

PUBLIC EDUCATION

Public Education: Discipline

***Neal v. Fulton County Board of Education,* 229 F.3d 1069 (11th Cir. 2000)**

Before this recent decision, no set of circumstances existed under which corporal punishment against a student could give rise to a substantive-due-process claim. Now, if a “plaintiff’s allegations of excessive corporal punishment rise to the level of arbitrary and conscience-shocking behavior,” schools and school employees can be held liable for their conduct that violates a student’s due-process rights. *Neal v. Fulton County Bd. of Educ.*, 229 F.3d 1069, 1075 (11th Cir. 2000).

FACTS

A high-school football player, Durante Neal, sued his football coach, the principal, the superintendent, and the school board for violating his substantive-due-process right to be free from excessive corporal punishment. During football practice, another player slapped Neal in the face. Neal reported this incident to his coach, who told him to handle his own business. After practice, the player approached Neal, and Neal hit him with a metal weight lock. A fight broke out between the two players, and neither the principal nor the coach, who were in the immediate area, stopped the fight. Instead, the coach ran over to Neal’s bag shouting, “[W]hat did you hit him with; if you hit him with it, I am going to hit you with it.” *Neal*, 229 F.3d at 1071. The coach then struck Neal in the eye with the metal weight lock, causing his eye to be ripped out of its socket and destroyed.

ANALYSIS

These circumstances were profoundly different from the leading corporal-punishment case in the Fifth Circuit, *Ingraham v. Wright*, 525 F.2d 909 (5th Cir. 1976). In *Ingraham*, two students alleged that their Fourteenth Amendment substantive-due-process rights were violated when they were paddled and

spanked by school administrators pursuant to a school policy authorizing corporal punishment. “[W]hen corporal punishment is administered pursuant to a school policy which contains sufficient constraints and restrictions to prevent arbitrary behavior by school officials, the court w[ill] not look at each individual instance of corporal punishment to determine if a teacher . . . acted arbitrarily.” *Neal*, 229 F.3d at 1073–1074. The court left open the possibility that a set of circumstances concerning the use of corporal punishment could give rise to constitutional violations. In fact, although *Ingraham* is the leading corporal-punishment case binding on the Eleventh Circuit, it did not control the outcome of *Neal* because the facts of the two cases presented “substantially different question[s].” *Id.* at 1074.

The football coach’s use of physical force amounted to corporal punishment because he was “spurred to act by [Neal’s] misconduct on school premises,” and his statement to Neal indicated an intent to discipline him. *Id.* at 1072. However, in light of the court’s determination that *Ingraham* does not control, does *Neal* state a cause of action for violation of substantive due process? Substantive-due-process rights are violated by conscience-shocking or arbitrary behavior. At a minimum, for corporal punishment to constitute conscience-shocking behavior, the facts must demonstrate the following: “(1) a school official intentionally used an amount of force that was obviously excessive under the circumstances, and (2) the force used presented a reasonably foreseeable risk of serious bodily injury.” *Id.* at 1075. To determine whether the amount of force is excessive, the court must consider the totality of the circumstances. Particularly, the court must examine the following: “(1) the need for the application of corporal punishment, (2) the relationship between the need and amount of punishment administered, and (3) the extent of the injury inflicted.” *Id.*

The coach’s use of a metal weight lock, which destroyed Neal’s eye, clearly caused a serious injury. Even if some form of corporal punishment by the coach was warranted, he intentionally went too far and created a foreseeable risk of serious injury to Neal. Additionally, the coach never attempted to break up the fight between the two students or to restore order. The force used was not authorized by school administrators nor was it issued “pursuant to a school corporal punishment policy.” *Id.* at 1074. Therefore, Neal satisfied the court’s test for demonstrating a violation of substantive-due-process rights.

RESEARCH REFERENCES

- Ronald T. Hyman & Charles H. Rathbone, *Corporal Punishment in Schools: Reading the Law* (Natl. Org. on Leg. Problems of Educ. 1993).
- Ronald D. Rotunda & John E. Nowak, *Treatise on Constitutional Law: Substance and Procedure* vol. 2, § 14.6 (3d ed., West 1999).

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