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Quick Professional Learning for School Counselors On-the-Go

Court Case	<i>Smith vs. the School Board of Orange County, Florida (1994)</i>
Author/Presenter	Legal and Ethical Issues in Referrals to Mental Health Providers Carolyn Stone (Professor at University of North Florida and Past President of ASCA)
Summary	This court case provides school counselors with several best practice suggestions regarding making referrals to clinicians outside of the school system.
Topic / Platform	Ethics / Court Case

What Happened?	What Did the Court Decide?	Implications for Practice
<ul style="list-style-type: none"> 14-year-old K.W.'s parents sued the school district, alleging that a counselor did not follow the district's policy on outside referrals, which required school counselors to give a list of multiple district-approved resources. Instead, the counselor allegedly only gave the family one name. The therapist, Ron Markham, insisted upon being given 24-hour custody of the child (despite not being licensed for inpatient care). He placed the child in his home and, tragically, he sexually abused her over a period of 2½ months. The parent had misgivings over the placement. She spoke to a teacher who said that if the counselor had recommended the therapist, he must "be okay." 	<ul style="list-style-type: none"> The Florida Court of Appeals dismissed the complaint, but the dissenting opinion indicated that because the school counselor had potentially deviated from district policy, the case should have been allowed to proceed to a jury trial. Negligence suits look at professional delivered on a "duty owed" and whether the injury that occurred was "foreseeable." The dissenting judge felt that both were factors in this case. The dissenting opinion also indicated that the parent's inquiry to the teacher should have triggered a follow up between the counselor and parent. The judge posited that this might have caused the counselor to further look into Markham's qualifications. 	<ul style="list-style-type: none"> When available, using district-vetted resources is preferable. Even in districts that do not have a specific policy in place for referrals, it is wise to take precautions to ensure that any therapists you recommend are licensed, at minimum. Advise parents to check references and "follow gut" School counselors should always provide multiple resources when families ask for outside referrals. When sharing possible referrals, school counselors should not rank order resources or provide endorsements. Counselors may consider utilizing a disclaimer on any list of resources provided to families.

Fun Fact... Did You Know?

Funding from the school system was also a central factor in this case. If a district requires a student to furnish proof of outside counseling before returning to school (e.g., after expressing



Note: PDs-on-the-Go are intended to convey general information only, and not to provide legal/ethical advice or opinions. When facing an ethical dilemma, it is always best practice to consult with a colleague or supervisor and to document your ethical decision-making process.

suicidal ideation), there is a chance the district could be held accountable for reimbursement.