The University of Akron
School of Law

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Writing Sample

Summary Judgement Brief

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CYNTHIA WILSON,	)	
	)	
Plaintiff,	)	Civil Action No. 1:19-CV-420
	)	
v.	)	Judge Julian B. Koster
	)	
	)	
ATHENS TOWNSHIP LOCAL SCHOOL DISTRICT,	)	
	)	
	)	
Defendant.	)	
	)	

Plaintiff's Memorandum of Law In Support of Her Motion for Summary Judgment

Plaintiff respectfully moves this Court for summary judgment pursuant to Federal Rule of Civil Procedure 56 and submits this memorandum in support of her motion.

Introduction

The undisputed facts establish that the school's use of drug-sniffing dogs to search students, without warrant or suspicion, violated the Fourth Amendment, making summary judgment appropriate as a matter of law. This case arises from an incident in which a school-administered drug dog conducted an invasive sniff of Cynthia Wilson's person, subjecting her to an unreasonable search in violation of the Fourth Amendment.

The central issue before this Court is whether the school's suspicionless use of drug-sniffing dogs to search students' bodies constitutes an unconstitutional search under the Fourth Amendment. Plaintiff asserts that such searches are inherently unreasonable because they invade

students' fundamental expectation of privacy, lack individualized suspicion, and are not justified under the "special needs" doctrine. Students maintain both a subjective expectation of privacy in their persons and an objective expectation of privacy recognized by society. The search was also unreasonable because it was not justified at inception and was not reasonably related in scope to the school's interest in maintaining a drug-free environment. The school lacked individualized suspicion to search Cynthia Wilson, and no faculty member had reported any concern regarding her. Moreover, the involvement of law enforcement undermines any claim that the search falls under a special needs exception, as it was conducted for general law enforcement purposes rather than a limited administrative objective.

Because the drug sniff of Cynthia Wilson was both a search under the Fourth Amendment and unreasonable in its justification and execution, it is therefore unconstitutional. This Court should grant summary judgment in her favor, enjoin the school from continuing its practice of suspicionless dog sniffs of students' persons, and declare the school's policy unconstitutional.

Statement Of Facts

Plaintiff incorporates by reference the parties' Joint Statement of Undisputed Facts (JSUF).

Summary Judgment Standard

Plaintiff, Cynthia Wilson, respectfully moves this Court for relief pursuant to Rule 56 and mandates an entry of summary judgment for the movant against a party who fails to sufficiently demonstrate the existence of material fact essential to that party's case. Fed. R. Civ. P. 56(c). In cases involving searches in schools, courts must balance the government's interest in

maintaining order with students' recognized constitutional rights. *New Jersey v. T.L.O.,* 469 U.S. 325, 331 (1985). There is no genuine dispute that Defendant conducted a suspicionless search of Plaintiff's person using a drug-detection dog, and thereby such a search implicates the Fourth Amendment's protections. Because the search was not justified at inception and was unreasonably intrusive in scope, Plaintiff is entitled to summary judgment as a matter of law. Whether a search is constitutional under the Fourth Amendment is a question of law for the Court to decide.

Argument

This case raises a fundamental Fourth Amendment question: whether a suspicionless canine sniff of a student's person in a school setting constitutes an unreasonable search. Plaintiff Cynthia Wilson contends that the search violated her constitutional rights because it invaded her reasonable expectation of privacy and was unreasonable in both its justification and execution.

First, the canine sniff was a search under the Fourth Amendment because it violated Cynthia's reasonable expectation of privacy, which courts have recognized applies to students in school. *New Jersey,* 469 U.S. at 333. Under *Katz v. United States*, 389 U.S. 347 (1967), a search occurs when an individual has a subjective expectation of privacy that society recognizes as objectively reasonable. Direct physical intrusions, particularly of a student's body, constitute a privacy violation. *Horton v. Goose Creek Indep. Sch. Dist*., 690 F.2d 475 (5th Cir. 1982).

Second, the search was unreasonable under the Fourth Amendment's two-prong test: (1) justified at inception—the school had no individualized suspicion, relying solely on a drug dog's alert, which courts have found insufficient for searches of students; (2) reasonably related in scope—the search was overly intrusive, causing public embarrassment, targeting a minor, and

conducted without proper safeguards or adherence to school policy. *New Jersey,* 469 U.S. at 331; U.S. Const. amend. IV.

