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AMERICAN CIVIL LIBERTIES UNION; U.S. Supreme Court Declares Strip Search of 13-Year-Old Student Unconstitutional Lab Law Weekly July 10, 2009

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U.S. Supreme Court Declares Strip Search of 13-Year-Old Student Unconstitutional

BODY:

The U.S. Supreme Court today ruled that school officials violated the constitutional rights of a 13-year-old Arizona girl when they strip searched her based on a classmate's uncorroborated accusation that she previously possessed ibuprofen. The American Civil Liberties Union represents April Redding, the plaintiff in the lawsuit, whose daughter, Savana Redding, was strip searched by Safford Middle School officials six years ago (see also [American Civil Liberties Union](#)).

"We are pleased that the Supreme Court recognized that school officials had no reason to strip search Savana Redding and that the decision to do so was unconstitutional," said Adam Wolf, an attorney with the ACLU who argued the case before the Court. "Today's ruling affirms that schools are not constitutional dead zones. While we are disappointed with the Court's conclusion that the law was not clear before today and therefore school officials were not found liable, at least other students will not have to go through what Savana experienced."

Savana Redding, an eighth grade honor roll student at Safford Middle School in Safford, Arizona, was pulled from class on October 8, 2003 by the school's vice principal, Kerry Wilson. Earlier that day, Wilson had discovered prescription-strength ibuprofen -- 400 milligram pills equivalent to two over-the-counter ibuprofen pills, such as Advil -- in the possession of Redding's classmate. Under questioning and faced with punishment, the classmate claimed that Redding, who had no history of disciplinary problems, had given her the pills.

After escorting Redding to his office, Wilson demanded that she consent to a search of her possessions. Redding agreed, wanting to prove she had nothing to hide. Wilson did not inform Redding of the reason for the search. Joined by a female school administrative assistant, Wilson searched Redding's backpack and found nothing. Instructed by Wilson, the administrative assistant then took Redding to the school nurse's office in order to perform a strip search.

In the school nurse's office, Redding was ordered to strip to her underwear. She was then commanded to pull her bra out and to the side, exposing her breasts, and to pull her underwear out at the crotch, exposing her pelvic area. The strip search failed to uncover any ibuprofen pills.

"The strip search was the most humiliating experience I have ever had," said Redding in a sworn affidavit following the incident. "I held my head down so that they could not see that I was about to cry."

The strip search was undertaken based solely on the uncorroborated claims of the classmate facing punishment. No attempt was made to corroborate the classmate's accusations among other students or teachers. No physical evidence suggested that Redding might be in possession of ibuprofen pills or that she was concealing them in her undergarments.

Furthermore, the classmate had not claimed that Redding currently possessed any pills, nor had the classmate given any indication as to where they might be concealed. No attempt was made to contact Redding's parents prior to conducting the strip search.

In response to today's ruling, Redding said, "I wanted to make sure that no other person would have to go through this, so I am pleased by the Court's decision. I'm glad to have helped make students feel safer in school."

The case, *Safford Unified School District v. Redding*, was appealed from the U.S. Court of Appeals for the Ninth Circuit, which found the strip search to be unconstitutional. A six-judge majority of the appeals court further held that, since the strip search was clearly unreasonable, the school official who ordered the search is not entitled to immunity. In today's Supreme Court

decision, despite deeming the strip search of Redding unconstitutional, the Court found that the school officials involved are immune from liability. The decision leaves open the possibility, however, that the Safford Unified School district could be held liable.

"Neither the Constitution nor common sense permits school officials to treat a strip search the same as a locker or backpack search," said Steven R. Shapiro, the ACLU's national Legal Director. "Today's ruling eliminates any confusion that school officials may have had about this seemingly obvious point."

The ACLU and ACLU of Arizona were joined in the case by Bruce Macdonald, with the law firm McNamara, Goldsmith, Jackson & Macdonald, and Andrew Petersen, with the firm Humphrey & Petersen.

In addition, a broad constellation of adolescent health experts and privacy rights advocates filed friend-of-the-court briefs in support of Redding, including the National Education Association, National Association of Social Workers (NASW), **CATO Institute**, Rutherford Institute, Goldwater Institute and Urban Justice Center, among others.


Today's decision is available online at: www.aclu.org/drugpolicy/search/40031lg|20090625.html

The ACLU's brief in the case is available online at: www.aclu.org/scotus/2008term/saffordunifiedschooldistrictv.redding/39160lg|20090325.html

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