an unpenned element into the statute.

B. Vagueness

Alternatively, O.P-G. contends the penalization of off-campus conduct renders the statute, as applied, void for vagueness. "A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required." F.C.C. v. Fox Television Stations, Inc., 567 U.S. 239, 253, 132 S. Ct. 2307, 2317, 183 L. Ed. 2d 234 (2012) (citations omitted). Therefore, "a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application[,] violates the first essential of due process of law." Connally v. Gen. Constr. Co., 269 U.S. 385, 391, 46 S. Ct. 126, 127, 70 L. Ed. 322 (1926) (citations omitted). Thus, criminal activity must be defined with sufficient clarity that "ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement."

Kolender v. Lawson, 461 U.S. 352, 357, 103 S. Ct. 1855, 1858, 75 L. Ed. 2d 903 (1983) (citations omitted). This "constitutional standard[] for definiteness and clarity" in regulation is required by the Due Process Clause of the Fourteenth Amendment. Id. at 361, 103 S. Ct. at 1860. Generally, the inclusion of a scienter requirement in a statute mitigates the law's vagueness, "especially with respect to the adequacy of notice to the complainant that his conduct is proscribed." Vill. of Hoffman Estates v. Flipside, Hoffman Estates, Inc., 455 U.S. 489, 499, 102 S. Ct. 1186, 1193, 71 L. Ed. 2d 362 (1982).

Here, "[t]he statute seeks to prohibit acts which are 'specifically and intentionally designed to stop or temporarily impede the progress of any normal school function or activity occurring on the school's property.'" T.H. v. State, 797 So. 2d 1291, 1292 (Fla. 4th DCA 2001) (quoting M.C., 695 So. 2d at 483). The statute contains a scienter requirement, in that only "knowing" actions, specifically intended "to disrupt or interfere with" school functions, are condemned. See § 877.13(1)(a), Fla. Stat. Although the level of disturbance or interference required is not specified, as we found in M.C.:

> The [S]tate first of all correctly points out that the legislature's failure to specifically define "disrupt" or "interfere" in this penal statute does not automatically render it unconstitutionally vague. "In the absence of a statutory definition, resort may be had to case law or related statutory provisions which define the term, and where a statute does not specifically define words of common usage, such words are construed in their plain and ordinary sense." See State v. Hagan, 387 So. 2d 943, 945 (Fla. 1980) (citations omitted); see also Zuckerman v. Alter, 615

> So. 2d 661, 663 (Fla. 1993) (words of common usage, when employed in a statute should be construed in their plain and ordinary sense); Seaboard Sys. R.R., Inc. v. Clemente, 467 So. 2d 348, 355 (Fla. 3d DCA 1985). In construing another penal statute, we have already determined that the plain and ordinary meaning of the word "interfere" means "[t]o come between so as to be a hindrance or obstacle; impede." See M.C. v. State, 614 So. 2d 4 (Fla. 3d DCA 1993) (quoting *Interfere*, American Heritage Dictionary of the English Language 669 (2d College Ed. 1985)). We find that the term "disrupt" is synonymous with "interfere" and its plain and ordinary meaning is "[t]o throw into confusion or disorder . . . [t]o interrupt or impede the progress, movement, or procedure of . . . [t]o break or burst; rupture." *Disrupt*, American Heritage Dictionary of the English Language 538 (3d ed. 1992). Giving the terms in section 877.13 their plain and ordinary meaning, we conclude that this statute is not vague because it seeks to prohibit any conduct, acts, etc., which are specifically and intentionally designed to stop or temporarily impede the progress of any normal school function or activity occurring on the school's property.

695 So. 2d at 483 (alterations in original).

Given this context and the causal relationship required between the *mens rea* of the perpetrator and the requisite disruption, the statute gives fair notice to ordinary people of common intelligence as to the prohibited conduct and "provide[s] minimal requirements to guide law enforcement in order to prevent police officers, prosecutors, and juries from pursuing their 'personal predilections.'" United States v. Washam, 312 F.3d 926, 931 (8th Cir. 2002) (citation omitted); see Kolender, 461 U.S. at 358, 103 S. Ct. at 1858 (recognizing the "principal element of the [void-for-vagueness] doctrine—[is] the requirement that a legislature establish minimal guidelines to govern law enforcement") (citation omitted); see also Hill v. Colorado, 530 U.S. 703, 732, 120 S. Ct. 2480, 2498, 147 L. Ed. 2d 597 (2000) (rejecting a

vagueness challenge as the statute contained a scienter requirement in that it required individuals to act "knowingly"); United States v. Panfil, 338 F.3d 1299, 1301 (11th Cir. 2003) (rejecting vagueness challenge because it contained a scienter requirement that defendant act "knowingly"); United States v. Lebman, 464 F.2d 68, 74 (5th Cir. 1972) (noting that the defendant was charged under "an admittedly acceptable scienter standard" providing that he "knew" the facts specified in the statute). Thus, we reject the supposition that applying the statute to off-campus actions renders it void for vagueness.

