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Court Faults Strip-Search of Student

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WASHINGTON—The U.S. Supreme Court rapped school officials for strip-searching a 13-year-old girl in a fruitless hunt for ibuprofen, ruling that an overzealous investigation based on scant evidence violated the Fourth Amendment ban on "unreasonable searches and seizures."

The 8-1 vote provided a victory for student rights. In 2007, the justices went in the opposite direction, ruling that a school campaign to discourage drug abuse outweighed a teenager's First Amendment right to mock such efforts.

In the latest case, the justices ruled that the school's effort to keep drugs off campus don't justify what Justice Ruth Bader Ginsburg called "abusive" treatment of an innocent honor student, Savana Redding, who later said the search was "the most humiliating experience" of her life.

The court cited social-science literature showing that strip searches can cause adolescents "serious emotional damage."

The opinion by Justice David Souter exempted the assistant principal who ordered the search from liability, finding that it might not have been clear to him that his action was unconstitutional. The justices left open the possibility that the school district in Safford, Ariz., could be liable for the violation.

Justice Souter's opinion was joined by Chief Justice John Roberts and Justices Antonin Scalia, Anthony Kennedy and Samuel Alito—who all endorsed the 2007 decision limiting student free-speech rights when it came to drug use. Justice Stephen Breyer also signed the majority opinion.

Justices John Paul Stevens and Ginsburg wrote separate opinions saying they would have upheld the federal appeals-court ruling that left the assistant principal exposed to liability.

In dissent, Justice Clarence Thomas, as he has before, took the strongest position against student rights and in favor of school administrators' authority.

The case arose after another Safford Middle School student was found with several pills in her possession indicated that Ms. Redding supplied her. Assistant Principal Kerry Wilson searched Ms. Redding's backpack and, after finding nothing, had two female school employees search her clothing.

Stripped to her underwear, Ms. Redding was forced to shake out her bra and panties so that anything hidden therein would fall out, "thus exposing her breasts and pelvic area to some degree," Justice Souter wrote. She was detained for an additional two hours before being sent back to class. Ms. Redding's mother filed suit.

The school district defended the strip-search as part of its aggressive campaign to eradicate drug abuse.

Recognizing the need to maintain control on campus, Justice Souter wrote that school officials need only hold a "reasonable suspicion" of wrongdoing before searching students, a lower threshold than "probable cause," which applies in ordinary circumstances. Mr. Wilson's suspicion was reasonable, the court found, and that was grounds enough to search Ms. Redding's backpack and outer garments.

But the strip-search was another matter, Justice Souter wrote, citing social-science research showing that teenagers' "adolescent vulnerability intensifies the patent intrusiveness of the exposure."

Justice Souter observed that the evidence against Ms. Redding was weak, there was no specific reason to believe she had contraband stashed in her underwear, and the medication involved was relatively harmless—400 mg ibuprofen pills, equivalent to two Advil tablets. In combination, "these deficiencies fatal to finding the search reasonable."

The case initially suggested a gender divide on whether strip-searching a pubescent girl is "unreasonable" under the Fourth Amendment. At oral argument in April, several male justices seemed puzzled at Ms. Redding's humiliation over displaying her body to adult inquisitors.

"Why is this a major thing, to say, 'Strip down to your underclothes,' which children do when they change for gym?" Justice Breyer asked at the oral argument.

The court's only woman, Justice Ginsburg, interjected, noting that Ms. Redding wasn't merely stripped to her underwear, but had to shake her bra and panties out. Justice Ginsburg's perspective apparently influenced Justice Souter's majority opinion.

"Changing for gym is getting ready for play; exposing for a search is responding to an accusation reserved for suspected wrongdoers and fairly understood as so degrading" that several school districts, including the nation's largest, New York City, have banned them outright, the court said.

For generations, the court has recognized that students retain some constitutional rights when they attend public school. In a 1943 decision striking down a law requiring recitation of the Pledge of Allegiance, Justice Robert Jackson wrote that public schools must respect students' constitutional rights, lest youth "discount important principles of our government as mere platitudes."

But the court also has recognized, as Justice Abe Fortas wrote in a 1969 case upholding students' rights to wear black armbands to protest the Vietnam War, that local officials generally are entitled "to prescribe and control conduct in the schools."

In recent years, the court has been tilting that balance toward administrators. Two years ago, the court ruled that the schools' interest in fighting drug abuse allowed it to suppress student speech that seemed to trivialize the issue -- in that case, a banner a student unfurled outside campus reading "Bong Hits 4 Jesus."

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