

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

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**Student T.S. Doe**

**v.**

**Woonsocket School Committee**

.....

**DECISION**

Held: This is an appeal from a decision of the Woonsocket school committee to suspend the petitioner, who is a student at the Woonsocket High School, for the rest of the school year. The suspension imposed in this case is affirmed. The school committee is directed to provide this student with an alternative education program during the duration of her suspension.

DATE: June 2, 2005

## **Travel of the Case**

This is an appeal from a decision of the Woonsocket school committee to suspend the petitioner, who is a student at the Woonsocket High School, for the rest of the school year. Jurisdiction is present under R.I.G.L.16-39-1, R.I.G.L. 16-39-2 and R.I.G.L. 16-2-27.

## **Positions of the Parties**

### **The Parents**

The parents of this student contend that their daughter was only an inadvertent participant in the events we will be discussing. They therefore submit that a school suspension is not justified in this case. They further believe that the members of the school committee should have devoted more time to deliberating this matter. They also contend that their daughter is entitled to an alternative education program during the duration of her suspension from the Woonsocket High School.

### **The School Committee**

The school committee contends that the suspension of this student was fully justified by the facts of the case and that the members of the committee appropriately considered this matter. At the hearing of this matter at the level of the Commissioner the school committee agreed that under R.I.G.L.16-21-27 this student is entitled to an alternative education program during the duration of her school suspension.<sup>1</sup>

## **Findings of Fact**

1. Officer Michael T. Cahill has been the school resource officer at Woonsocket High School since September of 2004. He is a Woonsocket police officer with 15 years experience. At school he is in uniform and, as part of his uniformed police duties, he carries a firearm.
2. Officer Cahill performs basic security duties at the high school. These duties included patrolling the hallways, directing hallway traffic, responding to calls for assistance from administrators and teachers, breaking up student fights, and escorting obstreperous students to the school's administrative offices.
3. Over two thousand students attend Woonsocket High School. Officer Cahill tries to be acquainted with as many students as possible, and all the students know that he is the school resource officer. Officer Cahill is a coach for the school baseball team. Many students address him familiarly as "Cahill."

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<sup>1</sup> SEE: **R.I.G.L. 16-21-27 Alternative education programs.** – Each school district shall adopt a plan to ensure continued education of students who are removed from the classroom because of a suspension of more than ten (10) days or who are chronically truant. The plan shall be adopted by the school committee and shall be submitted to Rhode Island department of elementary and secondary education as part of its annual strategic plan submission.

4. One of the students Officer Cahill is acquainted with is the subject of this hearing. We will assign the pseudonym of Tanya Smith to this student.
5. On March 10, 2005 Officer Cahill was called to the student lunchroom by the schools vice principal because a student (to whom we will assign the pseudonym of Vicky) was, with an unidentified student, climbing and jumping on the tables in the lunchroom.
6. These two students had refused the order of the lunchroom monitor to cease this activity. They had also defied the vice principal and refused her direction to go to the school's administrative offices. There were three to four hundred students in the lunchroom when Officer Cahill responded to the scene.
7. A school administrator pointed out the two students who were causing the disruption. At this point the unidentified student blended into the crowd. Officer Cahill, however, was able to identify Vicky who was standing with a group of 8 to 10 other students.
8. Officer Cahill approached Vicky and told her that she had to go to the office. She replied, "F--- you. I'm not going." Officer Cahill reiterated to Vicky that she had to go to the office. The response was, "F--- you. I'm not going. You need to tell me why I'm going." Officer Cahill said to her "You're going because the [vice principal] told you to go. You have to go." The response again was, "F--- you. I'm not going."
9. We could protract this dialogue, but this would serve no useful purpose. After trying to further reason with Vicky, Officer Cahill decided that he would physically escort her to the office.<sup>2</sup> He put his left hand on her elbow and said, "You're told to go to the office. You're going to the office." Vicky jerked her right arm way, swung it back, and hit Officer Cahill in the chest while saying, "F--- you, I ain't going." Officer Cahill continued to try to reason with Vicky, but she began to back away from him, and try to move behind him. Vicky is at least as tall as Officer Cahill, and perhaps outweighs him.
10. At this point Officer Cahill decided that he had to arrest Vicky. He told her she was under arrest and attempted to handcuff her. She said, "You're not putting those on me. F--- you. ... I ain't going with you."
11. As Officer Cahill once again tried to handcuff Vicky a physical altercation with her started. Vicky broke away and Officer Cahill followed her and once again

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<sup>2</sup> Since Vicky's conduct is not an issue here we do not have to decide in this case whether placing a hand on a student's elbow is a violation of the *Restraint Regulations* of the Board of Regents. We however doubt whether the *Board of Regents Restraint Regulations* were intended to apply to police officers. Sworn uniformed *armed* police officers must follow appropriate police procedures when dealing with difficult and potentially dangerous situations. These procedures may or may not coincide with the *Board of Regents Restraint Regulations*, which are primarily intended to govern interactions between students and educational personnel.

