

Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls, et. al, 536 U.S. 822 (2002)

Excerpts from the Decision of the Supreme Court of the United States

Justice Thomas's Majority Opinion (for petitioner, the school district):

- 1) Because searches by public school officials implicate Fourth Amendment interests, the Court must review the Policy for "reasonableness," the touchstone of constitutionality. In contrast to the criminal context, a probable cause finding is unnecessary in the public school context because it would unduly interfere with maintenance of the swift and informal disciplinary procedures that are needed.
- 2) Students who participate in competitive extracurricular activities voluntarily subject themselves to many of the same intrusions on their privacy as do athletes. Each of them must abide by OSSAA rules, and a faculty sponsor monitors students for compliance with the various rules dictated by the clubs and activities.
- 3) The invasion of students' privacy is not significant, given the minimally intrusive nature of the sample collection and the limited uses to which the test results are put.
- 4) The Policy clearly requires that test results be kept in confidential files separate from a student's other records and released to school personnel only on a "need to know" basis. Moreover, the test results are not turned over to any law enforcement authority. Nor do the test results lead to the imposition of discipline or have any academic consequences.
- 5) The Policy effectively serves the School District's interest in protecting its students' safety and health. Preventing drug use by schoolchildren is an important governmental concern.
- 6) A demonstrated drug abuse problem is not always necessary to the validity of a testing regime. Given the nationwide epidemic of drug use, and the evidence of increased drug use in Tecumseh schools, it was entirely reasonable for the School District to enact this particularly drug testing policy.

Excerpts adapted from *Independent School District of Pottawatomie County 92 v. Earls, et al.* found at www.findlaw.com

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Excerpts from the Decision of the Supreme Court of the United States

Justice O'Connor's Dissenting Opinion (for respondent, Lindsay Earls):

- 1) Many children, like many adults, engage in dangerous activities on their own time; that children are enrolled in school scarcely allows government to monitor all such activities.
- 2) If a student has a reasonable expectation of privacy in the personal items she brings to school, surely she has a similar expectation regarding the chemical composition of her urine.
- 3) Information about students' prescription drug use was routinely viewed by Lindsay's choir teacher, who left files containing the information unlocked and unsealed, where others, including students, could see them. Test results were given to all activity sponsors whether or not they had a clear "need to know."
- 4) Tecumseh (the school) repeatedly reported to the Federal Government during the period leading up to the adoption of the policy that "types of drugs [other than alcohol and tobacco] including controlled dangerous substances, are present [in the schools] but have not identified themselves as major problems at this time."
- 5) Students "volunteer" for extracurricular pursuits in the same way they might volunteer for honors classes: They subject themselves to additional requirements, but they do so in order to take full advantage of the education offered them.
- 6) Nationwide, students who participate in extracurricular activities are significantly less likely to develop substance abuse problems than are their less-involved peers.
- 7) Even if students might be deterred from drug use in order to preserve their extracurricular eligibility, it is at least as likely that other students might forgo their extracurricular involvement in order to avoid detection of their drug use.