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Touro Law Review

Volume 12
Number 3 *New York State constitutional
Decisions: 1995 Compilation*

Article 14

1996

Due Process

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Recommended Citation

(1996) "Due Process," *Touro Law Review*. Vol. 12: No. 3, Article 14.

Available at: <https://digitalcommons.tourolaw.edu/lawreview/vol12/iss3/14>

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Booth, the *Payne* Court also acknowledged that the *Booth* opinion was a five to four decision.⁹⁸

Applying these principles to *Oyola*, the court considered the interest of the State in providing information to the sentencing court with regard to the psychological impact upon the victim.⁹⁹ The *Oyola* court denied defendant's request for resentencing opining that "CPL 380.50(2)(b) advances a legitimate State interest, and its application in this case did not deprive the defendant of any of his constitutionally-guaranteed rights."¹⁰⁰ The court concluded that "[t]he terms of CPL 380.50(2)(b) advance the State's 'legitimate interest in * * * reminding the sentencer that just as the [convicted criminal] should be considered as an individual, so too the victim is an individual.'"¹⁰¹

As the *Oyola* decision points out, the New York Due Process Clause goes only as far as the Federal Due Process Clause in protecting a convicted defendant from the arbitrary sentencing so often involved with victim impact statements.

SUPREME COURT

ALBANY COUNTY

Bradstreet v. Sobo¹⁰²
(decided July 17, 1995)

Plaintiff contended that defendant's regulation prohibiting home-schooled students from participating in interscholastic sports constituted a violation of the Equal Protection Clause of

98. *Id.* at 817.

99. *People v. Oyola*, 215 A.D.2d 597, 598, 626 N.Y.S.2d 849, 850 (2d Dep't 1995).

100. *Id.*

101. *Id.* (citation omitted).

102. 165 Misc. 2d 931, 630 N.Y.S.2d 486 (Sup. Ct. Albany County 1995).

both the Federal¹⁰³ and New York State Constitutions.¹⁰⁴ Plaintiff further contended that the regulation also violated the Due Process Clause of the Federal¹⁰⁵ and New York State Constitutions.¹⁰⁶ Bradstreet moved and Sobol cross-moved for summary judgment.¹⁰⁷ Plaintiff's motion was denied and defendant's motion was granted.¹⁰⁸ The court denied Bradstreet's equal protection claim on the ground that the State regulation bore a rational relationship to a legitimate State purpose.¹⁰⁹ In denying the due process claim, the court held that the plaintiff had not been "deprived of a property or liberty interest."¹¹⁰

Charlotte Bradstreet was a fourteen year old girl from Steuben County, New York.¹¹¹ Her parents decided that she would be home-schooled rather than attend the local public school.¹¹² Although she did not attend the public school, the eighth grade student wanted to be permitted to play interscholastic sports in the Avoca Central School District.¹¹³ She was precluded from playing because the school had instituted a regulation that only allowed students who were in regular attendance at the school to

103. U.S. CONST. amend. XIV, § 1. The Equal Protection Clause provides in pertinent part: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." *Id.*

104. *Bradstreet*, 165 Misc. 2d at 932, 630 N.Y.S.2d at 487. N.Y. CONST. art. I, § 11. This section provides in pertinent part: "No person shall be denied the equal protection of the laws of this state or any subdivision thereof." *Id.*

105. U.S. CONST. amend. XIV, § 1. The Due Process Clause provides in pertinent part: "No State shall . . . deprive any person of life, liberty, or property, without due process of law" *Id.*

106. *Bradstreet*, 165 Misc. 2d at 932, 630 N.Y.S.2d at 487; N.Y. CONST. art. I, § 6. This section provides in pertinent part: "No person shall be deprived of life, liberty or property without due process of law." *Id.* Plaintiff also alleged that the regulation violated section 301 of the Education Law. *Bradstreet*, 165 Misc. 2d at 933, 630 N.Y.S.2d at 487-88. See N.Y. EDUC. LAW § 301 (McKinney 1995). The court rejected this contention. *Bradstreet*, 165 Misc. 2d at 933, 630 N.Y.S.2d at 487-88.

