

SHOULD PARTICIPATION IN EXTRACURRICULAR ACTIVITIES TRIGGER TESTING?

The Vernonia v. Acton & Pottawatomie v. Earls Cases

Extracurricular activities in high school are where memories are made—band trips, academic bowl wins and overtime basketball victories. In many schools, participation in these activities is a privilege that may be suspended if a student has failing grades or has violated school policy, such as the use of illegal drugs. Some schools test students' urine for the presence of drugs. The circumstances surrounding these tests are a very controversial subject and one so important that the Supreme Court of the United States has decided two cases on the subject in the last nine years: *Vernonia v. Acton* (1995) and *Pottawatomie v. Earls* (2003). (Vernonia is the name of a school district in Oregon, and Pottawatomie is the name of a school district in Oklahoma.)

In *Vernonia*, the school was grappling with a serious drug problem, especially among the athletes. School officials decided to randomly test student athletes for drugs through urine testing. The Supreme Court agreed to hear this case because a urine sample is a search of someone's body, and all Americans have a Fourth Amendment constitutional right not to be subjected to *unreasonable* searches by government officials. Law enforcement officers may search someone only if the officers have a *reasonable suspicion* the person has committed a crime. Some students felt their Fourth Amendment rights had been violated because school administrators did not have to have this *reasonable suspicion*.

The Supreme Court held that it was constitutional to require student athletes to have random drug tests because there was a serious drug problem and because the test results were not given to the police; they strictly were used to enforce school policy and to get the students into drug counseling. The Court held that *reasonableness is judged in this case by balancing the intrusion of requiring a student athlete to provide a urine sample against the school's interest in curbing illegal drug use*. Not all of the judges agreed with this decision and stated that the school should test only those student athletes whom the school reasonably suspected of taking drugs.

In *Pottawatomie*, school administrators agreed there were no serious drug problems among the student body, but felt that testing all students in extracurricular activities would deter the use of drugs. The Court held that this kind of drug testing also was a *reasonable means* for the school to prevent students from using illegal drugs. As in *Vernonia*, some judges were concerned that it was unconstitutional for the school to test a student unless the school *reasonably suspected* a student of taking drugs.

Discussion questions:

1. What are the differences between the *Vernonia* and *Pottawatomie* cases? How are they similar? How would you have ruled in these cases?
2. Do you think the Court would have ruled differently if either one of the schools turned students who tested positively over to law enforcement officials to face criminal charges?
3. What would you suggest to school administrators as an alternative to drug testing to help prevent the use of illegal drugs?

This Newspaper In Education feature is brought to you by your newspaper, The Missouri Bar and Missouri Press Association.

(For further research, see www.landmarkcases.org)

