

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

99 JUN -2 PM 1:30
U.S. DISTRICT COURT
N.D. OF ALABAMA

DEANGELA WILSON, by and through)
Paula DuVall, her mother)
and next friend,)

Plaintiff;)

v.)

SHELBY COUNTY, ALABAMA, et al.)

Defendants.)

Case No. CV 99-TMP-110-S
98-TMP-0907-NE

Upay

ENTERED

JUN 2 - 1999

ORDER

This matter is before the court on defendants' motion to dismiss, filed February 22, 1999. On April 23, 1999, this court entered a report and recommendation, recommending that the motion be granted in part and denied in part. Defendant Sheriff James Jones filed objections to the report and recommendation. The parties have consented to the jurisdiction of the undersigned pursuant to 28 U.S.C. § 636(c); consequently, this court will treat the objections as a motion for reconsideration.

In his objections, the Sheriff argues that the report and recommendation is based on an erroneous finding that the plaintiff in this case was a juvenile. It is undisputed that the plaintiff was 18 years old at the time of the arrest and strip search made the basis of her complaint. In support of his contention, the

17

Sheriff cites the definition of "child" set forth in Alabama Code § 12-15-1(3). This statute delineates the age at which a juvenile may be subject to the jurisdiction of the juvenile court. That question is not particularly germane to the issue before this court. Even so, that same statute clearly states that, in Alabama, an individual is not an adult until he reaches the age of 19. Ala. Code § 12-15-1(1). This is in keeping with the age of majority, which, under Alabama law, also is 19. Ala. Code § 26-1-1.

Alabama law consistently has recognized that persons under the age of 19 are entitled to certain protections because of their age. See Ala. Code § 6-2-8 (suspending the statutes of limitations for actions that accrue before the person entitled to bring such an action is 19 years of age). In this case, the action is brought not by DeAngela Wilson herself, but by her mother and next friend, in keeping with her legal status as an infant. For purposes of protecting the constitutional rights applicable to persons subjected to strip searches, this court applies Alabama's clear mandate that individuals under 19 are entitled to protections that are not available to those who are legally recognized as adults.

The Sheriff further argues that this case is governed by Bell v. Wolfish, 441 U.S. 520 (1979), rather than Justice v. Peachtree City, 961 F.2d 188 (11th Cir. 1992). The distinction relied upon

by the defendant is of no consequence. Bell involved the strip search of adults who already were inmates in a prison and who were returning to the jail population after contact visits with those from the outside. In this case, the plaintiff was a juvenile arrested for a minor offense, who had no reason to conceal a weapon or secrete contraband on her person. Because juveniles are entitled to protections above and beyond those given to adults, the court must look to Justice for guidance as to the limits of the defendant's authority to impose such an invasive and traumatic search on the plaintiff in this case. Justice requires that the search of a minor in custody be premised on a "reasonable suspicion." Reasonable suspicion is lacking in this case.

Based on the foregoing, and on the undisputed facts and legal conclusions set forth in the report and recommendation, this court hereby ORDERS that the motion for reconsideration filed by defendant Sheriff James Jones is due to be and is hereby DENIED, and that the motion to dismiss filed by defendants Shelby County and Sheriff James Jones is due to be and is hereby GRANTED in part and DENIED in part as follows:

1. That the motion be GRANTED as to all claims alleged against Shelby County, and that all such claims be DISMISSED WITH PREJUDICE.

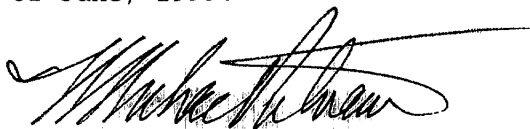
2. That the motion be GRANTED as to all claims alleged against Sheriff Jones in his official capacity, and that all such claims be DISMISSED WITH PREJUDICE.

3. That the motion be GRANTED as to all state law claims alleged against Sheriff Jones in his individual capacity, and that all such claims be DISMISSED WITH PREJUDICE.

4. That the motion be GRANTED as to plaintiff's claims against Sheriff Jones in his individual capacity for injury due to removal of her belly button ring and for violation of her Fourth Amendment rights in relation to the search of the cooler and the breath alcohol test, and that such claims be DISMISSED WITH PREJUDICE.

5. That the motion be DENIED as to plaintiff's Fourth Amendment/strip search claim against Sheriff Jones in his individual capacity.

DATED this 2nd day of June, 1999.



T. MICHAEL PUTNAM
CHIEF MAGISTRATE JUDGE