The Fourth Amendment protects against "unreasonable searches and seizures." U.S. Const. amend. IV. The Constitution protects "people, not places." *Katz,* 389 U.S. at 351. People are not objects, and thus people retain a higher expectation of privacy of their person. Yet, the Athens Township Local School District's High School (ATLSD) infringed on this right by releasing drug-sniffing dogs on innocent students as if they were criminals. Dog sniffs are searches—and can be deemed unreasonable when performed on suspicionless schoolchildren. *Katz*, 389 U.S. at 351. Just because the individuals searched are students does not mean they "shed their constitutional rights at the schoolhouse gate." *Horton,* 690 F.2d at 473. The use of dogs to sniff students' bodies is highly intrusive—an indecent and demeaning violation of student's reasonable expectation of privacy over their own bodies. *B.C. v. Plumas Unified Sch. Dist.*, 192 F.3d 1260, 1263 (9th Cir. 1999)

While schools have an interest in maintaining safety and discipline, they must do so within the bounds of the Fourth Amendment. As Benjamin Franklin cautioned, 'those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety.' *Votes and Proceedings of the House of Representatives of the Province of Pennsylvania,* 1755-1756, p. 19. The Founders recognized the importance of safeguarding individual rights against government overreach, and those protections extend to students in public schools. Ensuring that policies respect constitutional principles is essential to maintaining both safety and fundamental freedoms.

I. The Court Should Hold That the Canine Sniff of Cynthia Wilson's Person Constituted a Search Under the Fourth Amendment Because It Invaded Her Reasonable Expectation of Privacy.

The canine sniff of Cynthia Wilson's person constituted a search under the Fourth Amendment because it violated her reasonable expectation of privacy. Under *Katz v. United States*, a search occurs when the government intrudes upon an individual's subjective expectation of privacy that society recognizes as objectively reasonable. Schools are subject to Fourth Amendment limitations, and students retain constitutional protections against unreasonable searches. *New Jersey,* 469 U.S. at 336. Courts have specifically recognized that bodily intrusions require heightened protection. *Horton,* 690 F.2d at 474.

The use of drug-sniffing dogs to inspect students' bodies constitutes an unreasonable search under the Fourth Amendment because it invades the student's fundamental expectation of privacy, as determined in *Horton*. A search occurs when the government intrudes upon an individual's reasonable expectation of privacy, which exists when the person subjectively expects privacy in a given space or activity, and society recognizes that expectation as objectively reasonable. *Katz,* 389 U.S at 361; *Minnesota v. Olson*, 495 U.S. 91, 95 (1990); *Kyllo v. United States*, 533 U.S. 27, 31 (2001). Additionally, a canine sniff of a person's odor also constitutes a search because privacy protections include the personal space surrounding an individual's body. The Supreme Court has recognized that privacy rights extend to enclosed spaces like telephone booths and curtilage surrounding a home. *Florida v. Jardines; Katz v. United States.* Since the expectation of privacy includes Cynthia's personal space, the dog sniff was a search under the Fourth Amendment. *Florida v. Jardines*, 569 U.S. 1, 13 (2013). *Katz,* 389 U.S. at 347. Society at large recognizes the "interest in the integrity of one's person," and that

recognition extends to the school environment. *Horton,* 690 F.2d at 748*; Safford Unified Sch. Dist. #1 v. Redding*, 557 U.S. 364, 367 (2009). Even though students have a lower expectation of privacy compared to "members of the population" they still retain their constitutional rights. *New Jersey,* 469 U.S. at 348. The child has an expectation that items, personal belongings and "what he [the school child] carries in his pockets are presumptively protected from the prying eyes and ears of the state." *Jones v. Latexo Indep. Sch. Dist.,* 499 F. Supp. 223, 232 (E.D. Tex. 1980). When the government pries into those private, personal belongings, the government violates the expectation of privacy the child has and thereby performs a search because of the invasion of a reasonable expectation of privacy. However, even more important than the privacy of a person's belongings is the expectation of privacy to their own body. *Latexo Indep. Sch. Dist.,* 499 F. Supp. at 232.

