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THE RELATIONSHIP BETWEEN SCHOOLS, PARENTS AND CHILDREN

Vernonia School District 47J v. Acton, 115 S.Ct. 2386 (1995)

FACTS

James Acton was a 7th grader in a public school in Vernonia, Oregon. He wanted to play football, but to do so would subject him to one definite and other random urinalysis to determine if he used drugs. This program was adopted by the school district to attempt to reduce the increased drug use. Athletes, who were the school "leaders," were considered to be the cause of the drug consumption. Athletes, in addition, were at a greater risk of injuries while engaged in competition. All athletes were tested at the beginning of the season and 10% were randomly chosen each week. The tests were conducted in the locker room, for the females in stalls and the males at urinals. The results were kept confidential and the urinalysis only tested for drugs.

James' parents refused to subject him to the testing. They claimed his rights were violated under the Fourth and Fourteenth Amendments.

FOURTH AMENDMENT

The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.

FOURTEENTH AMENDMENT

No State shall make or enforce any law which shall deprive any person of life, liberty, or property, without due process of law; or deny to any person within its jurisdiction the equal protection of the laws.

QUESTIONS

1. What are the legal issues at question in this case?
2. What emotional issues are at question in this case?
3. What arguments would you make if you were James?
4. What arguments would you make if you were James' parents?
5. What arguments would you make if you were on the board of the School District?
6. What other parties might be interested in this case?

7. What other parties might be affected by this case?
8. What arguments might these parties make?

ISSUE

Is the school district's policy of administering urinalysis to all its athletes in order to decrease drug use constitutional under the Fourth and Fourteenth Amendments?

DISTRICT COURT HOLDING

After a bench trial the court denied the Acton's claims on the merits and dismissed the action.

U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT HOLDING

The Ninth Circuit reversed, holding that the policy violated both the Fourth and the Fourteenth Amendments. The Supreme Court then granted certiorari.

SUPREME COURT HOLDING

The Supreme Court, by a majority, found the policy did not violate the Fourth and Fourteenth Amendments and thus is constitutional.

MAJOR ISSUES

1. Do schools or parents have the ultimate control over students?

The majority opinion, authored by Justice Scalia, recognized that a school's power over its students is equal to parents' control. When a student is in school, however, the nature of the power is custodial and tutelary, thus "permitting a degree of supervision and control that could not be exercised over free adults." School authorities act as *in loco parentis*.

This relationship changes the protection of students constitutional rights. The "reasonableness" inquiry of the Fourth and Fourteenth Amendments must be analyzed in the school setting. It is the "reasonableness" of students under the supervisory power of schools rather than the "reasonableness" of the general public.

2. Do minor students have the same privacy rights as adults?

According to the court, no. Students have a lesser expectation of privacy because of their status as students. Athletes, in addition, give up privacy rights by changing and showering in a locker room. Athletes also sign an insurance waiver, agreeing to maintain certain grades and to comply with the rules of the sport and athletic program. The Court

determined this was a waiver of certain privacy expectations, thus allowing the drug testing policy, as it is presently conducted, to be valid.

3. May a school district mandate student athletes to perform a urinalysis at the beginning of each season and be subject to random urinalysis during the season to decrease drug use in the student body?

Yes. This policy is constitutional and not a violation of student athletes' Fourteenth and Fourth Amendment rights.

WHO WON?

The Vernonia School District 47J won. The Court upheld the District's policy of drug testing. It found the process of the urine sample adequately protected students' decreased privacy expectations. The Court also determined the goal of the policy: to decrease drug use among students, was achieved through this method. Since schools have a custodial power over students, this policy was not intrusive or unconstitutional.

WHO LOST?

James and his parents lost. James cannot play school sports unless he agrees to take a drug test. His parents lost because they no longer have control over James and his affairs while he is away from the home and in school. Even if their personal beliefs disagree with the school's, they must honor the school's rules.

All other athletes also lost. Athletes at Vernonia and others around the country subject to this same policy must take a drug test when asked or they cannot participate in sports.

CONCURRING OPINION

Justice Ginsburg concurred in one paragraph. She wanted to reserve the question of whether routine drug testing on all students would be constitutional.

