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To search or not: Arizona officials react to high court ruling in school strip-search Arizona Capitol Times July 10, 2009

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HEADLINE: To search or not: Arizona officials react to high court ruling in school strip-search

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BODY:

To some observers, the U.S. Supreme Court's decision that an Arizona school violated a 13-year-old student's rights by strip-searching her represented a defeat for officials working to stem the flow of drugs into schools.

To others, the verdict upheld the idea that schools can sometimes act recklessly, even when fighting to keep illegal substances off school grounds.

Regardless of the verdict, however, some Arizona administrators say the recent court ruling has little impact on the way they conduct business. To them, common sense dictates that there are boundaries that should not be crossed, even when enforcing campus discipline.

The ruling "will not create much of a change in the Gilbert school district," said Clyde Dangerfield, assistant superintendent for business services with Gilbert Public Schools. "I would not advise our administrators to take these sorts of actions. "

Dangerfield said administrators in the Gilbert district take a more reasonable approach in determining how to conduct a search for drugs, adding that parents should be brought into the picture if there is a suspicion that a student is hiding a dangerous item.

Eula Saxon Dean, principal and director of the Academy of Excellence, a charter elementary district with schools in Phoenix and Coolidge, agrees that officials need to be aware of boundaries in search-and-seizure cases, particularly when dealing with young children.

"You have to protect all students. You have an obligation to do so," she said. "As I was listening to the (Redding case), I was quite concerned. The main issue is knowing where to stop," in conducting a search of a student.

Mike Matwick, CEO and founder of Pinnacle Education, which operates a number of charter schools across the Valley, said educators need to remain sensitive to student rights and follow established procedures when conducting an investigation into potentially illegal activity.

"Under no circumstances would we conduct a search of that nature," he said. The district, which serves at-risk youth and sometimes questions students about potentially dangerous items, outlines procedures in school literature, which is given to parents and students.

Pinnacle prohibits items that could be used to hide illegal substances, such as backpacks and large purses. When officials do conduct a search, they might, for example, ask a student to remove a sweatshirt or jacket. But a strip search would be out of the question.

"We don't go to that extreme," Matwick said.

In one of the last votes of its recent term, the U.S. Supreme Court ruled that officials in Safford in 2003 violated the privacy rights of a teenage girl on suspicion that she had ibuprofen pills hidden in her underwear.

Based on information received from another student, school officials ordered the strip search of Savana Redding, who was 13 and in the eighth grade.

On the orders of an assistant principal, a school nurse had the student remove her clothes, move her bra to the side and pull her underwear out. The search did not turn up any ibuprofen, an over-the-counter anti-inflammatory medication used to treat headaches and fever.

The student sued the school district, claiming that her Fourth Amendment rights were violated. A trial court granted summary judgment for the school district on qualified immunity grounds, but the U.S. Court of Appeals for the 9th Circuit reversed the lower court's ruling.

In its ruling, the 9th Circuit stated: "It does not require a constitutional scholar to conclude that a nude search of a 13-year-old child is an invasion of constitutional rights. More than that, it is a violation of any known principle of human dignity. "

Safford school officials then appealed to the U.S. Supreme Court, which voted 8-1 to uphold the 9th Circuit's ruling that the school had violated the girl's constitutional rights that protect against unlawful search and seizure.

Attorneys representing the district argued that administrators were enforcing the district's policy prohibiting the use, possession or sale of any drug on campus, including prescription or over-the-counter medication.

Adam Wolf, a lawyer from the American Civil Liberties Union (ACLU), who represented Redding before the court, told Reuters news agency that justice was served by the decision.

"Students and those who care about their well-being can breathe a sigh of relief," he said. "(The) ruling affirms that schools are not constitutional dead zones. "

Alessandra Soler Meetze, executive director of ACLU Arizona, said the ruling did more than vindicate a single student. "This is a huge victory for students' rights," she said. "Other parents and students will not have to go through what Savana experienced. "

She called the strip search humiliating for the young girl and unnecessary in terms of attempting to keep the school safe.

"The school could have avoided this if it had relied on basic common sense," Soler Meetze said. "This is really an example of how the so-called 'war on drugs' has trumped common sense. "

Redding's lawyers argued that school officials could have kept her in the principal's office until a parent arrived, or could have sent her home instead of requiring the strip search, according to Reuters.

In another part of the ruling, justices declared that administrators who ordered or carried out the strip search were entitled to immunity from liability because of uncertainty over whether the right of protection had been established clearly at the time.

Only Justice Clarence Thomas asserted that Redding's rights had not been violated.

Soler Meetze noted that the case not only brought together the often-philosophically divided court, but also organizations that typically operate on opposing sides of many political issues.

While lawyers from the liberal ACLU represented Redding, conservative organizations such as the Rutherford Institute, **Cato Institute** and Goldwater Institute's Scharf-Norton Center for Constitutional Litigation filed briefs in support of Redding.

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