

New Jersey v. T.L.O. / Background •••—Answer Key

In 1980, a teacher at Piscataway High School in New Jersey found two girls smoking in a restroom. Smoking in the restrooms was a violation of school rules; smoking was allowed only in the designated smoking area. The teacher escorted the two girls to the principal's office, where they met with an assistant vice principal, Theodore Choplick. One of the girls was T.L.O. (initials used because she was a minor), a ninth-grade student who was 14 years old. The girl who was with T.L.O. admitted that she had been smoking. However, T.L.O. denied the allegation, saying she did not smoke at all.

Choplick took T.L.O. into his office and instructed her to turn over her purse. He opened the purse and found a pack of cigarettes. He took the cigarettes out of the purse and showed them to T.L.O., accusing her of having lied about smoking in the restroom. As he removed the cigarettes, he noticed a package of cigarette rolling papers, which he believed were an indicator of involvement with marijuana. Therefore, he proceeded with a more thorough search of T.L.O.'s purse. This search yielded the following items: a small amount of marijuana, a pipe, empty plastic bags, a significant amount of money in one-dollar bills, a list of students who owed T.L.O. money, and letters implicating T.L.O. in dealing marijuana, which was illegal.

Choplick then called T.L.O.'s mother and the police. T.L.O.'s mother came to the school and, at the request of the police, took her daughter to the police station. Choplick turned the evidence from the purse over to the police. At the police station, T.L.O. admitted that she had been selling marijuana at school. As a result of T.L.O.'s confession and the evidence from her purse, the state of New Jersey brought delinquency charges against T.L.O. in the Juvenile and Domestic Relations Court of Middlesex County.

T.L.O. tried to have the evidence from her purse suppressed, contending that the search violated the Fourth Amendment. She also argued that her confession should be suppressed on the grounds that it was tainted by the unlawful search. The juvenile court rejected her Fourth Amendment arguments, although it conceded that the Fourth Amendment applies to searches by school officials. However, it held that a school official may search a student if that official has a "reasonable suspicion that a crime has been or is in the process of being committed, or reasonable cause to believe that the search is necessary to maintain school discipline or enforce school policies." This is a lower standard than the "probable cause" standard, which is required when police conduct a search.

The juvenile court concluded that Choplick's search was, therefore, reasonable. Choplick was justified in searching the purse, the court said, because of his reasonable suspicion that T.L.O. had violated school rules by smoking in the restroom. When he opened the purse, evidence of

marijuana use was in plain view; this justified the further search of the purse. T.L.O. was found to be a delinquent and, in January 1982, she was sentenced to one year of probation.

T.L.O. appealed her conviction to the appellate division, which found no violation of the Fourth Amendment, but returned the case to juvenile court for determination of a possible Fifth Amendment problem with T.L.O.'s confession. T.L.O. then appealed the appellate division's Fourth Amendment ruling to the Supreme Court of New Jersey.

The Supreme Court of New Jersey reversed the appellate division's ruling and ordered the evidence found in T.L.O.'s purse suppressed. The Supreme Court of New Jersey relied on U.S. Supreme Court precedent to hold that whenever an "official" search violates constitutional rights, the evidence may not be used in a criminal case. Furthermore, the Supreme Court of New Jersey found that Choplick's search was not reasonable. Mere possession of cigarettes was not a violation of school rules; therefore, a desire for evidence of smoking in the restroom did not justify the search. In addition, the further search of the purse was not justified by the presence of cigarette rolling papers.

In 1983, the Supreme Court of the United States granted the state of New Jersey's petition for *certiorari*. In 1985, the Court handed down its decision.

Questions to Consider

1. The Fourth Amendment to the U.S. Constitution states: "*The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*" Using the words of the Amendment, make an argument that the search of T.L.O.'s purse violated her Fourth Amendment rights.

T.L.O.'s rights were **violated** because the assistant vice principal did not have a warrant to **search** T.L.O.'s purse and **seize** her property. She had a right to be **secure** in her "**effects**". The continued search of her purse after finding the cigarettes was **unreasonable** because the assistant vice principal did not have **probable cause**, but only sheer suspicion or prejudice, to believe that the purse contained evidence of other crimes.

2. Make an argument that the Fourth Amendment does not apply to students in public schools at all.

Student answers will vary. Some students may write that the Fourth Amendment does not apply to students in schools because they do not and should not have the rights afforded to adults in the criminal justice system. When students are in school, the rights they have are different from the rights of adults in the "real world." The school can conduct warrantless searches in the interest of protecting students and maintaining order. It would be unreasonable to expect schools to obtain search warrants every time an offense was committed on school property. The Constitution does not regard teachers or school administrators as police officers.

3. Does the search of T.L.O.'s purse seem "reasonable" to you? Why or why not?

Student answers will vary as they may make a case for either argument. On the one hand, it could be argued that the search is reasonable on the grounds that it was not excessively intrusive and that school officials did have reason to believe that an offense had been committed and are assumed to act in the students' best interests. On the other hand, the search of her purse was unreasonable because school officials did not have probable cause to believe that T.L.O. had anything in her purse other than cigarettes, which she was allowed to possess and, in this case, the assistant vice principal was acting like a police officer, not a teacher.

4. How should the Supreme Court of the United States rule in this case?

Student answers will vary as they may make a case that the Supreme Court of the United States could rule either way. The Court could find in favor of T.L.O. on the grounds that the search was unreasonable. Smoking was permitted on school grounds and there was no immediate danger from violating the rule that smoking was not allowed in the restrooms, so Choplick's search was unjustified. Since the search was a violation of T.L.O.'s constitutional rights, the evidence found should be suppressed. The Court could find in favor of the state on the grounds that Choplick's search of T.L.O. was reasonable and legal. He had reasonable belief that she had broken a school rule so the initial search was justified. When he found evidence of marijuana use, he was justified in conducting a more thorough search of her purse. At that point, he found evidence further implicating her in illegal activities for which she should be punished.