

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

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MARGARET B. :

vs. :

MIDDLETOWN :  
SCHOOL COMMITTEE . :

DECISION

JUNE 2, 1988

This matter was heard on April 12, 1988 on the appeal to the Commissioner of Education by Margaret B. from a decision of the Middletown School Committee in accordance with §16-39-2 of the General Laws of Rhode Island, as Amended. The matter was heard by the undersigned Hearing Officer under authorization from the Commissioner.

Due notice was given to the parties of the time and place of the hearing. The appellant appeared pro se. The respondent was represented by counsel. Testimony was taken, a transcript of which was made and evidence presented. Attorney Thomas J. Liguori, Jr. made a motion to intervene on behalf of the teacher, Carol Allen, since the question of the appellant's daughter's penmanship grade was raised as an issue by the appellant.

Counsel for both the respondent and the intervenor moved to dismiss on the basis of a previous decision of the Commissioner in the case of George F. Mumford vs. Chariho School Committee, February 25, 1985.<sup>1</sup> In that case, the Commissioner ruled that he does not review school grades citing Barnard v. Inhabitants of Shelburne, 216 Mass. 19, 102 N.E. 2d 1095 (1913) and G.L.16-2-16.

It was agreed to at the hearing (see p.19 of the transcript),

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<sup>1</sup>The Commissioner in the Mumford case, supra, in accordance with the Buckley Amendment, did "give the appellee leave to place a statement in his son's school file that he does not believe. . .".

that the Hearing Officer would rule on the motion to dismiss and if the motion to dismiss was not granted, another hearing date would be scheduled at which time the parties would go forward with the remainder of this case.

In the case of Thomas Connelly, Jr. v. The University of Vermont and State Agricultural College, 244 F.Supp. 156 (1965) the United States District Court cited Barnard v. Inhabitants of Shelburne, 216 Mass. 19, 102 N.E. 1095 (1913) which said,

So long as the school committee act in good faith their conduct in formulating and applying standards and making decisions touching this matter is not subject to review by any other tribunal. It is obvious that efficiency of instruction depends in no small degree upon this feature of our school system. It is an educational question, the final determination of which is vested by law in public officials charged with the performance of that important duty.

The only issue for the jury to decide, said the court, was "whether the exclusion of the plaintiff from the High School was an act of bad faith by the school committee."

This rule has been stated in a variety of ways by a number of courts. It has been said that courts do not interfere with the management of a school's internal affairs unless "there has been a manifest abuse of discretion or where [the school official's] action has been arbitrary or unlawful." State ex rel. Sherman v. Hyman, 180 Tenn. 99, 171 S.W. 2d 822 L.Ed. 1703 (1942), or unless the school authorities have acted "arbitrarily or capriciously". Frank v. Marquette University, 209 Wis. 372, 245 N.W. 125 (1932), or unless they have abused their discretion,

Coffelt v. Nicholson, 224 Ark. 176, 272 S.W. 2d 309 (1954), People ex rel. Bluett v. Board of Trustees of University of Illinois, 10 Ill. App.2d 207, 134 N.E.2d 635, 58 A.L.R.2d 899 (1956).

In Thomas Connelly, Jr., supra, the Court went on to state:

The effect of these decisions is to give the school authorities absolute discretion in determining whether a student has been delinquent in his studies, and to place the burden on the student of showing that his dismissal was motivated by arbitrariness, capriciousness or bad faith. The reason for this rule is that in matters of scholarship, the school authorities are uniquely qualified by training and experience to judge the qualifications of a student, and efficiency of instruction depends in no small degree upon the school faculty's freedom from interference from other noneducational tribunals. It is only when the school authorities abuse this discretion that a court may interfere with their decision to dismiss a student.

In Eddie v. Columbia University, 8 Misc.2d 795, 168 N.Y.S.2d 643 (1957), the New York Supreme Court said:

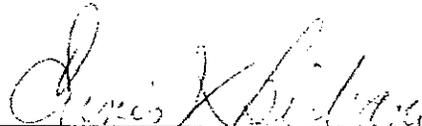
The Court may not substitute its own opinion as to merits of a doctoral dissertation for that of the faculty members whom the University has selected to make a determination as to the quality of the dissertation.

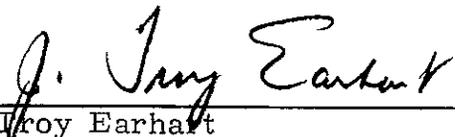
In Thomas Connelly, Jr., supra, the Court went on to state:

It should be emphasized that this Court will not pass on the issue of whether the plaintiff should have passed or failed his pediatrics- obstetrics course, or whether he is qualified to practice medicine. This must and can only be determined by an appropriate department or committee of the defendant College of Medicine. Bernard v. Inhabitants of Shelburne, supra; Eddie v. Columbia University, supra. Therefore should the plaintiff prevail on the issue of whether the defendant acted arbitrarily, capriciously or in bad faith, this Court will then order the defendant University to give the plaintiff a fair and impartial hearing on his dismissal order.

Accordingly, the motion of the respondent and the Intervenor to dismiss the appeal on the basis of George E. Mumford vs. Chariho School Committee, supra, is denied.

The appeal is to be set for hearing on the limited issue of whether the Middletown School Committee and its agents acted arbitrarily, capriciously or in bad faith when a grade of "C" in penmanship was awarded to the appellant's daughter.

  
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Ennis J. Bisbano  
Hearing Officer

Approved:   
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J. Troy Earhart  
Commissioner of Education

June 2, 1988