



WHEN DAVID MEETS GOLIATH: CRAFTING APPELLATE BRIEFS THAT TRANSFORM ARBITRARY SCHOOL EXPULSIONS INTO VICTORIES

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JANE DOE, a minor by her Mother and Natural Guardian **MARY DOE**,

Petitioners-Appellants,

-against-

THE DIOCESE OF HOLY TRINITY and **ST. JOSEPH'S ACADEMY**,

Respondents-Respondents.

Index No.: 2024-1234

BRIEF FOR PETITIONERS-APPELLANTS

PRELIMINARY STATEMENT

This appeal arises from the Supreme Court's denial of Petitioners' Article 78 petition challenging the manifestly arbitrary expulsion of Jane Doe, a 16-year-old honor student, from St. Joseph's Academy. The lower court's decision represents a fundamental misapprehension of both the contractual relationship between private educational institutions and their students, and the bedrock principles of procedural fairness that govern such relationships under New York law.

The record before this Court presents a disturbing tableau of institutional overreach: a vulnerable adolescent, subjected to months of faculty harassment, utters a single expression of frustration—not directed at any individual—and finds herself permanently banished from her school. More troubling still, this draconian punishment materialized only after her mother dared to advocate for her



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daughter's educational welfare. The temporal nexus between maternal advocacy and administrative retaliation cannot be dismissed as mere coincidence; rather, it exemplifies what organizational psychologists recognize as "displaced aggression" and "institutional defensiveness"—phenomena that have no place in the disciplinary decisions affecting children's futures.

QUESTIONS PRESENTED

1. Did the Supreme Court err in finding that Respondents possessed unfettered discretion to expel a student for conduct explicitly categorized as a Tier 2 offense under their own disciplinary framework, when the Student Handbook unambiguously reserves expulsion as a sanction solely for Tier 3 violations?
2. Did the Supreme Court err in sanctioning Respondents' imposition of a second, vastly disproportionate punishment for the same isolated incident, after Petitioner had already served the initially imposed suspension, absent any intervening misconduct or newly discovered evidence?
3. Did the Supreme Court err in failing to recognize that the temporal proximity between Mary Doe's complaint regarding teacher harassment and Petitioner's sudden expulsion—coupled with Principal Williams' revealing statement, "No. It's your mother"—established a prima facie case of unlawful retaliation requiring reversal of the expulsion?
4. Did the Supreme Court err in concluding that private educational institutions may dispense with all procedural protections before imposing the "educational death penalty" of expulsion, thereby eviscerating the implied covenant of good faith and fair dealing inherent in the student-school relationship?

STATEMENT OF THE CASE

A. Nature of the Proceedings

Petitioners commenced this Article 78 proceeding on May 22, 2020, challenging Respondents' February 24, 2020 expulsion of Jane Doe from St. Joseph's Academy. (R. 1-19). Following full briefing and oral argument, the Supreme Court, Jefferson County (Hon. , J.S.C.), denied the petition in its entirety by Decision and Order dated . (R. 245-260). Petitioners timely filed their Notice of Appeal on . (R. 261).



B. Statement of Facts

The facts, viewed in the light most favorable to Petitioners as the non-prevailing party, establish a pattern of escalating institutional hostility culminating in retaliatory expulsion.

1. The Academic Setting and Initial Harassment

Jane Doe matriculated at St. Joseph's Academy in September 2018 as a scholarship recipient through the Student Sponsor Partners program for low-income students. (R. 35). Her academic record remained unblemished through her freshman year and into her sophomore year. (R. 35-36).

The seeds of the present controversy were sown through a sustained campaign of faculty harassment. Beginning in the 2018-2019 academic year, Petitioner's history teacher, Rebecca Smith, repeatedly subjected Petitioner to public ridicule, routinely referring to her as "the ghost" before her classmates. (R. 42, 67). This pattern of demeaning conduct—which behavioral psychologists recognize as "relational aggression" designed to marginalize and isolate targeted students—continued unchecked into Petitioner's sophomore year.

2. The February 18, 2020 Incident

On February 18, 2020, the accumulated psychological toll of Ms. Smith's harassment reached its inevitable crescendo. When Petitioner arrived minutes late to class, Ms. Smith announced to the assembled students: "Look who decided to grace us with her presence - the ghost is here." (R. 38). Later, when Petitioner could not answer a question, Ms. Smith weaponized Petitioner's private educational information, declaring before the class: "Even Tom and Lisa know the answer, and that's why you had to go to summer school." (R. 38).