DISSENTING OPINION

Justices O'Connor, Stevens and Souter disagreed with the majority of the Court. They believe students do not "check their rights at the school door." While students can expect to be watched and supervised, when discipline occurs it is based on reasonable suspicion, the same standard that all adults enjoy under the Constitution. There is no indication in the Constitution that students are not subject to this same standard. Before a citizen can be asked to give up his rights, the authority must have some suspicion to ask. In order for the District to test athletes there must be suspicion of drug use. Only then, is it valid to intrude on someone's rights.

The dissent also disagrees with the majority approving the singling out of athletes. There should be a blanket provision that all students suspected of drug use will be tested.

These safeguards: (1) a blanket provision (2) based on reasonable suspicion, protect students' rights. Only after suspicion would the policy pass constitutional muster.

THE MEANING OF THIS DECISION

The three major rules of law established by *Vernonia School District* are:

1. When a child is at school the school acts as his parents and plays a custodial role. The parents cannot decide what is best for their child while he is away from home and at school. Schools have the power to enforce rules and policies which they believe better the school atmosphere and student safety, even if these procedures would violate the general public's constitutional guarantees.
2. A student athlete has a lesser expectation of privacy when at school simply by being a student and signing an insurance waiver form required to participate in sports.
3. A school policy used to decrease drug use among students which requires a urinalysis by each athlete and subjects them to random urinalysis during the season is constitutional if it is done within a private stall or locker room, the test only indicates the presence of drugs and the results are kept confidential.

The major Family Law concept established by this case:

The privacy of the family and the idea that parents know what is best for their children changes when students enter the school building. At this point, the power parents have over their children is given to the school to provide custodial and tutelary supervision. Students are required to obey the rules of school even if they differ from those at home.

DISCUSSION QUESTIONS

1. Do students have any constitutional rights while in school?
2. Should schools have the same power over children as parents do? Does this affect the family structure?
3. Should parents be forced to obey school policies if they differ from their disciplinary and child rearing rules?
4. What is a student required to do if the rules at home are different than the rules at school?
5. Based on the *law* do you agree with this opinion? If no, do you agree with the dissent? If you do not agree with either, what is your view and why?

CASE STUDY WORKSHEET

CASE: Vernonia School District 47J v. Acton Student: Rochel Gernat

Criminal Civil - for the issues regarding control/supervision of child - Family law

KEY LEGAL ISSUE: Is drug testing high school athletes a violation of student's rights under the 4th and 14th Amendments? Date: Feb. 8, 1996

Major questions/issues

- Do students have the same rights as adults?
- Do schools or parents have control over students?
- Do ~~more~~ students have a lesser expectation of privacy in school?
- Does this apply to all students or just athletes?

Known Relevant Facts:

There was rising drug use in the Vernonia School District. The athletes were the "leaders" of the school and drug use. The testing was random. Only Senior administrators had access to the results. The test was only for drugs. Students remained fully clothed, not only observed from behind. Females were in a closed stall with a person outside, and males were at a urinal.

Key Argument For: allowing urinalysis.

As the Court stated: ~~Children~~ ^{Students} have a lesser expectation of privacy. The method of testing respected their privacy. It was done in private, fully clothed. Furthermore, students are under the control of the school. The control is both "custodial and tutorial." Once students enter the building the school becomes their parents (in loco parentis) and the real parents play no role. Finally, the testing fit the school's goal of reducing drug use.

Unknown Relevant Facts:

Was there drug use prevalent in non-athletes? Why were all students not tested? Did the testing help reduce drug use? (was it effective?) Were there any other alternatives considered to reducing drug use?

Key Argument For: not allowing testing.

There are other ways to reduce drug use: education, questionnaires, school programs. All urinalysis does is tell the school "who" uses drugs, not how to stop it. There is also no reason to single out athletes. If it is a school problem then address the entire student body.

Most important, a parent should have the ultimate control over their child, not the school.

6. Are there certain facts of this case which resulted in this outcome? If you changed certain facts would the decision be different? Which facts?

7. What happens now if a student or his/her parents disagree with a school policy?