

You Are the Judge

Goss v. Lopez

Setting the Scene

You're in the school cafeteria eating lunch when you hear a noise across the room. You look up and see some students fighting and yelling. You can't quite hear what it's about, but you see it's becoming violent. The next thing you know, plates are flying, students are on the floor, and people are injured. Something flies by. Within minutes, you're on the floor, your pant leg is torn, you've got food in your hair, and the police are taking control.

The principal decides to suspend everyone who looks like they were involved in the melee, including you. But you hadn't done anything. Is this fair? More important, is it legal?

The Issue: Due Process

Are students protected by the right to due process? (Recall that the 5th Amendment protects due process at the federal level while the 14th protects it at the State and local level.) In October 1974 the U.S. Supreme Court heard arguments in a case that decided just this question. The case, *Goss v. Lopez*, involved students from several public high schools in Columbus, Ohio. All of the students had been suspended from school without a hearing.

Students Speak up for Their Rights

Political protests were common in the 1970s, even in high schools. In February and March 1971, violent political demonstrations broke out at two Columbus high schools. In one school, students created a disturbance in a lunchroom that eventually involved dozens of students and damaged school property. In the other, a student demonstration in an auditorium led to school officials calling in the police.

In both incidents, students were arrested and taken to the police station. All students suspected of being involved in these demonstrations were immediately suspended from school for ten days.

The School Requires Discipline

Many students protested. They said the suspensions were unfair. Some claimed they were not involved in the demonstrations. They wanted to know exactly what they were accused of, and they wanted a chance to explain their side of the story.

No opportunity was given, however. School officials said they had to move quickly to discipline the students. School board policy was that school administrators could suspend students from school without offering them any sort of hearing or the chance to tell their side of the story. Suspension is a form of discipline and in the schools, the principal has the authority to administer it.

Students protested that suspension leaves a serious and damaging mark on their records and that they should have a chance to speak on something this important. The school replied that get-

ting poor grades is important, as is making the football team, yet no one is entitled to a hearing after failing a test or being cut from the football team. There's nothing different here, they said.

The Students Respond

The students believed that they were entitled to their 14th Amendment right of due process and the right to a hearing before being punished. Students representing three high schools filed a class action lawsuit—a lawsuit brought by a small number of people on behalf of a much larger number who face the same issue—against the school board. They claimed they were suspended without due process.

The first court to hear the case was the U.S. District Court in Columbus. This three-judge panel ruled in favor of the students. The court said that students facing suspension were entitled to written notice and a hearing. If necessary—for example, if the student's conduct is disruptive or dangerous to the school—the suspension can begin before the hearing. In any case, however, the school must notify the parents within 24 hours, in writing, that there will be a suspension hearing. The school must hold a suspension hearing, with the student present, within 72 hours of the student's removal from school. At the hearing, the student and others must be permitted to make statements in the student's defense.

The Columbus School District then appealed the case to the U.S. Supreme Court. On October 16, 1974, the Supreme Court heard arguments from both sides in the dispute.

Arguments for the School District

1. Because there is no constitutional right to an education at public expense, the due process clause of the 14th Amendment does not protect against suspensions from the public school system.

2. The district must have broad authority over student behavior and must be able to act quickly to bring order. It's too great a burden to ask that the district hold hearings every time a student is suspended.

Arguments for the Students

1. If the state chooses to give students a free education, that becomes a right that the state cannot withdraw without due process.
2. Suspending a student from school can damage his or her reputation and prospects for their future success. Doing so without giving the person an opportunity to explain what happened is a violation of the person's liberty.

Conclusion

In January 1975 the Supreme Court issued a ruling in this case. What are the constitutional and legal issues raised by this case? Suppose you were writing the Court's opinion. In whose favor would you decide—for the students or for the school district? If the students are entitled to due process, do you think the protections offered by the District Court are sufficient? Do you think they give too much protection?

