

NORFOLK-PORTSMOUTH BAR ASSOCIATION FOUNDATION
SCHOLARSHIP COMPETITION
2010

ESSAY TOPIC

Savana is a 13 year old middle school student attending a Hampton Roads middle school in Hampton Roads. She is an honor roll student with no prior disciplinary problems. Savana's school, as do others in the area, have adopted a policy that prohibits the possession, non-medical use, or distribution of drugs at the school. "Drugs" have been broadly defined to include alcohol and both prescription and non-prescription or over-the-counter drugs.

At a beginning school year dance, several staff members from the school noticed "unusually rowdy behavior" from a group of students that included Savana and her friend, Marissa. The staff also found alcohol and cigarettes in the girls' restroom. On October 1, another student, Jordan, told the principal and the Assistant Principal Wilson "that certain students were bringing drugs and weapons to school" and that he had been sick after taking some pills that he "got from a classmate." On the morning of October 8th Jordan gave Wilson a white pill that he claimed had been given to him by Marissa, Savana's friend. He told Wilson that a group of students was planning to take the pills at lunch. Jordan also told Wilson that Savana had served alcohol at a party at her home prior to the school dance in August.

The school nurse identified the pill turned in by Jordan as "Ibuprofen 400 mg," a pill only available by prescription. Armed with this information, the principal removed Marissa from class and in the presence of another staff person asked her to empty her wallet and her pockets. When Marissa was taken from class there was a black planner next to her desk but she denied it was hers. It was found to contain knives, lighters, a permanent marker, and a cigarette. She was found to have a blue pill (later determined to be "Naprosyn 200 mg" (an over-the-counter anti-inflammatory medication), several white pills, and a razor blade. When asked where the blue pill came from she said: "I guess it slipped in when she gave me the IBU 400s." When asked "Who is she?" Marissa responded, "Savana."

Wilson then removed Savana from her math class and asked her to go to his office. She was shown the day planner that contained knives, lighters, a permanent marker, and a cigarette. Savana admitted the planner was hers but claimed she had lent it to Marissa several days earlier. She stated that none of the items in the planner belonged to her.

Wilson then showed Savana four white prescription-strength ibuprofen 400-mg pills and one over-the-counter blue naproxen 200-mg pill, all used for pain and inflammation but banned under school rules unless prior permission had been received. Savana denied knowledge of the pills that were recovered from Marissa, denied bringing pills to school, and denied distributing pills to classmates. Savana told Wilson he could search her belongings. Helen Romero, and administrative assistant, came into the office and together they searched Savana's backpack but found nothing. Wilson then instructed Romero to search Savana with the school's female nurse.

Helen took Savana into the school nurse's office to search her person. The door automatically locked when they went into the nurse's office. Savana had on stretch pants without pockets and a t-shirt without pockets. Helen asked Savana to (1) remove her jacket, shoes, and socks; (2) remove her pants and shirt; and (3) pull her underwear away from her body, exposing herself. No pills were found. At no point during the search did either of the school officials touch Savana. At no time prior to or during the search was any attempt made to contact Savana's mother. The entire process took about 2-1/2 hours.

Savana has now come to you, a high school senior that she respects because she knows you have plans to attend college and to then go on to law school. She relates the entire story to you. She is crying and says that she was required to strip in a fruitless search for, at worst, prescription strength ibuprofen. She goes on to tell you that she had no history of drug involvement, is an honor roll student, and that there has never been any allegation that she was in any way connected to illegal drug distribution. She says the whole event was terrifying, humiliating, and extremely traumatic, especially considering that she is a thirteen year old going through puberty. She tells you that she believes her Fourth Amendment rights have been violated.¹

Write an essay expressing your opinion of whether Savana's Constitutional rights were violated. You may consult any of the cases listed in footnote two² as well as any other sources, however, do not feel bound to reach the same conclusion as these courts have reached in the past.

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¹ **Amendment IV**

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 persons or things to be seized.

² See Stafford Unified Sch. Dist. No. 1 v. Redding, 129 S. Ct 2633 (U.S. 2009). The facts outlined above were taken from this Supreme Court case decided June 25, 2009. It can be located at the following site: <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=08-479>; New Jersey v. T.L.O., 469 U.S. 325 (1985); Phaneuf v. Fraikin, 448 F.3d 591 (2d Cir. 2006); and Cornfield v. Consolidated High Sch. Dist., 991 F.2d 136 (7th Cir. 1993).