- tried to handcuff her. The altercation continued. A lunch lady who was a relative of Vicky tried to calm Vicky down. This did not work and the altercation continued. Once again Vicky broke away, went through the kitchen and out into a foyer where Officer Cahill caught up with her.
12. At this point the vice principal entered the foyer and Vicky ran to her and “grabbed her in a hug.” Officer Cahill told the vice principal that it was too late, and that Vicky was now under arrest. The vice principal said, “I’ve got to take her. Let me take her to the office.” Officer Cahill decided that he would place the vice principal at risk if he attempted to apprehend Vicky while she was holding on to the vice principal, so he allowed them to head to the office.
  13. Of course while this was going on students, to the number of 30 and 40, had moved out of the cafeteria and into the foyer to observe the action. Office Cahill told them that the “show was over” and that they should return to the cafeteria. The students began to yell at Officer Cahill, but the loudest one was Tanya Smith--the appellant in the present hearing.
  14. As Tanya moved back to the cafeteria with the other students she yelled, “F--- you, Cahill. She’s just a girl. Leave her the f--- alone. You’re an a--hole.” Officer Cahill testified that he was used to such language, and that he was in no way disconcerted by it. He was just happy that the students were moving back into the cafeteria. At this point his intention was to go to the school administrative office to complete the arrest of Vicky. But this was not what happened.
  15. Instead a student, who we will call Donna Chase, jumped between Officer Cahill and Tanya just as everyone was moving back into the cafeteria. Donna yelled, “Get the f--- away from us, Cahill.” As she yelled this, she swung her arm and hit Officer Cahill in the throat. Since the matter had passed beyond verbal abuse and had become an assault, Officer Cahill decided to arrest Donna. He felt it prudent to pull her into a side dishwashing room, away from the students, to make the arrest.
  16. As Officer Cahill was attempting to handcuff Donna, Tanya Smith rushed toward Officer Cahill. Other students were behind Tanya. By then Officer Cahill had Donna down on the floor. He had placed his knee on Donna to hold her down.
  17. As Tanya rushed toward Officer Cahill, a school guidance counselor who had been summoned to the scene intervened. She knocked Tanya down. But Tanya got up and knocked the guidance counselor down several times. The guidance counselor was striving to keep Donna from attacking Officer Cahill. The counselor also made an unsuccessful effort to close the door to the dishwashing room to prevent more students from pressing in.

18. By now Tanya had reached Officer Cahill. He tried to control Donna while at the same time pushing Tanya away. The counselor was also trying to pull Tanya away. Other students were entering the dishwashing room.
19. The situation was turning into a melee. Officer Cahill used his school radio to call for more help. He used his police radio to call for more police.
20. At this point the officer feared not only for his own safety, but also the safety of the school guidance counselor, Donna, and everyone else.
21. He decided he needed to use his pepper spray to control Tanya. He sprayed her and she retreated. The officer then sprayed in the direction of the students to drive them back. The students dispersed, with some of them experiencing temporary distress from the effects of the spray.
22. By now police backup had arrived and the appropriate arrests were made. Criminal charges are now pending.
23. Tanya Smith had been suspended from school on two occasions prior to this incident. One suspension was for fighting, the other was for threats and intimidation directed toward a teacher.
24. The school disciplinarian gathered the reports that had been made concerning the incident now under review. He also spoke with the administrators and teachers who witnessed the incident. The disciplinarian decided to recommend that Tanya Smith be suspended for the rest of the school year.
25. In making this recommendation to the school committee the disciplinarian took into consideration Tanya Smith's prior suspensions and the gravity of Tanya Smith's conduct, which threatened to escalate a difficult situation into a riot.
26. The disciplinarian was particularly concerned that Tanya Smith's conduct might have resulted in a situation where the police officer could have lost control of his firearm in the turbulent situation that had been exacerbated by Tanya Smith's efforts to obstruct the arrest the officer was trying to make.
27. The school committee, after hearing the evidence in this case, voted without great deliberation to suspend Tanya Smith for the rest of the school year.

