Applying Precedents Activity

Comparison case: *Pottawatomie School District v. Earls* (2002)

Precedent cases: *New Jersey v. T.L.O.* (1985) and *Vernonia v. Acton* (1995)

What you need to know before you begin: When the Supreme Court decides a case, it clarifies the law and serves as guidance for how future cases should be decided. Before the Supreme Court makes a decision, it always looks to precedents—past Supreme Court decisions about the same topic—to help make the decision. A principle called *stare decisis* (literally "let the decision stand") requires that the precedent be followed. If the case being decided is legally identical to a past decision, then the precedent is considered binding and the Supreme Court must decide the matter the same way. However, cases that make it to the Supreme Court are typically not completely identical to past cases, and justices must consider the similarities and differences when deciding a case.

The process of comparing past decisions to new cases is called applying precedent. Lawyers often argue for their side by showing how previous decisions would support the Supreme Court deciding in their favor. This might mean showing how a previous decision that supports their side is analogous (similar) to the case at hand. It can also involve showing that a previous decision that does not support their side is distinguishable (different) from the case they are arguing.

How it's done: In this exercise, you will analyze a precedent and compare it to *Pottawatomie v. Earls* (2002). You have been provided with information about three cases: **1)** the background, facts, issue, and constitutional amendments and precedents of the comparison case (*Pottawatomie v. Earls*) and **2)** a summary of the two precedent cases (*New Jersey v. T.L.O. and Vernonia v. Acton*), which can be found within the materials for *Pottawatomie v. Earls* (2002).

After reading about the cases, you will look for evidence that *Pottawatomie v. Earls* is **analogous** (similar) to the precedent cases and evidence that the cases are **distinguished** (different) from the precedent cases. After considering all possibilities, you must decide whether the precedents are analogous enough to command the same outcome in the comparison case, or whether the comparison case is different enough to distinguish itself from the precedents.

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1. Using factual and legal similarities, show how *Pottawatomie v. Earls* is **analogous** (similar) to the precedent case *(New Jersey v. T.L.O.)*:

2. Show how *Pottawatomie v. Earls* is **distinguished** (different) from the precedent case *(New Jersey v. T.L.O.)* by pointing out factual and legal differences:

3. We found that *Pottawatomie v. Earls* is _____ (**analogous to** or **distinguished from**) the precedent case *(New Jersey v. T.L.O.)* because:

4. Using factual and legal similarities, show how *Pottawatomie v. Earls* is **analogous** (similar) to the precedent case *(Vernonia v. Acton)*:

5. Show how *Pottawatomie v. Earls* is **distinguished** (different) from the precedent case *(Vernonia v. Acton)* by pointing out factual and legal differences:

6. We found that *Pottawatomie v. Earls* is _____ (**analogous to** or **distinguished from**) the precedent case *(Vernonia v. Acton)* because:

7. Based on the application of the precedents, how should *Pottawatomie v. Earls* be decided? Explain your decision.

   _____ Decision for Pottawatomie School District

   _____ Decision for Earls

   Explanation:

Pottawatomie v. Earls (2002)

Argued: March 19, 2002

Decided: June 27, 2002

Facts

Tecumseh High School is located about 40 miles from Oklahoma City in Pottawatomie County, OK. The school offers a variety of extracurricular activities for its students. These activities include choir, band, color guard, Future Farmers of America, Future Homemakers of America, the academic team, as well as athletics, cheerleaders, and Pom Pom. The majority of the school's 500 students participate in one or more of these activities.

On September 14, 1998, the school district adopted the Student Activities Drug Testing Policy. The policy required drug testing of all students who participated in any extracurricular activity. Prior to participating in an extracurricular activity, students had to sign a written consent agreeing to be randomly drug tested during the year while participating and at any time while participating based upon reasonable suspicion. The test that was used detected amphetamines, marijuana, cocaine, opiates, barbiturates, and benzodiazepines. The test did not detect alcohol or nicotine.

Two students challenged this policy in federal court. Lindsay Earls was a member of the choir, the marching band, and the academic team. Daniel James wanted to participate in the academic team. They (and their parents) challenged the application of the policy to them but not to students participating in school athletics. They believed that the policy violated their right to be free from unreasonable searches and seizures.