107. *Bradstreet*, 165 Misc. 2d at 931-32, 630 N.Y.S.2d at 487.

108. *Id.*

109. *Id.* at 932-33, 630 N.Y.S.2d at 487-88.

110. *Id.* at 932, 630 N.Y.S.2d at 487.

111. *Id.*

112. *Id.*

113. *Id.*

participate in interscholastic sports.¹¹⁴ The regulation in question reads as follows:

Registration. A pupil shall be eligible for interschool competition in a sport during a semester, provided that he is a bona fide student, enrolled during the first 15 school days of such semester, is registered in the equivalent of three regular courses, is meeting the physical education requirement, and has been in regular attendance 80 percent of the school time, bona fide absence caused by personal illness excepted.¹¹⁵

Plaintiff, Charlotte's mother, brought this suit on her behalf to annul the regulation, claiming that the regulation constituted a violation of her daughter's equal protection and due process rights under both the Federal and New York State Constitutions.¹¹⁶ In addition, Bradstreet claimed that the regulation conflicted with provisions of the Education Law.¹¹⁷ The suit was brought against Thomas Sobol, the New York State Commissioner of Education who represented the interests of the school.¹¹⁸

In assessing the plaintiff's due process claim, the court stated that there can be no due process violation unless a person is "deprived of a property or liberty interest."¹¹⁹ The court stated that since plaintiff did not advance the argument that Bradstreet's liberty had been deprived, the court had only to determine whether participation in interscholastic sports is a "property" interest within the definition of due process.¹²⁰ However, the court determined that a student does not have a property interest in participating in interscholastic sports.¹²¹ In deciding that plaintiff's due process claim was without merit, the court cited

114. *Id.*

115. N.Y. COMP. CODES R. & REGS. tit. VIII, § 135.4(c)(7)(ii)(b)(2) (1991).

116. *Bradstreet*, 163 Misc. 2d at 932, 630 N.Y.S.2d at 487.

117. *Id.*

118. *Id.* at 931, 630 N.Y.S.2d at 486.

119. *Id.* at 932, 630 N.Y.S.2d at 487.

120. *Id.*

121. *Id.*

People v. Leonard,¹²² in which a student who had been banished from the campus of a state university was found to have “no ‘property’ or ‘liberty’ interest in being present on campus grounds.”¹²³

Citing the rule established in *Caso v. New York State Public High School Athletic Ass’n*,¹²⁴ the *Bradstreet* court characterized any interest in participating in school sports programs as a “mere expectation,” and, thus, not one subject to due process protection.¹²⁵ In *Caso*, the petitioner argued that his constitutional due process rights were violated as a result of a school’s refusal to declare him eligible to participate in an interscholastic sports competition.¹²⁶ It was held that such participation “is not a substantial right unless denial is based on an abuse of a student’s fundamental rights or predicated on a suspect basis.”¹²⁷ Neither a fundamental right claim or a suspect classification claim was advanced by *Bradstreet* in the instant case.¹²⁸

In evaluating *Bradstreet*’s equal protection claim, the court began by stating that where a suspect classification or fundamental right claim is not advanced, “a regulation will withstand an equal protection challenge if it bears some rational relationship to a legitimate State purpose.”¹²⁹ The *Bradstreet* court cited *Schneider v. Ambach*,¹³⁰ wherein the court found that the rational basis standard should be applied when evaluating a

122. 62 N.Y.2d 404, 465 N.E.2d 831, 477 N.Y.S.2d 111 (1984).

123. *Id.* at 409, 465 N.E.2d at 834, 477 N.Y.S.2d at 114-15. While the *Leonard* court found no due process violation, the order banishing the appellant from the university campus and the subsequent conviction for trespass were vacated on the ground that the state had produced no evidence that the banishment order had a legitimate purpose. *Id.* at 411, 465 N.E.2d at 836, 477 N.Y.S.2d at 116.

124. 78 A.D.2d 41, 434 N.Y.S.2d 60 (4th Dep’t 1980).

125. *Bradstreet*, 165 Misc. 2d at 932, 630 N.Y.S.2d at 487 (citation omitted).

126. *Caso*, 78 A.D.2d at 46-47, 434 N.Y.S.2d at 64.

