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Supreme Court - Recent Developments In The Law

Supreme Court Review

Final Decisions

DOCKET NO.: 98-84
NAME: *National Collegiate Athletic Association v. Smith*
DATE: February 23, 1999

College student brought a Title IX claim against the NCAA (a private, nationwide athletic association) when it refused to allow her to play intercollegiate volleyball at a federally assisted institution. The NCAA has a bylaw which allows postgraduate students to play intercollegiate sports only if they are conducting their graduate work at the same institution where they received their undergraduate degree. The affected student sued, claiming that the NCAA's rules were a violation of Title IX and that since the NCAA receives dues from institutions which receive federal assistance it is subject to the requirements of Title IX.

The NCAA argued that it is a private organization that receives no direct federal funding. NCAA funding comes from member institutions, which in turn receive federal funds. NCAA benefits from others receiving federal funds, but it in no way receives the funds other than through its member institutions. The Supreme Court found that merely benefitting economically from federal assistance was not enough to subject the NCAA to a suit under Title IX. *National Collegiate Athletic Ass'n v. Smith*, 119 S. Ct. 924 (1999).

DOCKET NO.: 96-1793
NAME: *Cedar Rapids Community School District v. Garrett F.*
DATE: March 3, 1999

School district appealed administrative judge's opinion that school was required under the Individuals with Disabilities Education Act (IDEA) to provide a ventilator-dependent student with continuous one-on-one nursing services. The court found that the services requested by the student were within the definitions of medically related services under the IDEA. Since the services were needed to allow the student to attend school, they were supportive services. Only if the services requested by the school were considered medical services, as defined by the IDEA, would the school be exempt from paying for them.

The court opined that "Services provided by a physician (other than for diagnostic and evaluation purposes) are subject to the medical services exclusion, but services that can be provided by a nurse or qualified layperson are not." Since the services requested were needed to support the disabled student's ability to benefit from special education and were not found to be medical

services, the school must pay for the student's needs. *Cedar Rapids Community Sch. Dist. v. Garret F.*, 119 S. Ct. 992 (1999).

DOCKET NO.: 97-843
NAME: *Davis v. Monroe County Board of Education*
DATE: May 24, 1999

Student and parent sued school board under Title IX for board's failure to prevent the sexual harassment of the student by a fellow student. The court found that a private right of action under Title IX can be sustained against a school board for student-on-student sexual harassment where the board was deliberately indifferent to, and had knowledge of, the harassment. Furthermore the harassment must be so severe, not merely name-calling and teasing, that objectively it can be said to deprive the student of access to the educational opportunities provided by the school. *Davis v. Monroe County Bd. of Educ.*, 119 S. Ct. 1661 (1999).

Review Denied

Decisions without published opinions in the lower court:

DOCKET NO.: 98-985
NAME: *Herbert v. Reinstein*
DATE: March 1, 1999
CITATION: *cert. denied*, 119 S. Ct. 1113 (1999).

DOCKET NO.: 98-1114
NAME: *Onstine v. Ramaley*
DATE: March 1, 1999
CITATION: *cert. denied*, 119 S. Ct. 1115 (1999).

DOCKET NO.: 98-1148
NAME: *Campbell v. McAlister*
DATE: March 22, 1999
CITATION: *cert. denied*, 119 S. Ct. 1252 (1999).

DOCKET NO.: 98-1303
NAME: *Klein v. Courtwright*
DATE: May 3, 1999
CITATION: *cert. denied*, 119 S. Ct. 1575 (1999).

DOCKET NO.: 98-1275
NAME: *Constantino v. University of Pittsburgh*
DATE: May 24, 1999
CITATION: *cert. denied*, 119 S. Ct. 1802 (1999).

DOCKET NO.: 98-1606
NAME: *Dunn v. Commission on Professional Competence*
DATE: June 7, 1999
CITATION: *cert. denied*, 119 S. Ct. 2048 (1999).

Decisions with written opinions in the Court of Appeals:

DOCKET NO.: 98-606, 98-789
NAME: *Taylor v. Rooney & Rooney v. Taylor*
DATE: February 22, 1999

School teacher who was suspended without pay for one year filed a § 1983 action against principal and others for violating his civil rights. An African-American schoolteacher was suspended after the Board of Education decided that his use of excessive force in disciplining students was in violation of school rules. The teacher's complaint against the principal went to trial, and a jury awarded the teacher monetary damages for his claim of racial discrimination. *Held: The court of appeals reversed the lower court's verdict and ordered that judgment should be entered for the principal.* The court found that the principal could not be liable in this case since the decision to suspend the teacher was made by the school board after they conducted an independent investigation. Furthermore the principal's reporting of the teacher's use of excessive force was in conformity with school regulations. *Taylor v. Brentwood Union Free Sch. Dist.,* 143 F.3d 679 (2d Cir. 1998), *cert. denied*, 119 S. Ct. 1027 (1999).