Assessing the reasonableness of a search in the school context requires evaluating the extent to which it affects a student's privacy expectations, considering factors such as the student's age, the location of the search (e.g., classroom, locker, or personal items), and the clarity of school policies regarding searches. *Katz,* 389 U.S. at 351.While students retain some expectation of privacy, this expectation is diminished within the school environment, where administrative concerns for order and safety are given weight. *Vernonia,* 515 U.S. at 652. However, the level of intrusion imposed by the search remains a critical factor in determining its reasonableness. *New Jersey,* 469 U.S. at 330.The scope and manner of the search must be examined to determine whether it is narrowly tailored and minimizes unnecessary privacy harm. *Id*. at 331. More invasive searches, particularly those involving a student's body, require heightened scrutiny to assess their necessity and proportionality, as bodily searches impose a significantly greater intrusion on personal privacy. *Id.* at 330; *Bd. of Educ*, 536 U.S. at 836.

In *Horton*, the court held that allowing the dogs to sniff students directly constituted an unreasonable search, as it was intrusive and could be humiliating, thus violating students' Fourth Amendment rights. *Horton,* 690 F.2d at 479. The school allowed dogs into classrooms unannounced to randomly search the students and their belongings. The dog came in and "walked up and down the aisles and stopped at every desk and sniffed on each side all around" the students. *Id.* at 478. When a dog raised the alert on two students, the officers searched one's purse and had them both empty their pockets. No contraband was found on either student. *Id.* at 477. The court held that the students' persons are certainly "not the subject of lowered expectations of privacy." *Id.* at 477. Not only are students protected by the full force of the Fourth Amendment, but the court also reasoned that it "applies with its fullest vigor against *any* intrusion on the human body." *Id.* at 478. The Court insisted that students have a legitimate expectation of privacy in their persons, even within the school setting. *Id.* at 479.

Similarly, in *B.C. v. Plumas Unified School District*, 192 F.3d 1260, 1266 (9th Cir. 1999), the court held that a search was conducted where the police drug dog sniffed students in a close manner, within a few inches of the students' bodies. Students were sniffed by a police drug dog that was accompanied by a police enforcement officer. *Plumas,* 192 F.3d 1260 at 1263. The drug-dog sniffed the air around the students' bodies, violating their privacy. *Id.* Emphasizing that "students do not shed their constitutional rights . . . at the schoolhouse gate" the court determined that this breach of students' expectation of privacy had violated their constitutional rights under the fourth amendment. *Id.* at 1267. The court specifically noted that "the intensive smelling of people, even if done by dogs, [is] indecent and demeaning." *Id.* at 1266. Following the direction of the Supreme Court in *United States v. Jacobsen*, to conclude that a search occurs when a reasonable expectation of privacy is infringed upon, the *Plumas* court recognized that a dog sniff

of a person is more intrusive than a sniff of unattended items, as bodily odors are highly personal. *United States v. Jacobsen*, 466 U.S. 109, 124 (1984); *Plumas,* 192 F.3d 1260 at 1265. Agreeing with the Fifth Circuit's assessment of the potential for dog sniffing to cause embarrassment or humiliation, the court determined that "close proximity sniffing of the person is offensive whether the sniffer be canine or human." *Id.* at 113 (quoting *Horton,* 690 F.2d at 474.*)*

This principle was extended in *Florida v. Jardines*, 569 U.S. 1, 13 (2013), where the Supreme Court held that a drug-detection dog sniffing around the front porch of a home constituted a search, even though the officers did not physically enter the home. *Florida,* 569 U.S. 1 at 13. The Court reasoned that the Fourth Amendment protects not only physical spaces but also the surrounding area where an individual maintains an expectation of privacy. *Id.* at 14. Similar reasoning applies in the school context, where students have a recognized privacy interest in their bodies and the immediate space around them. *Horton,* 690 F.2d at 478.