127. *Id.*

128. *Bradstreet*, 165 Misc. 2d at 932, 630 N.Y.S.2d at 487.

129. *Id.*

130. 135 A.D.2d 284, 526 N.Y.S.2d 857 (3d Dep’t 1988).

challenge to “an administrative regulation as arbitrary and capricious,” as opposed to a more stringent strict scrutiny review.¹³¹

In the present case, Sobol contended that the regulation which limits participation in interscholastic athletics serves several legitimate state purposes.¹³² Some of the objectives cited by the Commissioner included “promoting loyalty and school spirit,” “securing role models for other students,” and avoiding problems associated with the “quasi-curricular nature of interschool activities.”¹³³ The court agreed that such purposes were legitimate state interests which could be furthered by the regulation.¹³⁴ Rejecting the equal protection claim, the court stated that it could “discern no good reason why [participation in school athletics] should be extended to persons who do not attend the school.”¹³⁵

Although plaintiff, Bradstreet, alleged violations of the Federal Constitution as well as the New York State Constitution, the court did not specifically cite any federal cases in support of its decision. However, the court in *Caso* discussed the federal caselaw pertaining to students alleging due process violations. In *Walsh v. Louisiana High School Athletic Ass’n*,¹³⁶ the court held that the Federal Due Process Clause does not protect a student from a school’s denial of his or her athletic eligibility, because such a question was not “substantial.”¹³⁷ The *Caso* court also cited *Albach v. Odle*,¹³⁸ which stated that “unless athletic regulations deny an athlete a protected fundamental right or classify him or her on a suspect basis, e.g., religion or race, athletic programs are not subject to Federal review.”¹³⁹

131. *Id.* at 288, 526 N.Y.S.2d at 860.

132. *Bradstreet*, 165 Misc. 2d at 932-33, 630 N.Y.S.2d at 487.

133. *Id.*

134. *Id.* at 933, 630 N.Y.S.2d at 488.

135. *Id.*

136. 616 F.2d 152 (5th Cir. 1980).

137. *Id.* at 156.

138. 531 F.2d 983 (10th Cir. 1976).

139. *Caso*, 78 A.D.2d at 46, 434 N.Y.S.2d at 64. The *Albach* court stated the matter as follows: “The supervision and regulation of high school athletic

However, since New York's regulation did not violate a fundamental right or impinge on a suspect class, it is almost certain that the result would have been the same under the Federal Constitution.

WYOMING COUNTY

People v. Ayers¹⁴⁰
(decided January 6, 1995)

The defendant claimed that statements he made to the sheriff's department were obtained in violation of the Due Process Clauses of the Federal¹⁴¹ and New York State¹⁴² Constitutions. The defendant contended that his motion to suppress should have been granted because the statements he made to the Sheriff were involuntary and/or untrustworthy, by virtue of the defendant's deficient mental state.¹⁴³ The Supreme Court, Wyoming County, found that, absent official coercion, the defendant's mental condition alone did not render the statements involuntary.¹⁴⁴ Furthermore, the People had proven the voluntariness of his statements beyond a reasonable doubt, thus vitiating any violation of the defendant's due process rights.¹⁴⁵

The defendant was interviewed after a homicide team investigation labeled him a suspect in the murder of Charles

programs remain within the discretion of appropriate state boards, and are not within federal cognizance under 42 U.S.C. § 1983 unless the regulations deny an athlete a constitutionally protected right or classify him or her on a suspect basis." *Albach*, 531 F.2d at 985.

140. 163 Misc. 2d 739, 622 N.Y.S.2d 212 (Sup. Ct. Wyoming County 1995).

141. U.S. CONST. amend. XIV, § 1. This provision states in relevant part: "No State shall . . . deprive any person of life, liberty, or property, without due process of law . . ." *Id.*

142. N.Y. CONST. art. I, § 6. This provision states in relevant part: "No person shall be deprived of life, liberty or property without due process of law." *Id.*

143. *Ayers*, 163 Misc. 2d at 740, 622 N.Y.S.2d at 213.

144. *Id.*

145. *Id.* at 745, 622 N.Y.S.2d at 216.