





DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 191 July 2, 1995

MANDATORY DRUG TESTING OF STUDENTS PARTICIPATING IN SCHOOL ATHLETIC PROGRAMS

Reference: Vernonia School District
v.
Wayne Acton

United States Supreme Court No. 94-590 June 26, 1995

FACTS:

The schools in Vernonia, Oregon began to experience a sharp increase in drug use. Not only were student athletes included among the drug users, but they also were leaders of the drug culture. The school district initially responded to the problem by providing special training classes and speakers designed to deter drug use. On one occasion, a K-9 trained in drug detection was brought to the school, but the drug problems persisted.

The school district considered a drug testing program and held a parent-input night to discuss the proposed Student Athlete Drug Policy. Parents in attendance gave their unanimous approval. The policy was implemented and it applied to all students participating in interscholastic althletics. Students wishing to play sports must sign a form consenting to the drug testing and must obtain written consent from their parents. The student athletes are tested at the beginning of the session of their sport. Additionally, once a week, a random selection of 10% of the athletes' names are blindly drawn and those students are tested. Urine is collected from the student and sent to the laboratory for testing. The student is afforded privacy when he or she furnishes the specimen.

James Acton, a seventh-grader, signed up to play football at one of the district's grade schools. Both he and his parents refused to sign the consent forms and he was not allowed to participate. Acton and his parents filed a law suit against the school district.

ISSUE:

Does this State-compelled collection and testing of urine, unsupported by probable cause, violate the Fourth Amendment's search and seizure or privacy restrictions?

HELD: No.

REASONING:

- 1. A search unsupported by probable cause can be constitutional when <u>special needs</u>, beyond the normal need for law enforcement, make the warrant and probable-cause requirement impracticable. <u>Special needs exist in the public school context.</u> (emphasis added)
- 2. The policy in this case was undertaken in furtherance of the government's responsibilities, under a public school system, as guardian and tutor of children entrusted to its care.
- 3. While school children do not shed their constitutional rights at the schoolhouse gate, students within the school environment have a lesser expectation of privacy than members of the population generally.

NOTES:

The court also addressed the privacy issue regarding the collection of the urine samples and concluded that the method used by the school district provided adequate privacy for the students.

The court also cited the following cases:

- New Jersey v. T.L.O., Legal Bulletin No. 90--Fourth Amendment applies to public schools.
- O'Connor v. Ortega, Legal Bulletin No. 111--government search of employee was reasonable.
- Griffin v. Wisconsin, Legal Bulletin No. 114--justifies warrantless search of probationer's residence without probable cause.
- Skinner v. Railway and Treasury Employees v. Von Rab,
 Legal Bulletin No. 129--government compelled collection
 and testing of urine subject to reasonableness test.
- Michigan v. Sitz, Legal Bulletin No. 144--road block reasonable for detection of drunk drivers.
- Review of the following Alaska cases is also recommended:
 - D.R.C. v. State, Legal Bulletin No. 58--search of student by teachers.
 - <u>Ludtke v. Nabors Drilling, Legal Bulletin No. 129</u>--drug testing by private employer.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section B, "Consent," and Section N, "Warrantless Searches Conducted by Probation Officers or Private Persons," of your Contents and Text. File Legal Bulletin No. 191 numerically under Section R of the manual.