Here, the Athens Township Local School District's deployment of drug-detection dogs constitutes an unreasonable search because it invades students' fundamental expectation of privacy. The undisputed facts demonstrate that Cynthia has both a subjective and objective expectation of privacy. JSUF ¶81, 85, 87-88, 91; *Safford Unified Sch. Dist. #1 v. Redding*, 557 U.S. 364. Cynthia, like all students, held a subjective expectation of privacy in her body—she did not expect to be randomly subjected to a drug-detection dog sniffing her person while seated in her classroom. JSUF ¶ 56. Her expectation was reinforced by the fact that school officials and law enforcement had no individualized suspicion to justify the intrusion. JSUF ¶25, 55. Objectively, society recognizes that students maintain a legitimate expectation of privacy in their bodies. *Safford*, 557 U.S. at 367. The public nature of the search increased its severity, subjecting

Cynthia to humiliation in front of her peers. JSUF ¶73-75, 83, 91; *Safford*, 557 U.S. at 364. Just as the Court in *Katz* found that the government's surveillance extended beyond physical intrusion, and in *Jardines* ruled that a dog sniff of a home's curtilage was an unconstitutional search, a drug-detection dog intruding into the space immediately surrounding a student's body is equally intrusive. *Katz*, 389 U.S. at 355; *Florida v. Jardines*, at 16.

As in *Horton*, the present procedure at Athens Township Local School District mirrors that same intrusive character. The court underscored that a dog's close contact with a student's body—particularly when it involves the dog placing its nose near the student—constituted a search because it violated the reasonable expectation of privacy. *Horton,* 690 F.2d at 453. JSUF ¶55-57, 61, 73-75, 81, 87-88.

However, unlike in *Skinner v. Ry. Labor Executives' Ass'n*, 489 U.S. 605, 609 (1989), where the search was conducted in a regulated industrial environment with a diminished expectation of privacy, the ATLSD's approach lacks any such special needs. In *Skinner*, the context involved safety-sensitive operations where the regulated nature of the industry justified a limited intrusion under a balancing of interests; here, no comparable compelling governmental interest or individualized justification exists. *Skinner*, 489 U.S. at 608. Instead, the policy appears to be a blunt instrument—applied uniformly to all students regardless of any evidence of wrongdoing—that trivializes the constitutional protections afforded to individuals.

Ultimately, the invasive nature of these searches not only humiliates students but also signals a broader governmental overreach into areas that the Fourth Amendment was designed to protect. It thereby undermines this fundamental principle of freedom that individuals, specifically minors in an educational setting, should be free from suspicionless intrusions into their personal privacy. By subjecting students to public and humiliating scrutiny without

individualized suspicion, the school district's policy erodes the constitutional safeguard against unreasonable searches and fosters an environment where students are treated as suspects rather than as young individuals entitled to legal protections.

II. The Court Should Hold That the Search Was Unreasonable Under the Fourth Amendment Because It Lacked a Special Needs Justification and Was Not Reasonably Related in Scope to Preventing Drug Use Within the School

The search of Cynthia Wilson was unreasonable because there were no special needs justifying it, and the search failed both aspects of the reasonableness test set forth in *Katz*. First, there were no special needs justifying a suspicionless search. The special needs doctrine applies only when a search serves a purpose beyond ordinary law enforcement, such as ensuring school safety when other methods of prevention have not been working or maintaining order when there is a growing trend of student committed crime. *Skinner v. Ry. Labor Executives' Ass'n*, 489 U.S. 602, 608 (1989). Second, under *New Jersey v. T.L.O.,* school searches must be justified at inception and reasonably related in scope to be constitutional. *New Jersey,* 469 U.S. at 331. The search was unjustified at inception because it lacked individualized suspicion. A search is only justified at inception if there are reasonable grounds to suspect that a specific student is violating school rules or the law. *New Jersey,* 469 U.S. at 332. The school relied solely on a drug-detection dog's alert, which courts have found insufficient to establish individualized suspicion for a search of a student's person. *Horton, 690 F.2d at 475.*

