

Camreta v. Greene: The Aftermath



with
**Darren Kessler, Yvonne Leal,
Gary Seiser**



- Interview at school in Oregon
 - 9 year old girl (S.G.)
 - Possible victim of sexual abuse
 - 1 or 2 hours length of interview
 - Armed deputy sheriff present
 - Not recorded
 - No warrant or parental consent
 - No support person
- Lawsuit against caseworker (Camreta) and deputy sheriff (Alford)
 - Violation of 4th amendment rights

Summary Judgment in District Court

- In-school seizure of S.G. reasonable
- Both interviewers had qualified immunity
- (*Other facts and rulings irrelevant*)

9th Circuit

- Reversed on 4th amendment
- Upheld finding of qualified immunity
- Camreta and Alford petition for certiorari to reverse the 4th amendment ruling

Sample Amici

Petitioner

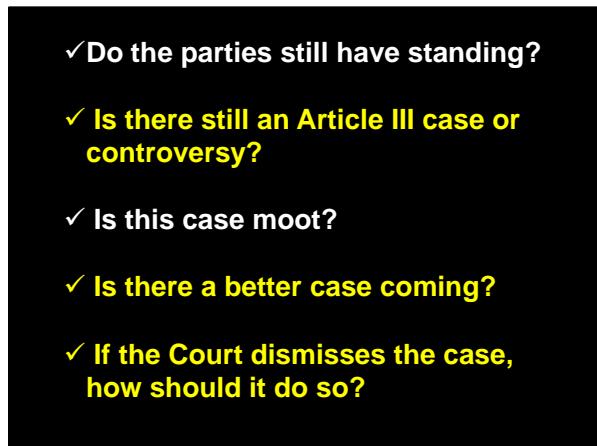
- 40 states and DC
- CSAC
- CAI
- Cook County Public Guardian
- NASW
- Natl. School Boards Assn.
- U.S. Solicitor General

Respondent

- Legal Aid Society, Juv. Rts. Practice
- Juvenile Law Center
- Civitas ChildLaw Center, Loyola Law School, Chicago
- Center for Law & Education
- Legal Services for Children
- Eagle Forum
- Family Research Council
- Liberty Counsel







Dep. S.G. KRUGER:
And I think, as the Chief Justice has quite correctly pointed out, it also does nothing to dispel the cloud of uncertainty that hangs over individuals within the territorial jurisdiction of the Ninth Circuit.



CHIEF JUSTICE ROBERTS:
Well, I'm not so sure he was correct. (Laughter.)



MS. KUBITSCHKEK:
Mr. Chief Justice, and may it please the Court: There is no case or controversy between S.G. and the Petitioners. That ended when –



CHIEF JUSTICE ROBERTS:
Then why are you - why are you here?
(Laughter.)



JUSTICE KENNEDY:
“You agree that the child was -- was seized?”



A.G. KROGER:
“Yes, Your Honor, we concede that the child was seized.”



JUSTICE SOTOMAYOR:
“I’m not quite sure why
you stipulated to a seizure
in this case, but that was
your strategic choice.”



MR. KROGER:
“Mr. Chief Justice, the . . .”



POSSIBLE OUTCOMES

- Dismiss review.
- **Dismiss review and vacate the Fourth Amendment portion of the decision.**
- **Dismiss review, vacate the Fourth Amendment portion of the decision, and provide difficult issues statement.**
- **Address the merits.**

Camreta/Alford v Greene
(May 26, 2011) 179 L. Ed. 2d 1118
[Nos. 09-1454, 09-1478]

WHAT NOW?



- Some jurisdictions: Go back to pre-Greene practices.
- Some jurisdictions: Keep post-Greene practices.
- Some jurisdictions: Do something in between; Fourth Amendment not implicated, but reasonable practices to ensure reliability/accuracy of statements.

Keep in Mind Two Big Questions as We Go On:

1. Are the practices we're going to discuss good practice? Or
2. Are the practices we're going to discuss constitutionally required?

- What is the law now?
- Who should represent the child in a case like *Camreta*?
- Who should decide the position to take on behalf of the child?
- When is the Fourth Amend implicated in these interviews; was there a seizure?
- How do we advise public agencies now?
- What about private/parochial schools?
- What about home schooling?
- Does *J.D.B. v. North Carolina* impact any of this advice?
