



# Fourth Amendment Protections Against Student Strip Searches: *Safford Unified School District #1 v. Redding*

name redacted  
Legislative Attorney

June 29, 2009

Congressional Research Service

7-....

[www.crs.gov](http://www.crs.gov)

R40676

## Summary

The Fourth Amendment protects individuals from unreasonable searches and seizures. What a court determines to be “reasonable” depends on the nature of the search and its underlying governmental purpose.

This report provides an analysis of the U.S. Supreme Court’s 2009 decision, *Safford Unified School District #1 v. Redding*, which addressed the constitutionality of a strip search of a 13-year-old middle school student. Based on the facts of the case, the Court held that the school’s search of a student’s book bag and outer clothing was in accordance with the Fourth Amendment. However, as a result of a number of factual deficiencies, the search became constitutionally unreasonable when it went beyond the student’s outerwear and ultimately led to the student being required to shake and pull out her bra and underwear.

For a discussion of drug testing in public schools, see CRS Report RL34624, *Governmental Drug Testing Programs: Legal and Constitutional Developments*, by (name redacted).

## **Contents**

Introduction .....	1
Facts of the Case.....	1
Holding and Legal Reasoning .....	2

## **Contacts**

Author Contact Information .....	4
----------------------------------	---

## Introduction

The Fourth Amendment to the U.S. Constitution protects individuals from unreasonable searches and seizures. What a court determines to be “reasonable” depends on the nature of the search and its underlying governmental purpose. This report provides an analysis of the U.S. Supreme Court’s 2009 decision, *Safford Unified School District #1 v. Redding*,<sup>1</sup> which addressed the strip search of a 13-year-old middle school student.<sup>2</sup>

## Facts of the Case

In October 2003, Savana Redding was a 13-year-old student at Safford Middle School. At the time, Kerry Wilson was Safford Middle School’s assistant principal. Wilson confiscated four prescription strength ibuprofen, a single over-the-counter naproxen pain reliever, and a day planner from another student, Marissa Glines. Inside the day planner were multiple knives and lighters, and a cigarette. Glines indicated that she had received the pills and the day planner from Redding. The pills were not allowed on school premises without prior approval.<sup>3</sup> A week prior to this incident, a different student told Wilson that students were carrying weapons on the school premises and dealing pills, and that he had become ill after taking a pill that he had received from a classmate.<sup>4</sup>

Wilson ordered Redding into his office and showed her the day planner with the contraband inside. Redding admitted that the planner was hers, but said that she had allowed Glines to borrow it a few days before. Redding denied ownership of the knives, lighters, and cigarette that were in the planner. Wilson then asked Redding about the pills and informed her that he had been told that Redding had been distributing these pills to other students. Redding told Wilson that she did not know anything about the pills and denied distributing them to others. Wilson then asked if he could search through Redding’s book bag, which Redding allowed. A female assistant and Wilson searched the bag, but did not find any prohibited items. Wilson then ordered Redding to go to the nurse’s office for the nurse and female assistant to search Redding’s clothes for other pills. The two female school employees searched her outerwear and eventually had Redding remove her clothes down to her bra and underwear, at which point they required Redding “to pull her bra out and to the side and shake it, and to pull out the elastic on her underpants, thus exposing her breasts and pelvic area to some degree.” During the conduct of this search, the employees found no pills.<sup>5</sup>

Redding’s mother subsequently sued the school and the three school employees involved, claiming they violated Redding’s Fourth Amendment rights against unreasonable searches and seizures.

---

<sup>1</sup> 557 U.S. \_\_\_, 1-2 (2009).

<sup>2</sup> For a discussion of drug testing in public schools, see CRS Report RL34624, *Governmental Drug Testing Programs: Legal and Constitutional Developments*, by (name redacted).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 5.

<sup>5</sup> *Id.* at 1-2.

## Holding and Legal Reasoning

Eight justices held that the search resulted in a violation of Savana Redding's Fourth Amendment rights.<sup>6</sup>

Generally speaking, the government is required by the Fourth Amendment to obtain warrants based on probable cause in order to effectuate constitutional searches and seizures.<sup>7</sup> An exception to ordinary warrant requirements has gradually evolved, however, for cases where a "special need" of the government, unrelated to criminal law enforcement, is found by the courts to outweigh any "diminished expectation" of privacy invaded by a search. Even in circumstances where warrantless searches are permitted, they ordinarily "must be based on 'probable cause' to believe that a violation of the law has occurred."<sup>8</sup> Nevertheless, the Supreme Court has determined that neither a warrant nor probable cause is invariably required. In such situations, a Fourth Amendment standard based on a balancing test has been crafted by the Court. This "special needs" approach appears to confer optimal power on the government to search where "compelling" reason exists and correspondingly warrants less protection to the individual's "diminished expectation of privacy."