A. The Court Should Hold That the Search Was Unreasonable Because There Were No Special Needs Justifying the Search

The Supreme Court has recognized a narrow exception under the special needs doctrine, which allows suspicionless searches in limited circumstances where the government's interest outweighs privacy rights. *Ferguson v. City of Charleston*, 532 U.S. 67, 74 (2001). The Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures, and the Court has "insisted upon probable cause as a minimum requirement for a reasonable search permitted by the Constitution." *Chambers v. Maroney*, 399 U.S. 42, 48 (1970). Students are protected by the Fourth Amendment from "unreasonable searches and seizures" while in the classroom. *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 652 (1995). The "special needs" exception is intended to provide only a narrow, limited exception to the requirement of probable cause in very special circumstances. *Ferguson*, 532 U.S. at 74. To establish whether a reasonable search could be performed in the absence of probable cause, the court should analyze three factors. (1) the impact on the student's reasonable expectation of privacy; (2) the intrusion posed by the search, and; (3) whether the requirement of individualized suspicion would jeopardize the governmental interest. *Chandler v. Miller*, 520 U.S. 305, (1997).

An analysis of whether the government's interest in conducting the search outweighs the students' privacy rights should consider whether individualized suspicion is necessary for the governmental interest and not allow overly broad searches under the guise of the special needs doctrine. *Bd. of Educ. v. Earls*, 536 U.S. 822, 829 (2002). The government's interest must be compelling enough to justify bypassing the usual probable cause requirement, but this rarely tips the balance in favor of the government. *Bd. of Educ.* 536 U.S. at 829.Courts should apply a balancing test that tends to favor "the individual's privacy" against "the promotion of legitimate governmental interests." *Id.* at 829.

In *Ferguson v. City of Charleston*, the Supreme Court held that a search was unconstitutional under the Fourth Amendment when a state hospital conducted nonconsensual drug tests on pregnant women and then reporting the positive results to law enforcement. *Ferguson,* 532 U.S. at 78. The hospital argued that its actions were justified under the "special needs" doctrine, which allows certain suspicionless searches when unrelated to law enforcement. *Id.* However, the Court rejected this argument, emphasizing that the primary purpose of the drug tests was to generate evidence for criminal prosecution, not to serve an independent medical or public health need. *Id.* at 82. The Court emphasized that the Fourth Amendment's general prohibition on warrantless, suspicionless searches cannot be bypassed when the primary objective is law enforcement rather than distinct. *Id. at 81.* The policy did not fit within the narrow "special needs" exception because its central and immediate purpose was to generate evidence for law enforcement, rather than to serve an independent medical or public health interest. *Id.* at 78.The government's interest must be so high that it is greater than the individual's right of privacy, but this is rarely the case. *Id.* at 70. Since law enforcement activities inherently contribute to a larger societal goal or mission, almost any "suspicionless search could be immunized under the special needs doctrine by defining the search solely in terms of its ultimate, rather than immediate, purpose." *Id.* at 79. The court states that such a search, "is worthy of being considered a special need is inconsistent with the Fourth Amendment." *Id.* at 78.

In *Skinner v. Railway Labor Executives' Association*, the Supreme Court held that the FRA's regulations of searches were reasonable under the Fourth Amendment, recognizing the government's compelling interest in ensuring public safety. *Skinner v. Railway Labor Executives' Association*, 489 U.S. 602, 608 (1989). The U.S. Supreme Court considered the constitutionality of Federal Railroad Administration (FRA) regulations requiring mandatory drug

and alcohol testing for railroad employees involved in train accidents or who violated safety rules. The regulations were aimed at addressing the safety risks posed by impaired employees in the railroad industry and whether these regulations violated the Fourth Amendment's protection against unreasonable searches and seizures. *Skinner,* 489 U.S. at 608. Specifically, it examined whether the government's interest in railroad safety justified warrantless and suspicionless testing of employees. *Id.* at 610.

The Court noted that the regulations served a "special need" beyond typical law enforcement, as they were intended to prevent accidents and protect the safety of both railroad employees and the traveling public. *Skinner,* 489 U.S. at 608. It emphasized that the testing procedures were narrowly tailored and standardized, minimizing discretion and ensuring regularity, and thus that this was an acceptable exception for not needing individualized suspicion or a warrant. *Id.* at 608. Furthermore, the Court pointed out that railroad employees have diminished privacy expectations due to their participation in a highly regulated industry, where safety is paramount, and their fitness and sobriety are critical to preventing accidents. *Id.* Consequently, the Court upheld the regulations, emphasizing that the special need to ensure safety in this context outweighed privacy concerns. *Id.* at 609.

