

DETAINEE WHO WAS ARRESTED FOR MINOR OFFENSE MAY BE STRIP SEARCHED WITHOUT INDIVIDUALIZED SUSPICION OF CONTRABAND

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Florence v. Bd. of Chosen Freeholders
U.S. Supreme Court, April 2, 2012

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Petitioner was arrested during a traffic stop on an outstanding bench warrant for failure to appear at a fine-related hearing. He was briefly held at two county detention centers. At both facilities, Petitioner was subjected to an intake strip search. Petitioner sued alleging violations of his Fourth and Fourteenth Amendment rights.

The Supreme Court held, 5-4, that strip searches during detainee intake did not violate the Fourth Amendment. Correctional facilities have a strong interest in keeping their employees and inmates safe and their facilities orderly. Strip searches allow officials to discover and deter contraband. Facilities also have substantial discretion to resolve problems associated with safety and deterrence. A general strip search policy adequately and effectively protects the facility's safety interest and does not violate the Fourth Amendment.

Arrestees held for minor offenses are not exempt from general strip searches. Current charges and past criminal history cannot adequately determine whether or not an arrestee possesses contraband. Minor offenders may possess contraband. Therefore, they can be strip searched as part of a jail's general search policy. An exception might exist, however, for arrestees who are not entering the general population and will not have substantial contact with other inmates.

Two justices concurred, discussing the potential for additional exceptions and limiting the holding to the current facts and noting that not all arrestee strip searches are reasonable.

Four justices dissented, reasoning that strip searches for arrestees held for minor offenses are unreasonable unless the official has reasonable suspicion that the arrestee possesses contraband.