

## **Flood v. Kuhn**

407 U.S. 258 (1972)

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The National Collegiate Athletic Association ("NCAA") instituted a drug-testing program in 1986 after several college athletes tested positive for drugs at the 1983 Pan-American Games. NCAA rules required that each student-athlete had to consent to drug testing if they wanted to participate. Jennifer Hill, joined by other Stanford University student-athletes sued the NCAA claiming that the drug-testing procedures violated their privacy rights under the California constitution. The drug testing procedures included monitored urination and gathering information about the medical and physical condition of the athlete.

At issue was whether the NCAA's drug-testing violated the student-athletes' privacy rights under Article I, Section I of the California constitution, which states that all individuals have certain inalienable rights, including the right to privacy. The California Supreme Court ("Court") used a three part test in determining whether Hill's allegation of privacy invasion was valid. The Court also reviewed the competing interests of the parties to determine which had a more valuable public initiative.

First, the Court stated that urination and a student-athlete's medical and physical condition qualified as legally protected privacy interests. Secondly, under a reasonable expectation of privacy, the Court stated that student-athletes were naturally required to undergo close scrutiny of bodily conditions. Additionally, the student-athlete has the choice to withdraw from athletic participation and not undergo drug testing. Therefore, the student-athlete's reasonable expectation of privacy is diminished. Thirdly, the Court determined that the NCAA's conduct of monitored urination and gathering of medical and physical information did not constitute a serious invasion of privacy. Lastly, the Court stated that the drug-testing program was reasonably calculated to further the NCAA's legitimate interest in maintaining the integrity of the intercollegiate athletic program.

Therefore, the Court ruled that although the student-athletes had legally protected privacy interests in monitored urination and gathering of private information, their expectation of privacy was diminished and the NCAA's drug-testing program did not violate the student-athletes' privacy rights. Moreover, the court allowed the drug testing as sound public policy since the NCAA has a legitimate interest in safeguarding intercollegiate athletic competition. The Court reversed the trial court's permanent injunction against the NCAA, allowing the NCAA to conduct drug-testing on student-athletes, which has remained in effect to this day.