

Case Study

1. Area of Law- Individual Rights
2. Title- The power schools have to administer discipline
3. Court- Circuit Court of Oregon- Coos County
4. Case name- Shorb v. Powers School District
5. Prepared by- John Hairston and Don Tefft
6. Issues- Is a school required to provide a student with due process? Does Shorb have a protected property interest in being co-valedictorian?

Summary

Plaintiff- Shorb decided to engage in a prank. Her prank was to take a shower in the boy's locker room after her co-ed gym class. Five of her male friends showered with her while several other boys ranging in age from freshman to senior observed. The school disciplined Shorb for her actions; her discipline included a 10-day suspension, additionally, she lost her title as co-valedictorian and was not permitted to speak at graduation. Shorb claimed that she had a property interest in her title of co-valedictorian and it could not be removed from her w/out being afforded due process of law. The court held that the school had provided her due process. The court never addressed the issue if Shorb even had a property interest in being co-valedictorian. However, the court did cite Price v. Young, which held that students did not have a property interest in being a member of National Honor Society. Therefore, the court stated "it would be hard to argue that being co-valedictorian is a protected property interest".

Individual Rights

Leslie Shorb v. Donald Grotting and Powers School District

Facts:

Plaintiff- Shorb decided to engage in a prank. Her prank was to take a shower in the boy's locker room after her co-ed gym class. Five of her male friends showered with her while several other boys ranging in age from freshman to senior observed. The school disciplined Shorb for her actions; her discipline included a 10-day suspension, additionally, she lost her title as co-valedictorian and was not permitted to speak at graduation.

Under Oregon law, does an individual have a property interest in being co-valedictorian?

Handout Questions

1. Are schools required to provide students with due process?
2. If no, what arguments can be made to support that students are not entitled to due process?
3. If yes, what must a school do to ensure they are providing students with due process?
4. After reading the case answer the following questions
 - a. How did the court rule?
 - b. Do you agree with the court's ruling? Why or why not?
 - c. What reasoning did the court provide for its decision?
 - d. Do you agree with the court's reasoning? Why or why not?
(Individually address all reasons provided by the court)

FACTS

The event that triggered all subsequent events, including these three cases, was Shorb's decision on April 11, 2000 to engage in a spur of the moment prank." The prank was going into the boys' locker room after her last period co-ed gym class to take a shower. She knew the males in the class would be coming to the locker room to shower. She undressed and two boys saw her enter the shower. Five of her male student friends entered the shower shortly after Shorb did. After five minutes of showering with the male students, Shorb got out of the shower and left. There were both freshmen and senior boys in the class and the incident occurred during regular school hours.

Rumors were circulating that Shorb was claiming she had showered with several boys in the boys' locker room. After hearing from the PE teacher, Mr. France, about the rumors and being informed that he talked to Shorb on April 12, 2000 and that she had denied the incident, Grotting questioned her about it on April 18, 2000. A parent had expressed concern about the incident. At the April 18, 2000 meeting Shorb initially denied the incident, but later admitted it did occur. Grotting also questioned some of boys involved and they stated the incident occurred. They also initially denied that the incident occurred.

Grotting twice told Shorb the school was not interested in initiating criminal charges, but Chief Davis of the Powers police told Shorb of possible charges that parents of some the minor children could bring against her. Shorb signed a copy of notes taken during the interview by Ellen Baldwin, administrative assistant, and they were accurate except that the notes did not mention that Shorb was told that if she were truthful, the incident would remain in the school context. Later during the same day, Grotting again asked Shorb to come to his office. He informed her that she was suspended for ten days, could not attend any extracurricular activities for the rest of the year, and could not speak as valedictorian at graduation. Shorb's mother was at this meeting along with Ms. Baldwin, Mr. France, and Chief Davis. Shorb was told of her appeal rights. The male students who were in the shower with Shorb were prohibited from participating in extracurricular activities for the remainder of the year.

Two days later in a letter to Shorb's mother, Grotting informed her of his actions and that Shorb would not be valedictorian of her class. He also invited her to call him if she had any questions. Earlier in the year, a letter from Grotting had informed Shorb's mother that Shorb had qualified as co-valedictorian of her class. Less than a week after talking to Grotting, Shorb and her mother appeared at a school board meeting and requested that the board reverse Grotting's action, but the board refused.

There were complaints made by people in the community after the incident occurred. Male students said they felt uncomfortable with Shorb being in the shower room. Other boys present in the locker room left during the incident and Shorb may have told Grotting that some of the boys in the locker room were huddling together or hiding. Students made

comments to Shorb at school because of the rumors. This was before discipline was imposed. Small talk among students also occurred and one teacher said he heard some students discussing the incident at the end of a class. Once discipline was imposed and it became public knowledge, school was disrupted because of all the media. School was locked down at one point. The school did not make the discipline public. Shorb made it public.

The school does not intend to inform any college that Shorb has been suspended. Shorb has been allowed to make up her college level" courses and her grades in those classes have not been affected by the suspension. Her other grades have been negatively impacted by her suspension because she cannot make up work that was assigned during that time. Shorb admitted she is being treated the same as other students who have missed class. Each teacher determines whether a student can make up work.

Shorb and her mother both read the student-parent handbook and had done so for four years. Shorb has been disciplined for being tardy, using foul language, and talking in class. She received detention as punishment. Shorb knew if the school found out about the shower incident, she would be in trouble. She knew she was not to be in the boys' locker room. She just thought it would be funny and it was not a bizarre thing for her to do. It was spring fever type of conduct. She has stated that both the ten-day suspension and banning her from extracurricular activities were understandable although the severity surprised her in that she did not think she would receive a ten-day suspension.

