

09-1478 ALFORD V. GREENE

DECISION BELOW: 588 F.3d 1011

LOWER COURT CASE NUMBER: 06-35333

QUESTION PRESENTED:

This case presents a federal constitutional question of exceptional importance concerning the scope of the Fourth Amendment's protections when applied to interviews of suspected child abuse victims at public schools. Here, child protective services and a local law enforcement agency received a report that a nine-year old girl was being sexually abused by her father. Based upon this report, a child protective services caseworker and a deputy sheriff interviewed the girl at her public school without first obtaining a warrant or parental consent. Splitting with the Fifth Circuit, which had held under similar circumstances that the traditional warrant/warrant exception analysis sets too high a threshold when investigating allegations of child abuse, the Ninth Circuit held the interview violated the girl's Fourth Amendment right to be free from "unreasonable" seizures absent a warrant, court order, exigent circumstances, or parental consent. In so holding, the Ninth Circuit rejected the balancing-of-interests approach first established in *Terry v. Ohio* to assess whether detentions not amounting to an arrest are reasonable under the Fourth Amendment. It concluded instead that the Fourth Amendment demanded the application of the more restrictive standard of a warrant or an exception to the warrant requirement to interviews of this type.

I. Does the Fourth Amendment require a warrant, a court order, parental consent, or exigent circumstances before law enforcement and child welfare officials may conduct a temporary seizure and interview at a public school of a child whom they reasonably suspect was being sexually abused by her father?

CONSOLIDATED WITH 09-1454 FOR ONE HOUR ORAL ARGUMENT

CERT. GRANTED 10/12/2010