

The Seattle Times

Friday, June 26, 2009 - Page updated at 12:00 AM

Permission to reprint or copy this article or photo, other than personal use, must be obtained from The Seattle Times. Call 206-464-3113 or e-mail resale@seattletimes.com with your request.

Court rules school strip search illegal

By Michael Doyle
McClatchy Newspapers

WASHINGTON — The Supreme Court ruled Thursday that the strip search of a 13-year-old student violated the constitutional protection against unreasonable search and seizure.

The court ruled 8-1 that Arizona school officials violated Savana Redding's Fourth Amendment rights when they searched her down to her bra and underpants. Officials were looking for pain relievers, which they didn't find.

"The content of the suspicion failed to match the degree of intrusion," Justice David Souter wrote for the majority.

However, the court also softened the potential blow by ruling the individual officials who oversaw Redding's search couldn't be held personally liable.

The ruling involving Redding, now a college student, has been anticipated by schools nationwide, which must balance concerns about student privacy with adult fears of drug abuse and school violence.

The ruling won praise from groups such as the liberal Alliance for Justice and the libertarian-minded Cato Institute, while some education-law experts said it clarifies school rules about when searches can take place.

"School officials will now say to themselves, what are the dangers here, and what is the likelihood that searching the person's body will address those dangers," Columbia Law School Professor Jane Spinak said.

Spinak added that "the message here to the school is, ask a lot more questions before you start searching."

Others suggested the high court may have created further problems for school systems by failing to make clear exactly when school administrators can strip-search students and when they can't.

"The court seems to think it made things clearer, but I don't think they did," said Dan Capra, a Fordham University law professor. "Officials now know they can't do exactly what was done in Safford. But what if there is any change of material fact in the circumstances?"



EVAN VUCCI/AP

Savana Redding was strip-searched when she was 13 years old by school officials looking for prescription-strength ibuprofen pills.

Other rulings

In other rulings Thursday, the Supreme Court:

- Ruled 5-4 that Arizona schools should get a fresh legal review on whether to lift a court order requiring changes in a program to educate students who aren't proficient in English.
- Ruled 5-4 that criminal defendants have a constitutional right to cross-examine forensic analysts who prepare laboratory reports on illegal drugs and other evidence used at trial.
- Ruled 5-4 that seamen injured on the job may sue for punitive damages when employers refuse to pay for medical care and time off.

The Associated Press

The search at the heart of the case, *Safford Unified School District No. 1 v. Redding*, occurred in October 2003. A Safford Middle School nurse and administrative assistant who searched Redding told the honor student to remove her stretch pants and T-shirt. They then directed her to pull her bra to the side and shake it, and to pull out the elastic on her underpants.

They were looking for prescription-strength ibuprofen and over-the-counter naproxen, which another student had suggested might be hers. The district bans prescription and over-the-counter drugs without advance permission.

"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," Souter wrote.

The "combination of these deficiencies was fatal" to the legitimacy of the search, the court concluded. This ruling is likely to clarify for other school administrators nationwide how and when intrusive searches of students might be conducted.

Justice Clarence Thomas was the only member of the court to decide that the search of Redding was reasonable. "Redding would not have been the first person to conceal pills in her undergarments," Thomas wrote. "Nor will she be the last after today's decision, which announces the safest place for secret contraband in school."

The court was divided on whether the individual school officials who oversaw the search should be liable for damages. While the majority agreed that the officials were immune from lawsuits, Justices John Paul Stevens and Ruth Bader Ginsburg contended that the assistant principal, Kerry Wilson, should be held liable.

"Wilson's treatment of Redding was abusive and it was not reasonable for him to believe that the law permitted it," said Ginsburg.

The court's majority, by contrast, stressed that school officials are entitled to immunity from lawsuits if it's not clearly established that their actions violate the Fourth Amendment.

The court kicked a decision as to whether the Safford Unified School District is likewise immune from a lawsuit back to the 9th U.S. Circuit Court of Appeals.

The Supreme Court is scheduled to issue its final decisions of the 2008-09 term next week, including a highly anticipated ruling in a case about race-based hiring decisions in the New Haven, Conn., fire department.

Material from The Associated Press is included in this report.

Copyright © 2009 The Seattle Times Company