



Concerned about the increase in amphetamine abuse among students, Rockefeller High School Principal Jack Donaghy (“Donaghy”) undertook a new program in September of 2007 to enforce the controlled substance policy. Donaghy contacted the Yawk State Police Department for assistance in implementing random searches of students using trained amphetamine-sniffing dogs.

The first and only search under this new program occurred on October 16, 2007. That morning, students attended their first period classes as usual. Just before that first period class was to be dismissed, Principal Donaghy announced over the school-wide PA system that all students were to stay seated at their desks in their classrooms until further notice was given.

Donaghy and a police escort then proceeded to sweep the classrooms with a German Shepard trained to locate amphetamines. Donaghy, a uniformed police officer and the dog would enter the classroom and request that all students place their backpacks, purses and bags on the floor next to their desk. The dog then walked up and down the aisles of desks, sniffing in and around the students’ bags and sniffing the areas of the students’ bodies that were within reach of the dog. For some students, the dog merely sniffed the air within approximately five inches of the student’s body. Other students were sniffed more vigorously, with the dog placing her nose on their body or nudging the student with her nose. The dog sniffed some students’ laps, midsections, pockets and legs.

The entire sweep took approximately two hours, during which time students were not allowed to leave their classrooms except to use the restroom. Any student needing to use the restroom was required to wait for a faculty escort of their gender and was accompanied to the facilities by this escort.

If the dog alerted on a student, signaling that it identified the presence of amphetamines,

the student was removed from the classroom and subjected to a more vigorous search in the school gymnasium. An additional dog was present in the gymnasium during these searches. The dogs alerted on three students who were subsequently searched: Elizabeth Lemon, Tracy Jordan and Kenneth Parcell. The dog alerted after sniffing Plaintiff Elizabeth Lemon's purse. She was taken to the school gymnasium where she was asked to empty her purse and was subjected to a pat-down search of her person by a female school official. The Rockefeller Vice-Principal, Mr. Jonathan, found a small pill box in Ms. Lemon's purse with five tablets of the prescription drug Adderall. The active ingredients in Adderall, used to treat attention-deficit hyperactivity disorder ("ADHD"), are dextroamphetamines and racemic dextro/laevo-amphetamine, which are chemically related to controlled amphetamines. Because the pills were not in a valid prescription bottle, the school district immediately, and in compliance with standards of due process, suspended Ms. Lemon until she could provide a valid prescription or proof that she was permitted to legitimately possess the substance. The next day Ms. Lemon provided a copy of her valid prescription and had her doctor call Mr. Donaghy in order to clarify that Ms. Lemon had been prescribed Adderall in order to control her ADHD. Ms. Lemon's suspension was withdrawn and she was allowed to return to class on October 18, 2007, under the requirement that she submit her prescription medication to school district in order to be administered through the school nurse.

Another student, Tracy Jordan, was vigorously sniffed by the dog. After the dog alerted, Mr. Jordan was asked by the officer to stand up, at which time the dog continued to sniff around Mr. Jordan's pants pocket and crotch area. Mr. Jordan was removed from the classroom and taken to the school gymnasium where he was asked to empty his pockets. In his pockets was a bottle of prescription medication, distributed from a pharmacy. The bottle contained ten tablets

of Dexodrine, another medication used to treat ADHD and containing an active ingredient in the amphetamine family, dextroamphetamine. Because Mr. Jordan could demonstrate he had a valid prescription, he was allowed to return to class and was not subjected to any disciplinary action. He was, however, required to submit his medication to the school nurse for future administration.

The dog also alerted to the third student, Kenneth Parcell, after sniffing his pants pocket area. A small baggie of methamphetamine was found in the pocket of his jeans. Mr. Parcell was subsequently suspended for two weeks for violation of the school's controlled substance policy.

Following the events of October 16, the school district received a number of complaints from students and parents, including complaints that the dog had damaged items of clothing or school supplies. The school also received complaints that the dog sniffing had caused undue embarrassment among students.

Elizabeth Lemon and Tracy Jordan filed this class action suit on behalf of all similarly situated Rockefeller High School students, claiming that the search as performed by the school violated their Fourth Amendment rights to be free from unreasonable searches. Parties filed cross-motions for summary judgment.