US Supreme Court rules school strip search unconstitutional

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By an 8-1 majority, the US Supreme Court ruled Thursday that the strip search of a 13-year-old girl ordered by officials of an Arizona middle school was a violation of her rights under the Fourth Amendment of the Constitution. The decision in *Safford Unified School District v. April Redding* is a limited victory for the mother of Savana Redding, who filed the lawsuit after her daughter was subjected to the degrading procedure in 2003.

By a 7-2 margin, the high court held that the school officials were immune from personal liability for their actions, remanding the case to a lower court to decide whether the school district itself should be compelled to pay damages and, if so, how much. Only Justice Ruth Bader Ginsburg and Justice John Paul Stevens held that the school officials' actions were so unreasonable that they should have known what they were doing was illegal.

Savana Redding was taken from her classroom to the vice principal's office after a schoolmate said that she had supplied her prescription-strength ibuprofen, in violation of the school's zero-tolerance drug policy. When the vice principal found no drugs in Redding's backpack or outer clothing, the school nurse was instructed to take her into another room and conduct the strip search.

Savana Redding was not allowed to call her mother, who was not informed of the search until her daughter came home in tears. The 13-year-old honor student eventually quit the school because of harassment by classmates after the search became common knowledge, and spent considerable time in counseling. She is now 19 years old and attending college.

In his opinion for the majority, Justice David Souter wrote, "Savana's subjective expectation of privacy against such a search is inherent in her account of it as embarrassing, frightening, and humiliating. Here, the content of the suspicion failed to match the degree of intrusion.... The strip search of Savana Redding was unreasonable and a violation of the Fourth Amendment."

The majority explicitly upheld the right of the school officials to search Redding's backpack and pockets, objecting only to the search through her underwear. Moreover, Souter based his argument in part on the nature of the drugs being searched for—in the event that a powerful narcotic or hallucinogen had been the target, rather than the equivalent of two Advil, the court would likely have upheld even the strip search.

Against this limited rebuke to official brutality should be set the dissenting opinion by Justice Clarence Thomas, who never misses an opportunity to support barbaric conduct by police and other government officials, particularly when young people are the victims. "By deciding that it is better equipped to decide what behavior should be permitted in schools," he wrote, "the Court has undercut student safety and undermined the authority of school administrators and local officials."

Thomas added, expressing his crude policeman's indifference to democratic rights: "Redding would not have been the first person to conceal pills in her undergarments. Nor will she be the last after today's decision, which announces the safest place to secrete contraband in school."

The American Civil Liberties Union supported the Reddings' lawsuit, which was rejected by a federal district court and a three-judge panel of the Ninth US Circuit Court of Appeals. Last July, a full panel of the Circuit Court overruled these two decisions and found the search to be "an invasion of constitutional rights,"

as well as holding vice-principal Kerry Wilson personally liable.

Although the Ninth Circuit is reputed to be the most liberal appellate court, the ruling came by only a bare 6-member majority of the 11 judges. Three took the position ultimately supported by Thomas, that there was no Fourth Amendment violation, while two took the position of the Supreme Court majority, finding that the school officials were not personally liable.

Adam Wolf, the ACLU attorney for the Reddings, said after the decision, "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. 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."

Briefs supporting Savana Redding were filed by the National Education Association, the largest US teachers union, and the National Association of Social Workers. The National Association of School Boards supported the "right" of school officials to strip search any student on mere suspicion.

While the pro-strip search position might appear extreme, even bizarre, it flows from a long series of reactionary Supreme Court rulings over the two decades, which have come close to creating what the ACLU attorney describes as a "dead zone" for democratic rights in the public schools.

In a 1995 case, *Vernonia School District v. Acton*, the court upheld a school policy of randomly drug testing student athletes. In the 2002 decision in *Board of Education v. Earls*, a 5-4 majority allowed a local school board to impose drug testing on students participating in any extracurricular activity, including band, choir and occupational groups like Future Farmers of America.

And in 2007, in *Morse v. Frederick*, the court upheld the right of a Juneau, Alaska, high school to suspend a student for putting up a banner with the ironic slogan "Bong Hits for Jesus" when a Winter Olympics torch parade was passing by. The 6-3 ruling essentially declared that high school students have no free speech rights, even outside of school grounds.

In that context, the Redding decision is only a slight alleviation of a protracted assault on the democratic rights of young people.