

Camreta v. Greene: The Aftermath



with
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Tequila County California

Juvenile Court Complex
Margaritaville, California

- **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



Camreta/Alford v Greene
Nos. 09-1454, 09-1478
March 1, 2011



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JUSTICE SCALIA:
"Not so fast." (Laughter.)

- ✓ Do the parties still have standing?
- ✓ Is there still an Article III case or controversy?
- ✓ Is this case moot?
- ✓ Is there a better case coming?
- ✓ If the Court dismisses the case, how should it do so?

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. KUBITSCHEK:

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.

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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?