In *New Jersey v. T.L.O.*, the Court found that students are one group of individuals which has a "diminished expectation of privacy."<sup>9</sup> In that case, the Court held that, for searches conducted by school officials in the school setting, "a careful balancing of governmental and private interests suggests that the public interest is best served by a Fourth Amendment standard of reasonableness that stops short of probable cause."<sup>10</sup> The Court went on to apply a "reasonable suspicion" standard for such a search and stated "[a search] will be permissible in its scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction."<sup>11</sup>

To determine if there is reasonable suspicion to warrant a school search, the courts generally look to three different factors: (1) "the degree to which known facts imply prohibited conduct"; (2) "the specificity of the information received"; and (3) "the reliability of its source."<sup>12</sup> However, these factors "do not rigidly control," rather they are "fluid concepts that take their substantive content from the particular contexts in which they are being assessed."<sup>13</sup> The Court went on:

Perhaps the best that can be said generally about the required knowledge component of probable cause for a law enforcement officer's evidence search is that it raise a 'fair

---

<sup>6</sup> *Id.* at 1. Eight justices found the search unconstitutional, with Justice Thomas as the lone dissenter. However, Justices Stevens and Ginsburg dissented from the majority on the question of whether Wilson, the assistant principal, warranted qualified immunity for the search. "A school official is entitled to qualified immunity where clearly established law does not show that the search violated the Fourth Amendment. *Id.* at 11 (internal citations and quotations omitted).

<sup>7</sup> *Camara v. Municipal Court*, 387 U.S. 523, 528-29 (1967) ("one governing principle, justified by history and by current experience, has consistently been followed: except in certain carefully defined classes of cases, a search of private property without proper consent is 'unreasonable' unless it has been authorized by a valid search warrant.").

<sup>8</sup> *New Jersey v. T.L.O.*, 469 U.S. 325, 340 (1985).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 341.

<sup>11</sup> *Id.* at 342.

<sup>12</sup> *Safford*, 557 U.S. at 4 (internal citations omitted).

<sup>13</sup> *Id.* (internal citations and quotations omitted).

probability’ or a ‘substantial chance’ of discovering evidence of criminal activity. The lesser standard for school searches could as readily be described as a moderate chance of finding evidence of wrongdoing.<sup>14</sup>

Applying these standards, the Court held that the school’s search of Redding’s book bag and outer clothing was in accordance with the Fourth Amendment. The school had reasonable suspicion Redding was involved in pill distribution as a result of Gline’s possession of banned pills; Gline’s accusation of Redding; Redding’s acknowledged ownership of the day planner; and circumstantial evidence that Redding had been involved in alcohol consumption and cigarette smoking at a school dance a month or two before. Additionally, the search of Redding’s book bag and outer clothing were conducted in “relative privacy ... and [were] not excessively intrusive....”<sup>15</sup>

The search became constitutionally unreasonable when it went beyond Redding’s outerwear and ultimately led to Redding being required to shake and pull out her bra and underwear. The fact that the two school employees present testified that they did not see Redding’s private areas was immaterial to the Court.<sup>16</sup> It stated:

The very fact of [Redding’s] pulling her underwear away from her body in the presence of the two officials who were able to see her necessarily exposed her breasts and pelvic area to some degree, and both subjective and reasonable societal expectations of personal privacy support the treatment of such a search as categorically distinct, requiring distinct elements of justification on the part of the school authorities....<sup>17</sup>

Redding’s subjective belief that the search was scary and humiliating was reasonable, as it was “consistent [with] the experiences of other young people similarly searched, whose adolescent vulnerability intensifies the patent intrusiveness of the exposure.”<sup>18</sup>

In addition, Wilson knew that the pills found on Glines were common pain relievers, the strongest of which were equivalent to two Advil. There was no indication that the pills were being distributed in mass quantities or that single students were receiving a large number of pills. Additionally, there was no evidence supporting the belief that Redding was hiding pills in her underwear.<sup>19</sup>

Thus, the Court concluded, “[w]e think that the combination of these deficiencies was fatal to finding the search reasonable.”<sup>20</sup> The Safford Court makes clear that, while students enjoy diminished privacy expectations and school administrators have a lower level of suspicion to eclipse, there are limits to when and how searches may be conducted in the school setting. However, ascertaining if a school administrator has encroached upon those constitutional limits will depend largely on the facts of the case.

---

<sup>14</sup> *Id.* at 4-5 (internal citations and quotations omitted).

<sup>15</sup> *Id.* at 7.

<sup>16</sup> *Id.* at 8.

<sup>17</sup> *Id.* (internal citations and quotations omitted).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 9-10.

<sup>20</sup> *Id.* at 10.

## **Author Contact Information**

(name redacted)  
Legislative Attorney  
[redacted]@crs.loc.gov, 7-....

# EveryCRSReport.com

The Congressional Research Service (CRS) is a federal legislative branch agency, housed inside the Library of Congress, charged with providing the United States Congress non-partisan advice on issues that may come before Congress.

EveryCRSReport.com republishes CRS reports that are available to all Congressional staff. The reports are not classified, and Members of Congress routinely make individual reports available to the public.

Prior to our republication, we redacted names, phone numbers and email addresses of analysts who produced the reports. We also added this page to the report. We have not intentionally made any other changes to any report published on EveryCRSReport.com.

CRS reports, as a work of the United States government, are not subject to copyright protection in the United States. Any CRS report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS report may include copyrighted images or material from a third party, you may need to obtain permission of the copyright holder if you wish to copy or otherwise use copyrighted material.

Information in a CRS report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to members of Congress in connection with CRS' institutional role.

EveryCRSReport.com is not a government website and is not affiliated with CRS. We do not claim copyright on any CRS report we have republished.