Precedent

New Jersey v. TLO[1]

This Supreme Court case applies the Fourth Amendment to public schools, but supplies a common sense "reasonableness" test to searches of students and their property in the public schools.

Background

A teacher discovered a 14 year-old student (T.L.O.) smoking in the restroom. T.L.O. was escorted to the office, where she met with the Assistant Vice Principal Choplick and denied that she had been smoking. Mr. Choplick demanded to see T.L.O.'s purse, where he found a pack of cigarettes and some rolling papers. In Mr. Choplick's experience, rolling papers were often associated with marijuana use, so he dug further into her purse, discovering marijuana, a pipe, plastic bags, a fairly substantial amount of money, a list of students who owed T.L.O. money, and two letters that implicated her in marijuana dealing. Her parents were called and in their presence she was read her Miranda warnings. After admitting to selling marijuana, T.L.O. was suspended for ten days.

The State brought delinquency charges against T.L.O. in the Juvenile Court, where T.L.O. argued that the fruits from the unconstitutional search of her purse should not have been used in evidence. The Supreme Court granted review to determine whether, and to what extent, the Fourth Amendment should apply to students in public school.

Case Excerpts[2] (Justice White)

To hold that the Fourth Amendment applies to searches conducted by school authorities is only to begin the inquiry into the standards governing such searches. Although the underlying command of the Fourth Amendment is always that searches and seizures be reasonable, **what is reasonable depends on the context within which a search takes place**. The determination of the standard of reasonableness governing any specific class of searches requires "balancing the need to search against the invasion which the search entails."

Against the child's interest in privacy must be set the substantial interest of teachers and administrators in maintaining discipline in the classroom and on school grounds. Maintaining order in the classroom has never been easy, but in recent years, school disorder has often taken particularly ugly forms: drug use and violent crime in the schools have become major social problems.

How, then, should we strike the balance between the schoolchild's legitimate expectations of privacy and the school's equally legitimate need to maintain an environment in which learning can take place? It is evident that the school setting requires some easing of the restrictions to which searches by public authorities are ordinarily subject. The warrant requirement, in particular, is unsuited to the school environment: requiring a teacher to obtain a warrant before searching a child suspected of an infraction of school rules (or of the criminal law) would unduly interfere with the maintenance of the swift and informal disciplinary procedures needed in the schools.

[T]he accommodation of the privacy interests of schoolchildren with the substantial need of teachers and administrators for freedom to maintain order in the schools does not require strict adherence to the requirement that searches be based on probable cause to believe that the subject of the search has violated or is violating the law.

[T]he legality of a search of a student should depend simply on the reasonableness, under all the circumstances, of the search. Determining the reasonableness of any search involves a twofold inquiry: first, one must consider **"whether the ... action was justified at its inception,"** second, one must determine **whether the search as actually conducted "was reasonably related in scope to the circumstances which justified the interference in the first place."** Under ordinary circumstances, a search of a student by a teacher or other school official will be "justified at its inception" when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school. Such **a 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 the age and sex of the student and the nature of the infraction.**

Held- Search did not violate Fourth Amendment.

Safford Unified School District #1 v. Redding[3]

This recent decision from the Supreme Court clarifies that the Fourth Amendment does protect students in a public school setting from unreasonable searches, reaffirming the "reasonableness" doctrine of T.L.O.

Background

Assistant Principal Wilson received a student report that 13 year-old Savana was giving out over-the-counter naproxen 200 mg. pills to her classmates in violation of school rules. He called her out of class, and asked her about the pills. She denied giving them out, and agreed to a search of her belongings. A search of her backpack yielded nothing. Mr. Wilson then sent Savana to the nurse's office, where she was asked to remove her clothing, pull out her bra and shake it out and to pull the elastic on her underpants. Again, no pills were found.

Case Excerpts

(Justice Souter)

In T.L.O., we recognized that the school setting "requires some modification of the level of suspicion of illicit activity needed to justify a search and held that for searches by school officials "a careful balancing of governmental and private interests suggests that the public interest is best served by a Fourth Amendment standard of reasonableness

that stops short of probable cause." We have thus applied a standard of ***reasonable suspicion*** to determine the legality of a school administrator's search of a student.

Wilson had reason to connect [Savana and another girl] with this contraband [prescription-strength ibuprofen]. This suspicion of Wilson's was enough to justify a search of Savana's backpack and outer clothing. If a student is reasonably suspected of giving out contraband pills, she is reasonably suspected of carrying them on her person and in the carryall that has become an item of student uniform in most places today. If Wilson's reasonable suspicion of pill distribution were not understood to support searches of outer clothes and backpack, it would not justify any search worth making. And the look into Savana's bag, in her presence and in the relative privacy of Wilson's office, was not excessively intrusive, any more than the subsequent search of her outer clothing.

There is no question here that justification for the school officials' search was required in accordance with the T.L.O. standard of reasonable suspicion, for it is common ground that Savana had a reasonable expectation of privacy covering the personal things she chose to carry in her backpack, and that Wilson's decision to look through it was a "search" within the meaning of the Fourth Amendment.

Savana's subjective expectation of privacy against [a strip search] is inherent in her account of it as embarrassing, frightening, and humiliating. The reasonableness of her expectation (required by the Fourth Amendment standard) is indicated by the consistent experiences of other young people similarly searched, whose adolescent vulnerability intensifies the patent intrusiveness of the exposure. 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 a number of communities have decided that strip searches in schools are never reasonable and have banned them no matter what the facts may be.

The indignity of the search does not, of course, outlaw it, but it does implicate the rule of reasonableness as stated in T.L.O. that "the search as actually conducted [be] reasonably related in scope to the circumstances which justified the interference in the first place." The scope will be permissible, that is, when it is "not excessively intrusive in light of the age and sex of the student and the nature of the infraction."

Here, ***the content of the suspicion failed to match the degree of intrusion***. Wilson knew beforehand that the pills were prescription-strength ibuprofen and over-the-counter naproxen, common pain relievers equivalent to two Advil, or one Aleve. He must have been aware of the nature and limited threat of the specific drugs he was searching for, and while just about anything can be taken in quantities that will do real harm, Wilson had no reason to suspect that large amounts of the drugs were being passed around, or that individual students were receiving great numbers of pills.

In sum, what was missing from the suspected facts that pointed to Savana was any ***indication of danger to the students from the power of the drugs or their quantity, and any reason to suppose that Savana was carrying pills in her underwear.*** We think that the combination of these deficiencies was fatal to finding the search reasonable.

We do mean, though, to make it clear that the T.L.O. concern to limit a school search to reasonable scope requires the support of reasonable ***suspicion of danger or of resort to underwear for hiding evidence of wrongdoing before a search can reasonably make the quantum leap from outer clothes and backpacks to exposure of intimate parts. The meaning of such a search, and the degradation its subject may reasonably feel, place a search that intrusive in a category of its own demanding its own specific suspicions.***

Held: The strip search of Savana Redding was unreasonable and a violation of the Fourth Amendment, but [the school officials] are nevertheless protected from liability through qualified immunity.