



## Education Law Expert Available To Discuss Supreme Court Case About Student Strip Search

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June 8, 2009

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DURHAM, N.H. - A decision by the U.S. Supreme Court later this month regarding whether a school district violated the rights of an eighth-grader who was strip-searched for prescription drugs is being closely watched by the educational community, according to education law expert Todd DeMitchell at the University of New Hampshire.



Todd DeMitchell

DeMitchell, professor of education and justice studies and chair of the UNH Department of Education, studies the impact of court cases and other legal mechanisms on schools, school liability, and adequate supervision. In addition to his research in this area, DeMitchell has two decades of experience in K-12 as a teacher, principal and superintendent.

"This case bears close scrutiny by students and educators alike," DeMitchell says. "How will the U.S. Supreme Court balance the competing rights of the student to be free from unreasonable search and seizure while at school with the legitimate need of educators to provide a drug-free school climate and to establish appropriate discipline in the school?"

"A second issue before the court and one watched with great concern by educators is whether the school officials who authorized and conducted the search are immunized from a judgment of damages because it was not clearly established that the strip search of a student violates the constitutional rights of Savana Redding," DeMitchell says.

The U.S. Supreme Court soon will decide *Safford Unified School District v. Redding*. At issue is whether Safford Middle School officials violated the Arizona teenager's Fourth Amendment right to be free from unreasonable search and seizure when they strip-searched her looking for prescription-strength Advil. Officials had received an uncorroborated tip from a student who was caught with pills. When a search of honors student Savana Redding's pockets and backpack revealed no drugs, a strip search was conducted. No contraband pills were found. A search for the same contraband of a male student only went as far as turning out his pockets and shaking his shirt and pants up and down.

The incident, which required the teenager to expose herself to school staff, left the teenager so humiliated that she immediately transferred to another school and later developed ulcers.

"One important constitutional right guaranteed under the Fourth Amendment is the right to be free from unreasonable search and seizure. Therefore, does a school violate the constitutional rights of a 13-year-old female student by strip-searching her for prescription-strength ibuprofen? The courts seek to balance these competing interests. On one side are the student's legitimate expectations of privacy and security; on the other side is the substantial interest of teachers and administrators to maintain discipline in the school," DeMitchell says.

Search and seizure in public schools is governed by the Supreme Court decision *New Jersey v. T.L.O.*, 469 U.S. 325 (1985). Rather than probable cause as a basis for a search, school officials need only show that the search was based on reasonable suspicion. The court fashioned a two-part test to ascertain if reasonable suspicion was established. First, the search must be justified at its inception and second, the search must be permissible in its scope when the search measures are related to the objectives of the search and are not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

"Thus, the Supreme Court must first determine whether the search of Savana Redding was justified at its inception. Savana Redding had a discipline-free history but the search of her backpack and pockets, arguably, was justified," DeMitchell says. "However, the court must move to the second prong of the test whether the scope, including moving from a backpack search to a strip search with no additional incriminating evidence other than the original complaint from a student who was already caught with the contraband pills, was reasonable. In other words, was the expansion of the search justified?"

Todd DeMitchell is a professor in the Department of Education and Justice Studies Program and chair of the Department of Education at the University of New Hampshire. His research interests are the legal mechanisms that impact schools and colleges, such as education law, collective bargaining, and policy analysis. He has published more than 120 articles/chapters and four books. His most recent books are "Negligence: What Principals Need to Know to Avoid Liability" (Roman & Littlefield Education, 2006) and "Sexual Orientation, Public Schools, and the Law" (Education Law Association, 2007).

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