At the trial, the parties agreed to the following description of how the testing worked:

> "The students to be tested are called out of class in groups of two or three. The students are directed to a restroom, where a faculty member serves as a monitor. The monitor waits outside the closed restroom stall for the student to produce the sample. The monitor pours the contents of the vial into two bottles. Together the faculty monitor and the student seal the bottles. The student is given a form to sign, which is placed, along with the filled bottles, into a mailing pouch in the presence of the student. Random drug testing was conducted in this manner on approximately eight occasions during the 1998–99 school year."

At the time of the test, the monitor also gives each student a form on which they may list any medications legally prescribed. This list is also submitted to the testing lab but not seen by the school district. Results of the testing are kept in files separate from the students' other educational records. Students who refuse to submit to the policy cannot participate in the activity.

The consequences of a positive drug test escalate with each positive test. After the first positive test, a student may participate in an extracurricular activity if the student agrees to drug counseling and follow-up testing. After the second positive test, the student is suspended from competitive activity for 14 days and may return to the activity if the student participates in four hours of substance-abuse

education and follow-up testing. A third positive test in one school year results in a suspension from the competitive activity for one year. No positive results are reported to law enforcement officials or carry criminal consequences.

The trial court found (and school administrators acknowledged) minimal use of drugs at this school. Between the 1998–1999 and the 1999–2000 school years, a total of 484 students were tested as part of this policy. Four students tested positive. School administrators agreed that alcohol and tobacco were more serious problems among the school's students.

The federal District Court found that the policy did not violate the Fourth Amendment's prohibition against unreasonable searches. On March 21, 2001, a panel of the 10th Circuit Court of Appeals reversed, with one judge dissenting. The school board asked the U.S. Supreme Court to hear the case, and it agreed.

Constitutional Amendment and Supreme Court Precedents

- **Fourth Amendment to the U.S. Constitution**

  "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized."

- ***New Jersey v. T.L.O.* (1985)**

  A public-school student was caught smoking in the bathroom in violation of school policy. When she denied the allegation, the assistant principal searched her purse and found cigarettes as well as rolling papers commonly associated with marijuana use. Concerned about illegal drug possession, the assistant principal proceeded with a more intrusive search deeper into the purse and found marijuana, a pipe, plastic bags, a large amount of money, and documents implicating the student in marijuana dealing, which was illegal. The student claimed the search violated her Fourth Amendment rights.

  The U.S. Supreme Court weighed the student's privacy interests against the need of educators to maintain a safe learning environment. The Court found that the Fourth Amendment's prohibition on unreasonable searches applied to searches conducted by school officials. The Court developed a two-part inquiry for what constitutes a reasonable search: **1)** was the search justified at its inception? and **2)** was the search reasonable in scope? To satisfy the first prong of the inquiry, the school official must have a reasonable suspicion—a standard easier to meet than probable cause—that the search will turn up evidence. To satisfy the second prong, the extent of the search must be 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." Here, the report that the student had been smoking warranted reasonable suspicion to justify the search at its inception. The discovery of rolling papers gave rise to a suspicion of marijuana use and justified continuing and

expanding the scope of the search. Thus, the Court held that the search of the student's purse was reasonable.

- ***Vernonia v. Acton*** **(1995)**

  Vernonia School District in Oregon had a drug problem, and an investigation showed that student athletes were among those using illegal drugs. The school district was concerned that drug use would increase the risk of injury in sports and that athletes, as student leaders, would spread the use of drugs throughout the student body. For these reasons Vernonia School District began a program of random urinalysis drug testing on student athletes. James Acton, a student going out for the football team, refused to consent to the random testing and, along with his parents, challenged the policy as a violation of his Fourth Amendment protection against unreasonable search. In a 6-3 decision, the U.S. Supreme Court found for Vernonia School District. The majority opinion explained the Court's need to balance the intrusiveness of the search and the school district's legitimate interest in maintaining safety. The Court ruled that the search was reasonable because urinalysis is not overly intrusive (they compared it to using a public restroom) and the safety concerns of ensuring athletes are not under the influence of drugs is a legitimate interest of the school district.