

ARIDA v. JAMESON

APPELLATE ISSUES

Assume for purposes of this appeal that the Defendant moved to suppress the evidence of the search and the motion was granted by the trial judge and the case was dismissed. The State has appealed the following issues:

A. Officer Shannon Shackelford was acting as a school official. Therefore the search was reasonable and Defendant waived the warrant requirement.

New Jersey v. T.L.O., 469 U.S. 325, 109 S. Ct. 733 (1985)

Cason v. Cook, 810 F.2d 188 (8th Cir. 1987)

Tarter v. Raybuck, 742 F.2d 977 (6th Cir. 1984) cert. denied, 470 U.S. 1051, 105 S.Ct. 1749, 84 L.Ed.2d 814 (1985)

Martens v. District No. 220, 620 F.Supp 29 (N.D. Ill. 1985)

B. Even if the search was unreasonable and the Defendant had not waived the warrant requirement, the search was still proper, because a student locker is outside the zone of privacy.

Hudson v. Palmer, 468 U.S. 517, 104 S.Ct. 3194, 84 L.Ed.2d 393 (1984)

Zamora v. Pomeroy, 639 F.2d. 662 (10th Cir. 1981)

United States v. Bunkers, 521 F.2d. 1217 (9th Cir. 1975)

## Bench Memorandum

### Arida v. Jameson

On January 24, 1998, Terry Jackson , a student at Andrew Johnson High School, was arrested for possession of methamphetamine. He was arrested at the high school by Shannon Shackelford, an officer of Roanoak Police Department who is assigned as the school officer.

Officer Shackelford was in the teacher's lounge where she was accosted by Billy Barrow and Kelly Smith, a hall monitor. Billy informed Officer Shackelford that he had observed a quantity of methamphetamine in Jameson's locker. Together, they went to look for Ms. Turner, the school principal who could not be found. They then went to Terry Jameson's locker which they found ajar. Officer Shackelford opened the locker and found a bag of tablets that later were found to contain methamphetamine. When Terry Jameson returned to his locker, he was arrested by Officer Shackelford.

The lockers at the school are assigned to individual students, but padlocks are prohibited. Further, the students were advised not to bring any valuables to school, and if they do, the items are locked up in the principal's office.

At trial, the defendant moved to suppress the evidence of the search, claiming the search was in violation of her Fourth Amendment rights. The State of Arida appealed and claimed error as follows:

1. Officer Shackelford, at the time of the arrest, was acting as a school officer. Therefore the search was reasonable and Defendant waived the warrant requirement.

The cases relating to this issue are:

New Jersey v. T.L.O., 469 U.S. 325, 109 S.Ct. 733 (1985)  
Cason v. Cook, 810 F.2d 188 (5th Cir. 1987)  
Tarter v. Raybuck, 742 F.2d 977 (6th Cir. 1984), cert. denied, 470 U.S. 1051, 105  
S.Ct. 1749 84 L.Ed.2d 814 (1985)  
Martens v. District No. 220, 620 F.Supp. 29 (N.D. Ill. 1985)

2. Even if the search was unreasonable and the Defendant had not waived the requirement, the search was still proper, because a student locker is outside the zone of privacy.

The cases relating to this issue are:

Hudson v. Palmer, 468 U.S. 517, 104 S.Ct. 3194 84 L.Ed.2d 393 (1984)  
Zamora v. Pomeroy, 639 F.2d 662 (10th Cir. 1981)  
United States v. Burkers, 521 F.2d 1217 (9th Cir. 1975)

## **ARGUMENT**

A. Officer Shackelford was acting as a school official.

In 1985, the U.S. Supreme Court, in New Jersey v. T.L.O., 469 U.S. 325, found that because of the educational environment in high schools, school officials would be permitted to conduct searches of students and their possessions. However, the Court held that the search was subject to reasonableness standard. The Court also found that there would be no warrant requirement for school officials. The Court did not decide whether that would still be the requirement if there was police involvement.

Several courts have permitted the T.L.O. requirements to stand where there has been limited police involvement. Cason v. Cook, 810 F.2d 188 (8th Cir. 1987); Tarter v. Raybuck, 742 F.2d 977 (6th Cir. 1984), cert. denied, 470 U.S. 1051, 105 S.Ct. 1749, 84 L.Ed.2d 814 (1985); and Mortens v. District No. 220, 620 F.Supp. 29 (N.D. Ill. 1985).

It is expected that the State will argue the following:

1. Officer Shackelford was a school official as she is a school officer who works at the direction of school officials.
2. That the cases have allowed police involvement and as long as it is in conjunction with school officials there is no problem. Officer Shackelford was acting in conjunction with school officials. Her duties as school officer are to wipe out drugs so schools can continue teaching.

Terry Jameson will argue that this goes far beyond the previous cases. Officer Shackelford was acting as a police officer, nothing more and nothing less, when she engaged in the search and the arrest. It does not matter where she is assigned, she is still an officer with the Roanoak Police Department.

#### B. The Locker was Outside the Zone of Privacy

State will argue that lockers have been permitted to be searched in previous occasions. Zamora v. Pomeroy, 639 F.2d 662 (10th Cir. 1981) (dog sniffers); and United States v. Burkers, 521 F.2d 1217 (9th Cir. 1975) (postal employees' lockers). The attorneys will argue that the Jameson case is similar to those.

Jameson will argue there is a big difference between postal employees' lockers and school lockers. School lockers are in a different environment than a job location. New Jersey v. T.L.O. Moreover, in the Zamora case, the school officials had informed students earlier that a search was taking place with use of dogs. In the case at bar, the search was specific to one individual. The use of dogs in a general search is not dissimilar to airport searches of baggage. More protection is afforded an individual and a greater expectation of privacy exists.