Here, the school's use of drug-sniffing dogs to search students without individualized suspicion does not qualify under the special needs exception and, therefore, violates the Fourth Amendment. Unlike the narrow and well-defined special needs circumstances recognized by the Supreme Court in *Skinner*, the search of Cynthia Wilson was conducted primarily for law enforcement purposes, not for maintaining school order or addressing a unique safety concern. The search performed on Cynthia lacked any individualized suspicion or justification from inception.

First, the search was not justified under the special needs doctrine because it closely resembled ordinary law enforcement investigations. The Supreme Court has made clear that special needs searches must serve purposes beyond routine law enforcement. *Skinner*, 489 U.S. at 608; *Ferguson,* 532 U.S. at 77-81. Here, the search was conducted with law enforcement involvement, using a police-trained drug-detection dog, and students were removed from class for interrogation. Because the school relied on law enforcement procedures rather than a narrowly tailored school safety policy, the search cannot be justified under the special needs doctrine.

Second, the search was overly broad and not narrowly tailored to the school's interests. In *Skinner*, the Supreme Court upheld warrantless drug testing for railroad employees because the testing was standardized, minimally intrusive, and necessary to prevent catastrophic accidents. However, no such compelling government interest exists in a school setting to justify suspicionless bodily searches of students. Additionally, the school's policy applied the dog-sniff searches indiscriminately to all students without any reasonable suspicion, making the search broader than necessary to achieve any valid safety objective. The Supreme Court has cautioned against overly broad special needs claims, noting that a general desire to prevent drug use is insufficient to override individual privacy rights. *Ferguson*, 532 U.S. at 78.

Because the school's policy was intrusive, lacked a valid special needs justification, and resembled traditional law enforcement practices, it fails the Fourth Amendment's reasonableness test. Without individualized suspicion or a narrowly tailored purpose, the school's suspicionless use of drug-sniffing dogs on students was unconstitutional. *Horton,* 690 F.2d at 475*; Plumas,* 192 F.3d at 1263. While schools have some authority to maintain order and safety, this authority

does not extend to suspicionless searches that resemble law enforcement investigations. *Horton,* 690 F.2d at 474. The Supreme Court has consistently held that the special needs exception is narrow and applies only when the government's interest is so compelling that it outweighs individual privacy rights. *Ferguson,* 532 U.S. at 74; *Chandler*, 520 U.S. at 318-19. Since the school's policy lacks a demonstrable special need and is applied without the requisite individualized suspicion, it violates the reasonableness standard mandated by the Fourth Amendment. The search, therefore, is not only intrusive but also constitutionally impermissible.

B. The Court Should Hold That the Search Was Not Justified at Inception Because It Was Not Reasonably Related in Scope of Protecting the School from Drug Use

Suspicionless dog searches fail the Fourth Amendment's reasonableness test. *Horton*, 690 F.2d at 479; *see also New Jersey*, 469 U.S. at 330. In *T.L.O*. it was established that school searches must be justified at inception and limited in scope—broad, schoolwide canine sweeps violate both requirements. *Id.* at 331. Treating every student as a suspect defies the principle of individualized suspicion. *Id.* at 334. The Fifth Circuit has condemned dog sniffs of students as unconstitutional, ruling that students' bodies are off-limits. *Horton,* 690 F.2d at 474. The Ninth Circuit has agreed, calling these searches "demeaning" and "intrusive". *Plumas,* 192 F.3d at 1263. There is a very limited, minority view that dog sniffs are not a form of search. *Doe v. Renfrow*, 451 U.S. 1023, 1027 (1981). As such, this decision in *Doe v. Renfrow* is an outlier case and has been universally criticized.[1] The Supreme Court has warned courts against taking "an

[1]*See United States v. Place*, 462 U.S. 696, 720 (1983); *see also Horton*, 690 F.2d at 474 (rejecting the 7th Circuit's reasoning in *Renfrow*, specifically that the use of drug-sniffing dogs on students without individualized suspicion constitutes a search); *Plumas*, 192 F.3d at 1272 (refusing to follow the use of drug-sniffing dogs on students without specific suspicion constitutes a search. The court underscored the need for individualized suspicion to justify such searches, and therefore rejected the blanket approval implied in *Renfrow*); *Latexo Indep. Sch. Dist.*, 499 F. Supp. at

overly technical definition of search". Cynthia's school has decided to adopt this overly technical definition of search. JSUF ¶27, 28.