Grotting does not remember another suspension that was greater than five days, but has never been faced with an incident like the shower incident. Character is involved in being valedictorian, but there is not a written policy about character being part of the process of choosing a valedictorian. Shorb has never been admitted to the National Honor Society at school.

Shorb did attend the awards banquet and will attend graduation and her class ranking will appear in the program.

Issue

Does Shorb have a protected property interest in being co-valedictorian that was not accorded her under due process of law when she was suspended and given other sanctions?

What Happened at Trial

Three cases were filed by plaintiff Leslie Shorb, an 18-year-old high school student, against defendant Donald L Grotting, Superintendent of Powers School District #31.

The first case is a declaratory judgment and has three claims for relief. The first claim is for a declaratory judgment, the second claim is for violation of 42 USC 1983, depriving her of a property interest without due process ^{and} in violation of her right to equal protection, and the third claim is for violation of Oregon's gender discrimination statute.

Shorb asks the court to declare that she is valedictorian of her senior class and that she be allowed to speak at her graduation on June 2, 2000. Further, she asks the court to declare that Grotting and Powers had no authority to punish her as they did, and that no mention of her suspension appear in her school records. Shorb is also asking the court to issue a preliminary injunction against Grotting and Powers in the declaratory judgment case. The additional two cases were a petition for writ of review and a petition for alternative writ of mandamus, respectively. In essence, they ask for the same or similar relief mentioned in the proceeding paragraph.

Did Case get to Oregon Supreme Court?

No, the case was settled at the circuit court level

Arguments

Shorb contends that she is entitled to a declaratory judgment and preliminary injunction because, in essence, Powers did not have a written rule prohibiting female students from showering with male students. Shorb also claims that Powers imposed discipline on her that was not authorized by the rules. Under her 42 USC 1983 claim Shorb contends that Grotting and Powers violated her protected property interest in being co-valedictorian in that they did not accord her due process of law when she was suspended and given other sanctions. Finally, as to Shorb's claims under ORS 659.150 (gender discrimination), she has withdrawn her request in relation to the preliminary injunction

Grotting and Powers contend that Shorb disrupted the educational process by her conduct, violated the privacy of the male students with whom she showered, and violated a policy prohibiting her from entering the locker room reserved for the male students. They also point out that her conduct might have been criminal and might have constituted sexual harassment. Because she disrupted the educational process, she was subject to discipline. Further, she was accorded due process because being valedictorian is not a protected property right.

Who Won?

Defendants have filed a motion for summary judgment. The Plaintiff responded and conceded that she did not have any claim for equal protection or gender discrimination. Summary judgment was granted as to those claims. The court also granting summary judgment to all claims made in plaintiff's complaint except as to the matter relating to the suspension for more than 5 days. The court did not feel that plaintiff has any property interest in being valedictorian and that the school district acted within its authority in removing her as valedictorian. The court could no longer grant relief as to the other matters because all other activities had occurred at time of trial.

How the court explained it's decision

The writ of mandamus case was dismissed because there was a remedy in the due course of law and the writ of review case was dismissed because Shorb had withdrawn her request for such review.

In regards to the declaratory judgment case and the request for the court to issue a preliminary injunction, the court found that it was not likely under what Shorb designates as the traditional test for a preliminary injunction that Shorb would win. Shorb would not suffer irreparable injury. The only matter that could be affected immediately was Shorb's status as a Co-valedictorian and as speaker at the graduation ceremony. There was no irreparable injury in light of the fact that she maintained her class standing that will be reflected in her school records and attended the graduation ceremony where her ranking in the class was noted.

The court ruled that this case did not involve an "important public interest." It was a matter involving a very smart girl who made a very irresponsible decision to play a prank that she knew was wrong and that she knew would be sanctioned if the school found out. Shorb was willing to take the risk because she thought her conduct would be funny. Unfortunately, she underestimated the extent of the consequences, which often happens when a person decides to engage in a spur of the moment prank. The court said "In light of [her] behavior [in the shower room], the punishment imposed in this case was, perhaps, one of the greatest educational benefits that [she] could have received in high school."

The court felt that under the alternative test for a preliminary injunction, it is not likely that she will prevail and the balancing of hardships, which the court did not feel were present, do not weigh in her favor. It must be remembered that school officials are entrusted with students for nine months of the year. They are faced with a variety of students with different backgrounds, education, values, and outlooks. In high school, the students are on the road to becoming adults. They must learn to deal with other people,

make decisions and, evaluate situations. They learn valuable lessons through both positive and, unfortunately, negative experiences. School administrators are required to act as parents, friends, disciplinarians, role models, and overseers of the educational process for students. The community and home expect them to perform this role as good as they can. They are in the best position to make rules and policy governing student conduct and discipline and unless they go beyond the law, either statutory or constitutional, they are entitled great latitude in performing the difficult, albeit rewarding, task of educating the young people of the community. Because of the latitude schools must have in dealing with students' behavior and because of their closeness to the issues confronting them, it is for the schools to answer such questions as long as they do not cross the legal line of unreasonableness and arbitrariness. In this matter involving Shorb, Grotting, and Powers, the legal line was not crossed and, therefore, the court will not intervene by issuing a preliminary injunction because a court is not the ideal body to try to answer the question of how to handle student conduct and discipline.