### **Discussion**

In developing our findings of fact we have closely examined the testimony of the students who testified in this matter. The thrust of this testimony is to describe officer Cahill as "picking on" an innocent bystander when he directed Vicky to go to the office. This testimony is contradicted by the fact that it was the vice principal who identified Vicky as one of the students who was jumping on the tables in the lunchroom. As far as

Officer Cahill knew Vicky was not an innocent bystander. Student testimony also described Officer Cahill as being curt and brusque when he directed Vicky to go to the office, and it asserts that the officer was quick to place his hand on her elbow to direct her to the office. Here too the fact remains that the vice principal had *already* directed Vicky to go to the office, and the vice principal had been met with defiance on Vicky's part. It was this defiance that caused Officer Cahill to be summoned to the scene in the first place. Even assuming that Officer Cahill was more than pleasantly directive in his demeanor his actions were appropriately measured to the defiance Vicky was displaying. In any event the interaction between Officer Cahill and Vicky is not of direct relevance to the disciplinary action imposed against Tanya Smith.

Donna Chase testified that she too was an innocent bystander who just happened to bump into Officer Cahill as she and the other students were moving back into the Cafeteria. However, she does not explain how she managed to bump into Officer Cahill while she was moving *back into* the cafeteria. She also professes to be without a clue as to how Officer Cahill could have come to believe that she struck him in the throat. To credit Donna Chase's testimony we would have to believe that Officer Cahill decided to arrest Donna for no reason at all.

Tanya Smith testified concerning her own actions in this matter. She contends that the press of other students caused her to fall in the direction of Officer Cahill. Once again, how this came about as students moved *back* into the cafeteria is not explained. Tanya Smith does concede that she fell so close to Donna Chase and to Officer Cahill that she was in a position to try to shield Donna Chase from the effects of the pepper spray used by Officer Cahill in his effort to control the disturbance with which he was faced.

In sum, to the extent that the student testimony suggests that all of the students involved were innocent bystanders who happened to fall in the wrong direction (and accidentally land on or bump into another person) at the wrong time, we must reject the credibility of that testimony. Our credulity does not run to this extreme. Instead we find the Officer Cahill's testimony offers a more coherent and thus more credible explanation of the events now under review. It is certainly troubling, however, that the educators who were present and involved during these events did not offer testimony in addition to that of the students and the officer regarding what happened during this disturbance. At least those school staff who personally observed or were directly involved in the interactions between Tanya Smith and Officer Cahill could reasonably be expected to provide this hearing with their report of what occurred in these circumstances. School officials are well advised to present testimony from educators present at the scene when cases such as this one are appealed to the Commissioner. In the absence of such testimony in the present case, however, we are still able to conclude that Officer Cahill's testimony presents a sufficient factual basis to support the decision of the school committee.

### Conclusion of Law

Tanya Smith's conduct certainly merits a school suspension because of the disruption it caused and the danger it presented.<sup>3</sup> We also find little fault with the school committee's decision to vote immediately in this matter rather than adjourning for further discussions. While it might have been better if the committee had adjourned for deliberations we can hardly say here that the committee was jumping to an unmerited conclusion when it decided that the facts recited before it merited a school suspension. In any event we are sure that the *de novo* hearing conducted before the Commissioner obviated any procedural errors at the hearing before the school committee.<sup>4</sup> Finally we note that the school committee has recognized its obligation to provide this student with an alternative educational program in accordance with R.I.G.L.16-21-27.

### Conclusion

The suspension imposed in this case is affirmed. The school committee is directed to provide this student with an alternative education program during the duration of her suspension.

APPROVED:

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Forrest L. Avila, Hearing Officer

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Peter McWalters, Commissioner

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June 2, 2005  
Date

<sup>3</sup>*Douglass v. Barber*, 18 R.I. 459 (1894) See: R.I.G.L. 16-2-17. Right to a safe school. and R.I.G.L. 11-11-1 Disturbance of public assemblies.

<sup>4</sup>*John B.L Doe*, Commissioner of Education, June 1995. *Doe v. South Kingstown School Committee*, Commissioner of Education