The Fourth Amendment mandates that for school searches to be considered reasonable they must be justified at inception and reasonably related in scope. *New Jersey v. T. L. O.*, 469 U.S. 341 (1985); U.S. Const. amend. IV. A search is justified at inception only if there are reasonable grounds to suspect a particular student of wrongdoing, and it must be no more intrusive than necessary given the circumstances. *New Jersey,* at 342. *United States v. Jacobsen,* 466 U.S. 113, 104 S. Ct. 1652 (1984) 466*; United States v. Reyes,* 24 F.4th 13, (1st Cir. 2022); U.S. Const. amend. IV. The Fifth Circuit held that the use of drug-sniffing dogs to search students' persons constituted an unreasonable search under the Fourth Amendment. *Horton,* 690 F.2d at 470. The court applied the two-prong reasonableness test, requiring that a search be 1) Justified at inception; and 2) Reasonably related in scope. *New Jersey*, 469 U.S. at 335. If either of the prongs of the test are not met, then the search should be considered a constitutional violation. *New Jersey*, 469 U.S. at 325; *Horton,* 690 F.2d at 470.

Here, the search of Cynthia Wilson violated her reasonable expectation of privacy because it was neither justified at inception nor reasonably related in scope, failing the Fourth Amendment's reasonableness test established in *New Jersey*, 469 U.S. at 357. First, the search was not justified at inception because it lacked individualized suspicion. *Id.* at 349. In this case, there were no specific facts suggesting that Cynthia Wilson was engaged in any misconduct. Instead, the search was initiated solely because of a drug-detection dog's alert, which courts have found insufficient to justify searches of a student's person. *Horton*, 690 F.2d at 470. The school

236 (reaching a contrary conclusion to *Renfrow*, that the use of drug-sniffing dogs on students without individualized suspicion was unreasonable and violated the Fourth Amendment).

did not target specific students based on reasonable suspicion but instead conducted an indiscriminate, suspicionless search, violating the foundational requirement that searches be justified at inception.

In this case, the school's policy subjected Cynthia to an invasive, public, and humiliating search by a drug-sniffing dog, followed by a physical search of her person and belongings, despite the lack of individualized suspicion. Unlike locker or backpack searches, which target students' property, a drug-detection dog sniffing a student's body directly invades their personal privacy and dignity, making the intrusion particularly severe. *Horton,* 690 F.2d at 475.

Second, the search was not reasonably related in scope because it was excessively intrusive given the circumstances. The scope of a school search must be proportionate to the suspicion prompting it, ensuring that students are not subjected to unnecessarily invasive procedures that violate their privacy rights. Courts have emphasized that the more intrusive a search, the stronger the justification required to support it. *Safford Unified Sch. Dist. #1 v. Redding,* 557 U.S. 364, 129 S. Ct. 2633 (2009*)*. The search of Cynthia Wilson far exceeded any reasonable limits and was disproportionate to the school's stated interest in maintaining a drug-free environment.

Because the search lacked individualized suspicion and was excessively intrusive, it violated Cynthia Wilson's reasonable expectation of privacy under the Fourth Amendment. The lack of individualized suspicion meant that school officials had no specific reason to believe Cynthia had engaged in wrongdoing, making the search unjustified from the outset. Furthermore, the scope of the search was excessively intrusive, as Cynthia was subjected to a public drug-dog sniff, a physical search, and subsequent questioning.

Conclusion

For the foregoing reasons, Plaintiff is entitled to judgment as a matter of law, and this Court should grant her motion for summary judgment in its entirety.

Respectfully submitted,

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I did not give, receive, or witness any unpermitted aid in connection with this assignment. /s/ Warren Carr