



Written by [Joe Wolverton, II, J.D.](#) on March 10, 2011

High Court to Rule on Parental-Notification Rights During School Interrogation

On March 1 the Supreme Court of the United States heard oral arguments in a case involving the Fourth Amendment rights of parents and children against illegal searches and seizures when caseworkers who are notified of allegations of child abuse interview and medically examine children without a search warrant or the consent or involvement of their parents. The case is styled *Bob Camreta v. Sarah Greene, et al.*



The actions at issue occurred in 2003 when Bob Camreta, a caseworker for Oregon's Department of Human Services, interviewed — without her mother's consent — a young girl at her school about alleged sexual abuse by her father. Briefs in the case (actually, there are two cases that were consolidated) aver that Camreta refused to allow the mother to be present when medical personnel examined her daughter to look for evidence of sexual abuse.

Asserting a violation of the Constitution's prohibition against warrantless searches and seizures, the child's mother filed suit in federal district court. That court granted the defense's motion for summary judgment and the mother, Sarah Greene, appealed the holding to the circuit court of appeals.

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In its [decision](#), the Ninth Circuit Court of Appeals reversed the decision in part, ruling that "Camreta's decision to exclude Sarah from her daughter's medical examinations at the KIDS Center violated the Greenes' clearly established familial rights under the Fourteenth Amendment." They affirmed the lower court's ruling that Camreta and the other defendant enjoyed qualified immunity.

Following the ruling of the Ninth Circuit, Camreta filed a [writ of certiorari](#) with the Supreme Court, requesting that the court review the decision of the appellate court. The Supreme Court agreed and oral arguments began on March 1.

Setting aside the ruling regarding Camreta's qualified immunity, the chief constitutional issue before the Court is whether the defendants violated the child's and the mother's constitutional right under the Fourth Amendment to not be held without a warrant or probable cause. Further, if the parent's alleged Fourteenth Amendment due process right (that is, the right to be notified of such actions taken against her child) was likewise violated.

The opinion of the Ninth Circuit frames the issue in this manner:



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We are asked to decide whether the actions of a child protective services caseworker and deputy sheriff, understandably concerned for the well-being of two young girls, exceeded the bounds of the constitution. Specifically, the girls' mother, Sarah Greene, alleges, on behalf of S.G., one of her children, that the caseworker, Bob Camreta, and deputy sheriff, James Alford, violated the Fourth Amendment when they seized and interrogated S.G. in a private office at her school for two hours without a warrant, probable cause, or parental consent. Sarah also argues that Camreta's subsequent actions, both in securing a court order removing the girls from her custody and in subjecting the girls to intrusive sexual abuse examinations outside her presence, violated the Greenes' familial rights under the Due Process Clause of the Fourteenth Amendment.

As this brief description makes clear, resolving the constitutional claims at issue in this case involves a delicate balancing of competing interests. On one hand, society has a compelling interest in protecting its most vulnerable members from abuse within their home....

In ruling on the Fourth Amendment issue, the Ninth Circuit held:

... that state officials using such a policy cannot thereby forge an exception to traditional Fourth Amendment protections for the criminal investigation of child sexual abuse, as they seek to do here. Again, "[t]he fact that the suspected crime may be heinous ... does not provide cause for the state to ignore the rights of the accused or any other parties." *Wallis*, 202 F.3d at 1130.

And finally:

Once the police have initiated a criminal investigation into alleged abuse in the home, responsible officials must provide procedural protections appropriate to the criminal context. At least where there is, as here, direct involvement of law enforcement in an in-school seizure and interrogation of a suspected child abuse victim, we simply cannot say, as a matter of law, that she was seized for some "special need[,] beyond the normal need for law enforcement." *Ferguson*, 532 U.S. at 74 n.7.

In short, applying the traditional Fourth Amendment requirements, the decision to seize and interrogate S.G. in the absence of a warrant, a court order, exigent circumstances, or parental consent was unconstitutional.

As indicated, [oral arguments](#) in the case were heard by the Supreme Court on March 1. The initial questioning focused on whether, given the current status of both plaintiff and defendant, there yet existed a case or controversy as mandated by Article III of the Constitution. That is to say, will a favorable decision afford relief to either party or is the case made moot by the fact that neither party will be affected by the outcome?

As Justice Kagan stated from the bench, the threshold issue that must be determined by the Court is "whether there is a controversy between this particular plaintiff and this particular defendant such that a judgment in this case would actually affect the legal relationship between the two...."

Or, as the inimitable Justice Scalia said, "It takes two to tango, and a case or controversy requires somebody on the other side who cares a fig about the outcome...."

The ruling of the Supreme Court will likely center on two issues: first, is there a case or controversy? This issue is important as it is not only mandated by Article III, but there is a sound and long-standing principle of jurisprudence upon which it is based.

Second, is a "protracted custodial interview of a child by police and child welfare investigators ... presumptively unconstitutional unless they have a warrant or court order or parental consent or exigent



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circumstance”?

The decision on that issue, when married with the underlying assertion that the Due Process Clause of the Fourteenth Amendment grants to parents certain rights regarding the care and treatment of their children, should be of great interest to all parents as the state and its agents exert greater and greater influence over our children and the sphere of government influence grows larger and larger — usurping in many instances the traditional role of parents and their place as ultimate sovereigns over their families.



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