Supreme Court Rules on School Strip Search Case

On June 25, 2009, the Supreme Court (Souter, J.) issued a decision in the matter of Safford Unified School Dist. No. 1 v. Redding, a case that required the Court to consider how much leeway to allow school officials in enforcing zero-tolerance drug and violence policies. In reaching its ruling, the Supreme Court provided some much-needed guidance to schools and administrators around the nation struggling to determine what measures they may lawfully employ when they suspect a student is in possession of drugs or alcohol. The issue before the Supreme Court was whether a thirteen-year old student’s Fourth Amendment rights were violated when she was subjected to a search of her bra and underpants by school officials acting on a reasonable suspicion that the student had brought prescription and over-the-counter drugs to school.

The incident arose when a Safford Middle School student was found to be carrying several ibuprofen pills that she claimed belonged one of her classmates, the plaintiff, Savana Redding. School policy prohibited student possession of any medication on school property – whether prescription or over-the-counter – without prior approval. Savana denied the pills were hers but, nonetheless, allowed the assistant principal to search her belongings. The assistant principal (a male) found no pills in a search of Savana’s backpack. Still unsatisfied, the assistant principal instructed the school nurse and an administrative assistant (both females) to conduct a strip search of Savana in the nurse’s office. During this search, Savana was instructed to strip to her underwear, pull her bra out to the side and shake it, and pull her underpants down at the crotch and shake them. Savana breasts and pelvic area were exposed. She felt embarrassed, scared, and humiliated by the ordeal. No pills were found during the search.

The Reddings brought suit in the United States District Court for the District of Arizona against the Safford school district, as well as the assistant principal, the school nurse, and the administrative assistant involved in the strip search. The individual defendants moved for summary judgment on the grounds of qualified immunity. The District Court examined one element of qualified immunity, e.g., whether the facts alleged by the plaintiff made out a constitutional violation, and found that they did not. Accordingly, the District Court granted summary judgment to the individual defendants.

A divided panel of the Ninth Circuit Court of Appeals agreed that defendants’ search did not violate Savana’s Fourth Amendment rights and affirmed the District Court decision. Redding v. Safford Unified School Dist. No. 1, 504 F.3d 828 (9th Cir. 2007). A Ninth Circuit panel then reconsidered the matter en banc and, in a split decision (6-5), affirmed in part and reversed in part. Redding v. Safford Unified School Dist. No. 1, 531 F.3d 1071 (9th Cir. 2008). The majority held that Savana did have a constitutional right under the Fourth Amendment to be free from strip searches by school officials. The Ninth Circuit noted that “[i]t does not require a constitutional scholar to conclude that a nude search of a thirteen-year-old child is an invasion of constitutional rights of some magnitude. More than that: it is a violation of any known principle of human dignity.” Id., 531 F.3d at 1088.

The Supreme Court affirmed the Ninth Circuit’s 2008 decision, albeit on different grounds. Noting that a school official must have reasonable suspicion – but not probable cause – to conduct a search of a student, the Court held that the defendants’ search of Savana was unreasonable and violated the Fourth Amendment. The Court’s decision was based on two keys factors. First, there was no indication that the type, quantity or potency of the suspected drugs posed any threat to students. Second, the defendants had no reason to suspect that Savana was carrying pills in her underwear. The Court went on to decide, under another element of qualified immunity, e.g., whether the constitutional right was clearly established at the
time of the defendants’ alleged misconduct, that the defendants could not be found liable to the plaintiff. Based on numerous inconsistent cases regarding school strip searches, the Court held that the Fourth Amendment standard for strip searches in schools was not sufficiently clear to advise the defendants of the illegality of their conduct. The defendants were thus entitled to qualified immunity. The Court remanded plaintiff’s claim against the Safford school district, the only remaining claim, to the District Court for further proceedings.

The Supreme Court’s decision cautions school officials that they must have sufficient knowledge of a student’s wrongdoing before conducting a search of the student’s belongings and/or person. Further, school officials should only search the portion of a student’s belongings and/or person where the suspected contraband may reasonably be found. The Court’s decision also, however, affirms the well-established principle that school officials are entitled to immunity from suit where disuniform law results in uncertainty as to the scope of a particular legal principle.