



DPS TRAINING BULLETIN



LEGAL BULLETIN NO. 341

July 8, 2009

**STRIP SEARCH OF STUDENT VIOLATES FOURTH AMENDMENT
WHEN SCHOOL OFFICIALS LACK SUFFICIENT SUSPICION TO WARRANT
EXTENDING SEARCH TO REQUIRE STUDENT TO PULL OUT UNDERWEAR]**

Reference: Safford Unified School District v. April Redding U.S. Supreme Court Opinion No. 08-479
U.S. _____
June 25, 2009

FACTS:

A schoolmate had accused Redding, who was a 13-year-old eighth grade student, of giving her pills. The informing student was in possession of Redding's day planner which was searched by school officials and found to contain knives, four prescription-strength (400 mg. ibuprofen) pills, and one over-the-counter pain relief pill.

Redding was escorted to the principal's office. She admitted that the day planner was hers but denied that the contents, including the pills, were hers. She said that she had lent it to her friend. Redding agreed to a search of her belongings. Her backpack was searched and no drugs were found. At this point, the principal instructed an assistant to take Redding to the school nurse's office to search her clothes for pills. The nurse asked Redding to remove her jacket, socks, and shoes, leaving her in stretch pants and a T-shirt, which she was then asked to remove. Finally, she was told to pull her bra out and to the side and shake it, and to pull out the elastic on her underpants, thus exposing her breasts and pelvic area to some degree. No pills were found.

Redding's mother filed suit against the school district as well as the principal and certain members of his staff. She argued the strip search violated Redding's Fourth Amendment rights.

ISSUE:

Based on the facts of this case was the 13-year-old student's Fourth Amendment right violated when she was subjected to a search of her bra and underpants by school officials acting on reasonable suspicion that she had brought forbidden prescription and over-the-counter drugs to school?

HELD: Yes - looking into her bag and subsequent search of her clothing was not excessively intrusive. However, school officials did not have sufficient suspicion to warrant extending the search to the point of making her pull out her underwear.

REASONING:

1. In a prior opinion (*New Jersey v. T.L.O.*, see bulletin no. 90) the U.S. Supreme Court ruled the search of a student by a school official will be justified at its inception when there are reasonable grounds for suspecting the search to turn up evidence that the student has violated or is violating either the law or rules of the school. But, the Court also warned (in *T.L.O.*) against a search that is "excessively intrusive." (emphasis added)

2. A school search will be permissible in its scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of age and sex of the student and the nature of the infraction. (emphasis added)

3. Nondangerous school contraband does not raise the spector of stashes in intimate places, and there is no evidence in the record of any general practice among Safford Middle School students hiding that sort of thing in their underwear.

4. In sum, what was missing from the suspected facts that pointed to Redding was any indication of danger to the students from the power of the drugs or their quantity, and any reason to suppose that Redding was carrying pills in her underwear. The combination of these deficiencies was fatal to find the search (underwear) reasonable.

NOTES:

The Court also ruled that the school officials involved in this case are protected from liability through qualified immunity. The question of the liability of Safford Unified School District is unresolved and that issue has been remanded.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

File Legal Bulletin No. 341 numerically under Section R of the manual.