DOCKET NO.: 98-964
NAME: *Edwards v. California University of Pennsylvania*
DATE: February 22, 1999

Professor sued public university, claiming that it violated his rights to free speech when he was suspended with pay for not following the prescribed university syllabi. The university suspended the professor for using materials in his classes that were not on the approved syllabi and were of a religious nature. Professor claimed that this violated his First Amendment rights by restricting his choice of curriculum materials and the content and subjects of his classes. *Held: The court of appeals found that a public university professor does not have a First Amendment right to decide what will be taught in the classroom.*

A public university has the right to control its curriculum and make decisions as to what content to include in said curriculum. *Edwards v. California Univ. of Pa.*, 156 F.3d 488 (3rd Cir. 1998), *cert. denied*, 119 S. Ct. 1036 (1999).

DOCKET NO.: 98-764
NAME: *Morton Community Unit School District No. 709 v. J.M.*
DATE: March 8, 1999

School district appealed ruling of an administrative hearing officer that required school to provide services to a disabled student under the Individuals with Disabilities Education Act (IDEA). The district was ordered to pay for a nurse to provide for constant monitoring of the student, adjustments to his tracheostomy tube, and the application of an ointment to his eyes each hour. The district claimed that this was an undue burden and that, since such services are medical services, they are outside the district's duties under IDEA. *Held: The court of appeals found that the district was required to provide the services to the disabled student.* The services which the disabled student required were related services of a medical nature which are covered by IDEA. *Morton Community Unit Sch. Dist. No. 709 v. J.M.*, 152 F.3d 583 (7th Cir. 1998), *cert. denied*, 119 S. Ct. 1140 (1999).

DOCKET NO.: 98-983
NAME: *Lacks v. Ferguson Reorganized School District R-2*
DATE: March 8, 1999

Teacher claimed that her termination by school board violated her rights to free speech and was racial discrimination. The teacher allowed her students to use large amounts of profanity in their writing projects in violation of the school board's policy. The teacher claimed she thought that this policy did not apply to creative projects by students. *Held: The court of appeals found the school board had sufficient cause to terminate teacher.* The school board did not violate the teacher's free speech rights when it terminated her for knowingly violating the school board's policy on students' use of profanity. Nor was there sufficient evidence to show that the teacher was fired because of her race. *Lacks v. Ferguson Reorganized Sch. Dist. R-2*, 147 F.3d 718 (8th Cir. 1998), *cert. denied*, 119 S. Ct. 1158 (1999).

DOCKET NO.: 98-1183
NAME: *Anderson Community School Corporation v. Willis*
DATE: March 22, 1999

Student claimed that the school violated his Fourth Amendment rights when they refused to readmit him to school, after having been suspended, without

first taking a drug and alcohol test. The school had instituted a policy which in part stated that all students who were suspended for three or more days for fighting had to submit to an alcohol and drug test prior to being allowed back to school. This policy was created by a committee which included school officials, parents, and other community members, in response to the perceived problem of an increased use of drugs and alcohol by the students. *Held: The court of appeals found that the school's policy was a violation of the student's Fourth Amendment rights.* The court decided that on the facts the school did not have a reasonable suspicion which could give rise to a right to require students to submit to the testing. The school argued that the special needs exception would allow them to conduct suspicionless searches, but the court also rejected this argument. *Willis v. Anderson Community Sch. Corp.*, 158 F.3d 415 (7th Cir. 1998), *cert. denied*, 119 S. Ct. 1254 (1999).

DOCKET NO.: 98-1241
NAME: *McGuinness v. University of New Mexico School of Medicine*
DATE: April 5, 1999

Medical student sued state medical school for its failure to grant him an accomodation under the American with Disabilities Act (ADA). The student claimed that he suffered anxiety when he took exams in certain subjects, which prevented him from meeting the required grades to continue to the second year. *Held: The court of appeals found that the student did not have a disability covered by the ADA.* The fact that the student was able to alter his study habits in the past to compensate for his anxiety, plus the fact that this occurred only in specific subjects, placed his condition outside of the scope of the ADA. *McGuinness v. University of N.M. Sch. of Med.*, 170 F.3d 974 (10th Cir. 1998), *cert. denied*, 119 S. Ct. 1357 (1999).

