

**Juvenile Case Decided by the  
North Carolina Supreme Court**  
October 5, 2012  
*Delinquency*

**Validity of school-wide search for drugs requiring “bra-lift” still undecided**

- The supreme court vacated the court of appeals decision that the trial court erred when it denied the juvenile’s motion to suppress evidence of drugs, and remanded for additional findings of fact by the trial court.

**In re T.A.S., \_\_\_ N.C. \_\_, \_\_ S.E.2d \_\_ (Oct. 5, 2012).**

<http://appellate.nccourts.org/opinions/?c=1&pdf=MjAxMi8zMzJBMTEtMS5wZGY>

**Court of Appeals:** In July, 2011, the court of appeals reversed the delinquency adjudication of a juvenile on whom drugs were found in the course of a school-wide search at an alternative school. [*In re T.A.S.*, \_\_\_ N.C. App. \_\_, 713 S.E.2d 211 (July 19, 2011).] The court held that requiring all female students to do a “bra-lift” as part of a school-wide search for drugs was constitutionally unreasonable where there was no individualized suspicion and no indication of imminent danger. One judge dissented on the bases that (i) attendance at an alternative school results in a diminished privacy interest; (ii) the search involved minimal intrusion; (iii) the governmental interest was important and immediate; and (iv) the search was an effective means of addressing the government’s concern.

**Supreme Court:** In its October 5, 2012, decision, the supreme court vacated the opinion of the court of appeals and remanded to that court for further remand to the trial court. The court ordered the trial court to make additional findings that include:

1. the names, occupations, genders, and involvement of everyone who was physically present at the “bra lift” search of the juvenile;
2. whether the juvenile was advised before the search of the school’s “no penalty” policy; and
3. whether the “bra lift” search of the juvenile qualified as a “more intrusive” search under the school’s Safe School Plan.

The court also instructed counsel, in the event of an appeal from the trial court’s new or amended order, to ensure that a copy of the school’s Safe School Plan be included in the record on appeal, noting that the plan was discussed at the suppression hearing and apparently introduced into evidence.

*Appellate court opinions can be found at <http://www.aoc.state.nc.us/www/public/html/opinions.htm>.  
Earlier case summaries can be found at <http://www.sog.unc.edu/node/513>.*



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