C. Overbreadth

O.P-G. further asserts that, despite its plain language, the equal condemnation of both on and off-campus behavior is unconstitutionally overbroad. The overbreadth doctrine has been characterized in the following terms:

> According to [United States Supreme Court] First Amendment overbreadth doctrine, a statute is facially invalid if it prohibits a substantial amount of protected speech. The doctrine seeks to strike a balance between competing social costs. Virginia v. Hicks, 539 U.S. 113, 119-20, 123 S. Ct. 2191, 2197-98, 156 L. Ed. 2d 148 (2003). On the one hand, the threat of enforcement of an overbroad law deters people from engaging in constitutionally protected speech, inhibiting the free exchange of ideas. On the other hand, invalidating a law that in some of its applications is perfectly constitutional—particularly a law directed at conduct so antisocial that it has been made criminal—has obvious harmful effects. In order to maintain an appropriate balance, we have vigorously enforced the requirement that a statute's overbreadth be substantial, not only in an absolute sense, but also relative to the statute's plainly legitimate sweep. See Bd. of Trs. of State Univ. of N.Y. v. Fox, 492 U.S. 469, 485, 109 S. Ct. 3028, 3037, 106 L. Ed. 2d 388 (1989); Broadrick v. Oklahoma, 413 U.S. 601, 615,

> 93 S. Ct. 2908, 2917, 37 L. Ed. 2d 830 (1973). Invalidation for overbreadth is "strong medicine" that is not to be "casually employed." Los Angeles Police Dep't v. United Reporting Publ'g Corp., 528 U.S. 32, 39, 120 S. Ct. 483, 488-89, 145 L. Ed. 2d 451 (1999) (quoting New York v. Ferber, 458 U.S. 747, 769, 102 S. Ct. 3348, 3361, 73 L. Ed. 2d 1113 (1982)).

United States v. Williams, 553 U.S. 285, 292-93, 128 S. Ct. 1830, 1838, 170 L. Ed. 2d 650 (2008). Prior to finding a law overbroad on its face, a court should "first determine that the regulation is not 'susceptible to a reasonable limiting construction.'" J.S. ex rel. Snyder v. Blue Mountain Sch. Dist., 650 F.3d 915, 934 (3d Cir. 2011) (citation omitted).

Here, the statute limits any punishment for speech to that which causes a disruption to the school functions. Thus, although an offender is not required to initiate the disruption on-campus, the impact is necessarily measured within the geographic boundaries of the school or school-sponsored event, in accord with the perimeters imposed by Tinker.[6] Moreover, as discussed previously, the regulation

---

[6] Although the statute does not require the disruption to be "substantial" or the interference to be "material," in M.C., we recognized,

> [g]iving the terms in section 877.13 their plain and ordinary meaning, we conclude that this statute is not vague because it seeks to prohibit any conduct, acts, etc., which are specifically and intentionally designed to stop or temporarily impede the progress of any normal school function or activity occurring on the school's property.

695 So. 2d at 483; see also Grayned v. Rockford, 408 U.S. 104, 112, 92 S. Ct. 2294, 2301, 33 L. Ed. 2d 222 (1972) ("Although the prohibited quantum of disturbance is not specified in the ordinance, it is apparent from the statute's announced purpose

punishes only that speech generating disruption, not speech merely intending to effect an impact. Accordingly, the statutory language conforms with the requirements of Tinker, which renders the regulation constitutional.[7]

II. Discovery Violations

O.P-G. further contends the State's failure to disclose the assistant principal as a witness necessitates reversal.[8] "Florida's criminal discovery rules are designed

---

that the measure is whether normal school activity has been or is about to be disrupted. We do not have here a vague, general 'breach of the peace' ordinance, but a statute written specifically for the school context, where the prohibited disturbances are easily measured by their impact on the normal activities of the school. Given this 'particular context,' the ordinance gives 'fair notice to those to whom [it] is directed.'") (footnote omitted).

[7] Numerous other cases support the reasonableness of concern over threats of gun violence in the educational setting as "knowledge by the target of a threat that the defendant had the means to carry out the threat can support the inference that the target would reasonably interpret the threat to be serious." State v. Taupier, 193 A.3d 1, 24 (Conn. 2018) (citation omitted); see Lovell v. Poway Unified Sch. Dist., 90 F.3d 367, 372 (9th Cir. 1996) (concluding that "any person could reasonably consider the statement '[i]f you don't give me this schedule change, I'm going to shoot you,' made by an angry teenager [to a school guidance counselor], to be a serious expression of intent to harm or assault," especially "when considered against the backdrop of increasing violence among school children today").