DOCKET NO.: 98-1246
NAME: *Gray v. Board of Regents of the University System of Georgia*
DATE: April 19, 1999

Former professor sued college for denial of her tenure application. The professor claimed the college violated her due process rights, specifically because she had a property interest in her continued employment. She claimed that her one-year contracts had been renewed past the seventh year, giving her de facto tenure. *Held: The court of appeals found that the professor did not receive tenure simply due to the renewal of her normal contract after the seventh year.* The normal means of achieving tenure at the college is to apply for tenure and have it approved by the Board of Regents. Absent this approval, no tenure, and hence no property rights, vest in a professor beyond that which is stated in the employment contract, here one year. *Gray v. Board of Regents*

of the Univ. System of Ga., 150 F.3d 1347 (11th Cir. 1998), *cert. denied*, 119 S. Ct. 1455 (1999).

DOCKET NO.: 98-1578
NAME: *Austin Independent School District v. Meyer*
DATE: May 24, 1999

Students sued school district, claiming their procedural due process rights were violated when they were suspended from school. The students were all wearing supposed gang-related colored shirts. The school administrators suspended them for three days for engaging in gang-related activity. The students claimed that their due process rights were violated when they were not given a chance to explain what they were doing before being suspended. *Held: The court of appeals found that the students must be given a chance to tell their side of the story themselves or through a reliable intermediary such as their parents. Meyer v. Austin Indep. Sch. Dist.*, 161 F.3d 271 (5th Cir. 1998), *cert. denied*, 119 S. Ct. 1806 (1999).

DOCKET NO.: 98-101
NAME: *McCaffrey v. Oona R.-S-.*
DATE: June 1, 1999

Student sued school officials for violating her rights under the equal protection clause, due process clause and Title IX. The student claimed that school officials did nothing to stop the sexual harassment she faced at the hands of a student teacher and fellow students. School officials claimed they had a qualified immunity from said suit. *Held: The court of appeals found that the officials were not protected by a qualified immunity.* The court reasoned that since the school officials knew of the harassment at the time it occurred and did nothing to stop it, they could not hide behind a qualified immunity. *Oona R.-S.-v. McCaffrey*, 143 F.3d 473 (9th Cir. 1998), *cert. denied*, 119 S. Ct. 2039 (1999).

DOCKET NO.: 98-1613
NAME: *Doe v. Board of Education of Baltimore County*
DATE: June 7, 1999

Parents, one of whom is an attorney, sought attorney fees for work done in attaining benefits for own child under the Individuals with Disabilities Education Act (IDEA). The parents sought to have a specific program instituted for their disabled child. When this was denied, they appealed to an administrative panel. The parents were successful and asked for attorney fees to be awarded under the IDEA to the attorney parent who represented his child. The lower

court refused this request, claiming that a parent who represents his own child is not eligible for attorney fees under the IDEA. *Held: The court of appeals upheld the lower court's decision.* The court said that the purpose of the fee-shifting provisions of the IDEA was to promote independent third parties to aid disabled students with meritorious claims. Allowing pro se plaintiff-attorneys to pursue their own claims and be eligible for the IDEA fee-shifting would undermine the IDEA's intent. *Doe v. Board of Educ. of Baltimore County*, 165 F.3d 260 (4th Cir. 1998), *cert. denied*, 119 S. Ct. 2049 (1999).

This review reports all of the Supreme Court activity in education law reported by the BNA *Supreme Court Review* published during the months of January 1999 to end of term.

Primary and Secondary Education

Constitutional Claims and Civil Rights

African-American high school teacher sued school committee and superintendent, alleging race discrimination under the Civil Rights Act and violations of his free speech and due process rights. While supervising a study hall, the teacher gave a lewd questionnaire to a female student and was subsequently discharged for unbecoming conduct. *Held*: *For the school committee and superintendent.* The teacher did not prove his discrimination claim because the incidents involving white teachers who received less discipline were dissimilar from his conduct. His conduct was subject to regulation under the First Amendment, and he received due process prior to his termination. *Conward v. Cambridge Sch. Comm.*, 171 F.3d 12 (1st Cir. 1999).

Students and their parents sued school district for permitting prayer. Students and their parents sued the school district for allowing students to deliver invocations and benedictions at their football games and graduations. *Held: For the students in part and the district in part.* While non-sectarian, non-proselytizing invocations and benedictions at high school graduations do not violate the First Amendment rights of free speech, a policy allowing prayers at football games is unconstitutional, whether or not the prayers are non-sectarian and non-proselytizing. *Doe v. Santa Fe Indep. Sch. Dist.*, 168 F.3d 806 (5th Cir. 1999).

Teachers appealed judgment in favor of school on First Amendment claims. The teachers criticized their principal to a decision-making committee. Later, the superintendent reprimanded them and transferred them to different positions within the school district. The lower court held that the speech did not