

Arrest, Search & Investigation

Florence v. Board of Chosen Freeholders, 566 U.S. ___ (April 2, 2012)

(<http://www.supremecourt.gov/opinions/11pdf/10-945.pdf>). Reasonable suspicion is not required for a close visual inspection of arrestees who will be held in the general population of a detention facility. The petitioner was arrested and taken to the Burlington County Detention Center. Burlington County jail procedures required every arrestee to shower with a delousing agent. Officers would check arrestees for scars, marks, gang tattoos, and contraband as they disrobed. Petitioner claims he was also instructed to open his mouth, lift his tongue, hold out his arms, turn around, and lift his genitals. The petitioner was later transferred to the Essex County Correctional Facility. At that facility all arriving detainees passed through a metal detector and waited in a group holding cell for a more thorough search. When they left the holding cell, they were instructed to remove their clothing while an officer looked for body markings, wounds, and contraband. Without touching the detainees, an officer looked at their ears, nose, mouth, hair, scalp, fingers, hands, arms, armpits, and other body openings. Petitioner alleges he was required to lift his genitals, turn around, and cough in a squatting position. After a mandatory shower, during which his clothes were inspected, petitioner was admitted to the facility. He was released the next day. Petitioner filed suit under 42 U.S.C. §1983 arguing that persons arrested for a minor offense could not be required to remove their clothing and expose their private areas to close visual inspection as a routine part of the intake process. Rather, he contended, officials could conduct this kind of search only if they had reason to suspect a particular inmate of concealing a weapon, drugs, or other contraband. The district court granted the petitioner's motion for summary judgment. The Third Circuit reversed. The Court affirmed, stating in part:

The question here is whether undoubted security imperatives involved in jail supervision override the assertion that some detainees must be exempt from the more invasive search procedures at issue absent reasonable suspicion of a concealed weapon or other contraband. The Court has held that deference must be given to the officials in charge of the jail unless there is "substantial evidence" demonstrating their response to the situation is exaggerated. Petitioner has not met this standard, and the record provides full justifications for the procedures used.

Slip op. at 9-10 (citation omitted). The Court noted that correctional officials have a significant interest in conducting a thorough search as a standard part of the intake process to identify disease, gang affiliation, and locate contraband. The Court rejected the petitioner's assertion that certain detainees, such as those arrested for minor offenses, should be exempt from this process unless they give officers a particular reason to suspect them of hiding contraband. It concluded: "It is reasonable, however, for correctional officials to conclude this standard would be unworkable. The record provides evidence that the seriousness of an offense is a poor predictor of who has contraband and that it would be difficult in practice to determine whether individual detainees fall within the proposed exemption." Slip op. at 14.

Immunity

Rehberg v. Paulk, 566 U.S. ___ (April 2, 2012) (<http://www.supremecourt.gov/opinions/11pdf/10-788.pdf>). A "complaining witness" in a grand jury proceeding is entitled to the same immunity in an action under 42 U.S.C. §1983 as a witness who testifies at trial.