



This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers [here](#) or use the "Reprints" tool that appears next to any article. Visit [www.nytreprints.com](http://www.nytreprints.com) for samples and additional information. [Order a reprint of this article now.](#)

June 26, 2009

## Supreme Court Says Child's Rights Violated by Strip Search

By [ADAM LIPTAK](#)

WASHINGTON — A strip search of a 13-year-old girl by officials at her middle school violated the Constitution, the [Supreme Court](#) ruled Thursday in an 8-to-1 [decision](#).

The student, Savana Redding, had been suspected of bringing prescription-strength ibuprofen to the school, in Safford, Ariz.

Justice [David H. Souter](#), writing for the majority, said a search of Ms. Redding's backpack and outer garments did not offend the Fourth Amendment's ban on unreasonable searches. But the pills in question, each no stronger than two Advils, did not justify an "embarrassing, frightening and humiliating search," Justice Souter wrote.

School officials ordered Ms. Redding, whom another girl had accused of giving her drugs, to strip to her bra and underpants and to pull them away from her body, exposing her breasts and pelvic area. No drugs were found.

The case attracted national attention and gave rise to an intense [debate](#) over how much leeway school officials should have in enforcing zero-tolerance policies for drugs and violence. Some parents were outraged by the intrusiveness of the search, while others worried about tying the hands of school officials charged with keeping their children safe.

The case also revealed a gender fault line at the court. In an unusual [interview](#) about a pending case, Justice Ruth Bader Ginsburg told USA Today in the spring that judging from their comments at the [argument](#), her colleagues, all men, had failed to appreciate what Ms. Redding had endured.

"They have never been a 13-year-old girl," Justice Ginsburg said. "It's a very sensitive age for a girl. I don't think that my colleagues, some of them, quite understood."

In the end, Justice Ginsburg's view of the constitutionality of the search prevailed.

But the decision did not offer particularly clear guidance to school personnel, who were told only to take account of the extent of danger of the contraband in question and whether there is good reason to think it is hidden in an intimate place. So the upshot of the decision in a practical sense may well be to eliminate strip searches in schools.

"A number of communities have decided that strip searches in schools are never reasonable and have banned them no matter what the facts may be," Justice Souter said, citing a regulation of the New York City Department of Education banning such searches in all circumstances.

The court stopped short, however, of allowing Ms. Redding's lawsuit to go forward against the assistant principal who ordered the search and the two female school officials who conducted it. The state of the law at the time of the search, in 2003, was too murky to allow the officials to be sued, Justice Souter said.

A separate claim against the school district based on its practices and policies was not part of the district's appeal to the Supreme Court and will proceed.

Justices Ginsburg and [John Paul Stevens](#) would have allowed the claims against individual school officials to go forward. "This is, in essence, a case in which clearly established law meets clearly outrageous conduct," Justice Stevens wrote.

Only Justice [Clarence Thomas](#) would have ruled the search constitutional. "Preservation of order, discipline and safety in public schools is simply not the domain of the Constitution," he wrote.

Justice Thomas also said Thursday's decision provided the nation's students a court-sanctioned hiding place.

"Redding would not have been the first person to conceal pills in her undergarments," he wrote. "Nor will she be the last after today's decision, which announced the safest places to secrete contraband in school."

Ms. Redding, now 19, said in a telephone interview that she was "pretty excited" by the decision. "It makes me feel good," she said, "that they recognized that it was against my rights and that it most likely won't happen to anyone else."

A lawyer for the school district said that the decision "offers little clarification" concerning

when such searches are allowed and that it could have dangerous consequences.

The decision unduly limits “the ability of school officials to protect students from the harmful effects of drugs and weapons on school campuses,” the lawyer, Matthew W. Wright, said in a statement.

“We can only hope that this decision does not compound the problem further,” Mr. Wright said, “by emboldening more students to smuggle such contraband into the nation’s schools.”

The majority made clear that school searches were subject to less exacting constitutional standards than those conducted by the police. Where the police must generally have probable cause to conduct searches, school officials need have only “a moderate chance of finding evidence of wrongdoing,” Justice Souter wrote.

Nor did the majority take issue with the zero-tolerance rule at Safford Middle School.

“There is no need here either to explain the imperative of keeping drugs out of schools, or to explain the reasons for the school’s rule banning all drugs, no matter how benign,” Justice Souter wrote. “Teachers are not pharmacologists trained to identify pills and powders, and an effective drug ban has to be enforceable fast.”

But a search of the sort Ms. Redding underwent must be supported by more than another student’s accusation, Justice Souter said.

“The content of the suspicion,” he wrote, “failed to match the degree of the intrusion,” particularly given “the nature and limited threat of the specific drugs” at issue.

At the argument of the case, Safford Unified School District v. Redding, No. 08-479, in April, Justice Stephen G. Breyer suggested that the search of Ms. Redding was in some ways comparable to her changing into gym clothes.

Thursday’s decision took a different approach.

“Changing for gym is getting ready for play,” Justice Souter wrote. “Exposing for a search is responding to an accusation reserved for suspected wrongdoers and fairly understood as so degrading” that many schools never allow the practice.

[Copyright 2009 The New York Times Company](#)

[Privacy Policy](#) | [Terms of Service](#) | [Search](#) | [Corrections](#) | [RSS](#) | [First Look](#) | [Help](#) | [Contact Us](#) | [Work for Us](#) | [Site Map](#)