Handout F: *Board of Education of Pottawatomie v. Earls* (2002)

Case Background

While the Court has long held that students "do not shed their constitutional rights … at the schoolhouse gate," it has also emphasized that students in public school have less of an expectation of privacy than adults. Therefore, what would be considered an unreasonable search if performed by a police officer on an adult, may or may not be considered unreasonable if performed by a public school official on a student.

In *New Jersey v. T.L.O.* (1985), the Court held that because of the special needs of the school environment, public school officials were not subject to the Fourth Amendment's warrant requirement. They were, however, bound by the amendment's requirement that searches be "reasonable."

In *Skinner v. Railway Labor Executives Association* (1989), the Court held that drug tests were "searches" subject to Fourth Amendment considerations. The Court was asked to consider the constitutionality of random drug-testing of student athletes in *Vernonia School District v. Acton* (1995). Citing the diminished expectation of privacy of student athletes, along with the danger of serious injuries when competitors were on drugs, the Court upheld the policy as reasonable.

When the Board of Education of Pottawatomie instituted a policy requiring random drug tests of all students involved in any extra-curricular activity, Lindsay Earls and two other students challenged the policy as unconstitutional.

Majority Opinion (5-4), *Board of Education of Pottawatomie v. Earls* (2002)

Searches by public school officials, such as the collection of urine samples, implicate Fourth Amendment interests. We must therefore review the School District's Policy for "reasonableness," which is the touchstone of the constitutionality of a governmental search…

While schoolchildren do not shed their constitutional rights when they enter the schoolhouse… Fourth Amendment rights… are different in public schools than elsewhere; the 'reasonableness' inquiry cannot disregard the schools' custodial and tutelary responsibility for children.

Applying the principles of Vernonia to the somewhat different facts of this case, we conclude that [Pottawatomie's] Policy is also constitutional…

A student's privacy interest is limited in a public school environment where the State is responsible for maintaining discipline, health, and safety. …Securing order in the school environment sometimes requires that students be subjected to greater controls than those appropriate for adults…

Handout F: Page 2

[S]tudents who participate in competitive extracurricular activities voluntarily subject themselves to many of the same intrusions on their privacy as do athletes. Some of these clubs and activities require occasional off-campus travel and communal undress. All of them have their own rules and requirements for participating students that do not apply to the student body as a whole. … This regulation of extracurricular activities further diminishes the expectation of privacy among schoolchildren…

Given the minimally intrusive nature of the [urine] sample collection and the limited uses to which the test results are put, we conclude that the invasion of students' privacy is not significant…

The drug abuse problem among our Nation's youth has hardly abated since Vernonia was decided in 1995. In fact, evidence suggests that it has only grown worse…

In upholding the constitutionality of the Policy, we express no opinion as to its wisdom. Rather, we hold only that [Pottawatomie's] Policy is a reasonable means of furthering the School District's important interest in preventing and deterring drug use among its schoolchildren.

Dissenting Opinion, *Board of Education of Pottawatomie v. Earls* (2002)

Seven years ago, in *Vernonia School Dist. v. Acton*, (1995), this Court determined that a school district's policy of randomly testing the urine of its student athletes for illicit drugs did not violate the Fourth Amendment. In so ruling, the Court emphasized that drug use "increase[d] the risk of sports-related injury" and that Vernonia's athletes were the "leaders" of an aggressive local "drug culture" that had reached "epidemic proportions."

Today, the Court relies upon Vernonia to permit a school district with a drug problem its superintendent repeatedly described as "not … major," to test the urine of an academic team member solely by reason of her participation in a nonathletic, competitive extracurricular activity—participation associated with neither special dangers from, nor particular predilections for, drug use…

The particular testing program upheld today is not reasonable, it is capricious, even perverse: Petitioners' policy targets for testing a student population least likely to be at risk from illicit drugs and their damaging effects. I therefore dissent…