[8] O.P-G. also asserts that the provision of the incomplete offense incident report warrants reversal. As the fact that the State furnished a truncated version of the report was initially raised post-trial, and the report contained additional inculpatory, rather than exculpatory evidence, we reject this claim without further elaboration. See Snelgrove v. State, 921 So. 2d 560, 567 (Fla. 2005) (Where a claim "regarding the failure to conduct a Richardson hearing" is raised post-trial, the alleged discovery violation "should be analyzed under Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), not Richardson."); Mordenti v. State, 894 So. 2d 161, 168 (Fla. 2004) ("Brady requires the State to disclose material information within the State's possession or control that tends to negate the guilt of the defendant.") (citation omitted); see also State v. Johnson, 284 So. 2d 198, 200 (Fla. 1973)

to prevent surprise by either the prosecution or the defense." Kilpatrick v. State, 376 So. 2d 386, 388 (Fla. 1979). "[T]he chief purpose of our discovery rules is to assist the truth-finding function of our justice system and to avoid trial by surprise or ambush." Scipio v. State, 928 So. 2d 1138, 1144 (Fla. 2006) (citation omitted). Accordingly, transgressions by the State in copiously observing its discovery obligations cannot be deemed harmless where "there is a reasonable possibility that the discovery violation 'materially hindered the defendant's trial preparation or strategy.'" Id. at 1150 (quoting State v. Schopp, 653 So. 2d 1016, 1020 (Fla. 1995)).

In the instant case, upon learning of the assistant principal's role, the defense did not seek a recess, continuance, or mistrial. See Richardson, 246 So. 2d at 774 ("[W]here it becomes evident during the trial that there existed a witness who probably had knowledge of facts relevant to petitioner's defense," a mistrial may be proper.). Instead, it lodged and subsequently withdrew an initial objection, then waited until later in the trial to renew its objection. See, e.g., Guzman v. State, 42 So. 3d 941, 944 (Fla. 4th DCA 2010) ("[W]e hold that a defendant does not preserve an alleged discovery violation for review when the alleged violation occurs during

---

("Absent some singular importance attaching to the point in question, which goes to a material and critical fact in serious contention in the trial, a negative basis is not the kind of use of a police report which justifies breaching the normally protected police reports and investigative notes, reports and files…[t]he inquiry must be upon a crucial point and preferably upon a positive statement in such a report, which the witness at trial flatly refutes, thus placing his credibility and the point involved in vital focus so that it becomes critical to the defense.").

the state's direct examination and the defendant completes his cross-examination before raising the alleged violation.").

During the ensuing inquiry, it became apparent that although the assistant principal was both unlisted and unsummoned, she was present during O.P-G.'s admission. Thus, disclosure was required, and the lower court erred in relying solely upon the previous disclosure of the contents of the admission to conclude no violation occurred. See Fla. R. Juv. P. 8.060(a)(2)(A). Nonetheless, this does not end our analysis. We must next determine whether the violation "was inadvertent, and not prejudicial to the preparation of the defense." Mascolo, 774 So. 2d at 829.

Here, "[w]hen viewed as a whole, the record shows that the trial court made an adequate inquiry into the surrounding facts and circumstances of the alleged discovery violations to . . . satisfy the requirements of Richardson and its progeny." State v. Hall, 509 So. 2d 1093, 1097 (Fla. 1987). The examination at the trial level established that the violation was inadvertent, as knowledge regarding the assistant principal was indisputably not garnered until the time of trial. The inquiry further revealed that the defense was aware of the substance of O.P-G.'s collective admissions from formal, timely discovery disclosures. Accordingly, the assistant principal served as a cumulative witness to those inculpatory revelations observed and imparted by Detective Martinez, and, at the onset of the trial, the defense knew

it was probable that the admissions would indeed be ultimately considered by the trial judge.

Additionally, and perhaps most significantly under our binding jurisprudence, the defense did not articulate any alternative course of trial preparation or strategy it would have pursued in the event of prompt disclosure. Rather it merely stated it may have engaged "a different approach." As the defense strategy embraced at trial concerned the sufficiency of the evidence with regard to the requisite statutory elements, along with the stated constitutional challenge, and the defense knew O.P-G. admitted to the postings, we conclude "the defense was not procedurally prejudiced," and we find no error. Casica v. State, 24 So. 3d 1236, 1240 (Fla. 4th DCA 2009).

CONCLUSION

We hold that, by its plain language, section 877.13, Florida Statutes, does not exclude off-campus conduct directed at disrupting school events. We further find that "[t]he pervasive and omnipresent nature of the Internet has obfuscated the on-campus/off-campus distinction . . . making any effort to trace First Amendment boundaries along the physical boundaries of a school campus a recipe for serious problems in our public schools." Doe v. Valencia Coll., 903 F.3d 1220, 1231 (11th Cir. 2018) (alterations in original) (quoting Bell v. Itawamba Cty. Sch. Bd., 799 F.3d 379, 391, 395-96 (5th Cir. 2015) (en banc)). As the statute is narrowly tailored to

regulate only speech that materially disrupts a school function, and finding no error in the remaining rulings, we affirm.

Affirmed.