"*The child is not the mere creature of the state." – United States Supreme Court,* Pierce V. Society of Sisters

Not only is *Alford V. Greene* the first major case involving child protective services to go before the U.S. Supreme Court in 21 years, but it is also one of the most important parents' rights cases ever to reach the court. If it goes the right way – i.e., to bolster parents' rights – it will mean that state agents will have to obtain a court order to question a child at school. If it goes the wrong way, however – which the Obama administration is advocating, along with 40 state attorneys general, law-enforcement agencies, social workers, prosecutors, and defense attorneys – it will be a serious blow to parental rights as well as the rights of children in the public schools.

The particulars of the case are egregious enough, but they pale in comparison to the government's effrontery in insisting that parents essentially forfeit their rights when they send their children to a public school.

In February 2003, an armed, uniformed county sheriff and an Oregon Department of Human Services caseworker directed school officials at an elementary school to summon a nine-year-old girl (referred to in the court documents as S.G.) for questioning. Despite the absence of a court order or the involvement of a judge, school officials called S.G. out of her class, took her to an empty conference room, and left her *alone* with the sheriff, James Alford, and the social-services investigator, Bob Camreta. Then, without notifying S.G.'s mother and in the absence of anyone who might otherwise have looked out for the little girl's best interests, these two men proceeded to question her for two hours.

During the course of the interrogation, Camreta peppered S.G. with questions about whether her father had ever abused her or her little sister. According to S.G.'s attorneys, when Camreta asked the nine-year-old if her father touched her "all over [her] body," she said "yes," referring to affectionate hugs, kisses, and piggy-back rides. Camreta then asked "over and over again" if "some of those were bad touches." Over and over again, the little girl said "no."

Obviously intimidated by the two men, one of whom was wearing a gun clearly visible to the little girl, S.G. was too frightened even to ask for a glass of water or tell the men that she felt ill. At no time was she told that she could refuse to answer their questions or that she was free to leave the room of her own volition. (Incredibly, the Obama administration in its Supreme Court brief chalks up such interrogations to being "at most a minor intrusion on the liberty of a child

whose freedom of movement is already considerably restricted by virtue of her presence at school.")

As the interrogation dragged on, S.G. continued to deny that her father had ever abused her. Yet once the school buses started arriving to take her classmates home, S.G. found herself overcome with fear that she would be left behind. At that point, S.G. says, she decided to lie and say "yes" to whatever the men asked, "just to get out of the room." Upon returning home, S.G. was further traumatized to find the same two men in her house, questioning her mother. These encounters left the little girl feeling so nauseous that she later vomited five times and was unable to eat dinner.

Despite the fact that Alford had a tape recorder with him, no recording or documentation of the questions asked of S.G. during the two-hour interrogation exists. Nevertheless, based on the accounting of the two men and despite S.G.'s repeated denials of any abuse by her father, S.G. and her sister were subsequently removed from her parents' care and placed in foster care for three weeks. They were eventually returned to their mother's care after physical examinations failed to uncover any evidence of sexual abuse. Charges levied against their father were eventually dropped.

In 2009, the U.S. Court of Appeals for the Ninth Circuit ruled in favor of S.G., declaring that the government had violated her Fourth Amendment right to be free from unreasonable searches and seizures. However, in appealing the case to the U.S. Supreme Court, the government is arguing that S.G.'s *mere presence at school* was sufficient to justify law-enforcement officers seizing and interrogating her *without* her mother's knowledge or consent – a position supported by the Obama administration that, if upheld, will further undermine the rights of parents of public school students.

If *Alford V. Greene* were only about one family's heart-wrenching ordeal, it would be bad enough. But it's indicative of a more draconian mindset at work in the government, one that sees public-school students as wards of the state, to do with as they will, in defiance of the children's constitutionally protected rights and those of their parents. This is far from the first time that government officials have usurped the rights of parents and arrogated authority and power over young people in the public schools. Hence, in recent years, students have found themselves subjected to invasive questioning and mass searches of their persons and property – often without their parents' knowledge or consent.

Unfortunately, this effort to usurp parental authority and turn schools into virtual police states flies in the face of the Supreme Court's 1968 admonition in *Tinker V. Des Moines Independent School District* that "neither teachers nor students shed their constitutional rights at the schoolhouse gate." As attorney Tony LaCroix points out in "Student Drug Testing: The Blinding Appeal of *In Loco Parentis* & the Importance of State Protection of Student Privacy": "The states, through a combination of compulsory attendance laws and *in loco parentis* -inspired policies, have 'bootstrapped' themselves into possessing a right to infringe on the personal liberties of students in a manner similar to a parent." Moreover, as professor Susan Stuart recognizes in her article "*In Loco Parentis* in the Public Schools: Abused, Confused, & in Need of Change": "The consequences for students have been enormous, from increasing restrictions on student speech to loosening restrictions on how schools can conduct student searches. Schools have been given license to reach the outer boundaries of control by courts' countenancing institutional and official behavior that is farther and farther from the reaches of professional conduct."

Yet the harm caused by attitudes and policies that treat public-school students as state vassals is not merely a short-term deprivation of individual rights. It also is a long-term inculcation of attitudes among our youth that civil liberties are luxuries that may be discarded at the whim and caprice of government officials if they deem doing so is for the so-called "greater good." Rather than molding our young people into compliant citizens, the schools should be educating them for citizenship and in the scrupulous protection of our constitutional rights. Otherwise, as the Supreme Court has held, we "will strangle the free mind at its source and teach our youth to discount important principles of our government as mere platitudes."

The public's desire to stop and prevent child abuse cannot be gainsaid, but the government interest in investigating criminal activity has never been deemed sufficient to override fundamental rights such as the right to bodily freedom. As Supreme Court Justice Louis Brandeis opined in one of his dissenting opinions in 1928: "Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. ... The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

If the Bill of Rights stands for anything, it is that we are to be treated like human beings, with dignity and great caution, not suspects in a police lineup. Unfortunately, as *Alford V. Greene* makes clear, we now find ourselves in situations where we are guilty until proven innocent and, thus, suspects in a police state.

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