

No. 00-102

# Supreme Court of the United States

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**QUESTION PRESENTED**

Does the Fourth Amendment prohibit a policy that in all instances requires a strip search of all juveniles brought to a juvenile detention facility without regard to individualized considerations, such as the individual's circumstances, the alleged offense, or whether individualized suspicion exists to believe that the juvenile is carrying or concealing weapons or contraband?

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## STATEMENT OF THE CASE

### Factual Background

There is no genuine dispute in this case about the facts surrounding Petitioner's search or the policy in place at the time of that search. Further, it is undisputed that the Minnehaha County Juvenile Detention Center ("JDC") changed its policy in 1999 to allow a two-hour grace period during which any juvenile arrested for minor offenses could be held pending contact with that juvenile's parent without being admitted and searched. Pet. App. 3. After South Dakota passed legislation in 2000 barring visual searches for juveniles detailed solely for curfew violations, the JDC again adjusted its policies to comply with the new law. Pet. App. 4 n. 4 (citing SDCL § 26-11-1.1 (2006)). Thus, it is undisputed that the type of search conducted upon Petitioner is no longer taking place.

### Opinions Below

The district court held that Petitioner's search violated her Fourth Amendment right to be free from unreasonable search and seizure. Pet. App. 40a-68a. It further held that juveniles charged with non-felony offenses could only be subjected to visual searches if JDC officials had reasonable suspicion of concealed weapons or contraband. *Id.* Shortly after the district court's decision, Minnehaha County brought a motion for reconsideration in light of *N.G. v. Connecticut*, 382 F.3d 225 (2nd Cir. 2004), a case decided in the interim between the briefing of the case and the district court's decision. The district court granted Minnehaha County's request to reconsider its ruling. Pet. App. 21a-39a. Upon reconsideration, the district court

again held that Minnehaha County's search policy and the search of Petitioner specifically were unconstitutional. *Id.*

In August 2006, the Court of Appeals for the Eighth Circuit reversed the district court's decision and remanded the case back to the district court. Pet. App. 1a-20a. The court of appeals held, *inter alia*, that Petitioner's search was constitutional and that the class lacked standing to seek injunctive relief due to the JDC's change in policies. *Id.* The court of appeals declined to rule on the facial challenge to the JDC's policy and remanded the case to the district court for further determination on a case-by-case basis if a suitable replacement class representative could be located. *Id.* at 17a.

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#### REASONS FOR DENYING THE WRIT

As Petitioner concedes in her petition for writ of certiorari, the JDC has adjusted its policy to discontinue the conduct of which Petitioner complains. Pet. App. 3-4. As such, any purported constitutional violations by Minnehaha County are no longer taking place, and Petitioner's argument that the JDC policy is unconstitutional is moot. Under Article III of the Constitution, Petitioner's attempt to seek the Court's determination as to the constitutionality of a now defunct policy does not meet the jurisdictional requirements of a live controversy.

Further, the decision of the court of appeals is interlocutory in nature. It simply reversed the district court's erroneous decision granting summary judgment in favor of the plaintiff class, held that the lead plaintiff's constitutional rights had not been violated, and remanded the case to the district court for further proceedings with respect to