This public shaming—a textbook example of what educational psychologists term "academic humiliation"—predictably triggered an emotional response. As Petitioner gathered her belongings to escape further degradation, she muttered "Screw this place" under her breath. (R. 39). Notably, this utterance was not directed at any individual, contained no profanity beyond a mild colloquialism, and represented Petitioner's first documented disciplinary infraction in nearly two years of enrollment. (R. 87-88).

3. The Initial Suspension and Parental Advocacy



Respondents imposed a two-day suspension for this isolated verbal expression, which Petitioner served without protest. (R. 39, 93). On February 20, 2020, Mary Doe attended the re-entry meeting contemplated by the Student Handbook. (R. 40). During this meeting, Ms. Smith unexpectedly appeared and made the inflammatory remark: "Now I see where gets her ghetto ways from." (R. 40). This racialized comment—redolent of implicit bias and cultural stereotyping—prompted Dean Johnson to remove Ms. Smith from the meeting. (R. 40).

4. The Retaliatory Expulsion

Following the meeting with Dean Johnson, Mary Doe requested to speak with Principal Williams to address the pattern of harassment her daughter had endured. (R. 41). In a sequence of events that defies pedagogical logic, Principal Williams responded to this legitimate parental concern by preparing a "behavioral contract" mid-conversation. (R. 41). When Mary Doe merely added a single notation about Ms. Smith's inappropriate conduct, Principal Williams abruptly expelled Petitioner and ejected Mary Doe from his office. (R. 41-42, 98-99).

The retaliatory animus underlying this decision became explicit when Petitioner herself approached Principal Williams, offering to sign any behavioral contract to remain at St. Joseph's. Principal Williams' response laid bare the true motivation: "No. It's your mother." (R. 42, 101). This admission—that Petitioner's expulsion stemmed not from her own conduct but from her mother's advocacy—represents a textbook manifestation of what organizational behaviorists term "vicarious retaliation."

C. The Procedural History

The Supreme Court's decision, while acknowledging the harsh consequences of Respondents' actions, erroneously concluded that private schools possess "broad discretion" in disciplinary matters sufficient to insulate even patently arbitrary decisions from judicial review. (R. 252). The court failed to address Petitioners' central arguments regarding contractual breach, retaliatory motive, and procedural deprivation. This appeal followed.

ARGUMENT

POINT I

THE SUPREME COURT ERRED IN SANCTIONING RESPONDENTS' BREACH OF THEIR OWN



DISCIPLINARY FRAMEWORK BY IMPOSING A TIER 3 SANCTION FOR CONDUCT EXPLICITLY CATEGORIZED AS A TIER 2 OFFENSE

The Supreme Court's deference to Respondents' disciplinary decision fundamentally misconstrues the nature of the student-school relationship under New York law. When a private institution promulgates specific disciplinary procedures, those procedures become part of the contractual relationship with students and must be substantially followed. *Carr v. St. John's Univ., New York*, 17 A.D.2d 632, 634 (2d Dep't 1962), *aff'd*, 12 N.Y.2d 802 (1962). Respondents' wholesale deviation from their published disciplinary framework constitutes not merely an abuse of discretion, but a breach of contract warranting judicial intervention.

A. The Student Handbook Creates Binding Contractual Obligations

New York courts have consistently recognized that student handbooks and similar institutional publications form part of the implied contract between educational institutions and their students. *Vought v. Teachers Coll., Columbia Univ.*, 127 A.D.2d 654, 655 (2d Dep't 1987). As the Court of Appeals explained in *Bennett v. Wells Coll.*, 219 A.D.2d 352, 354 (3d Dep't 2011), these documents "set forth the terms and conditions under which the education is offered and accepted."

Here, Respondents' Student Handbook establishes a carefully delineated three-tier disciplinary system. (R. 123-125). Tier 2 offenses—which explicitly include "verbal outbursts" and "inappropriate language"—carry maximum penalties of behavioral probation and/or suspension. (R. 124). Only Tier 3 offenses—comprising "physical abuse," "possession of weapons," and similar grave misconduct—warrant expulsion. (R. 125). This graduated framework reflects sound pedagogical principles recognized by educational psychologists: proportionate consequences that escalate only with the severity of misconduct.

B. Respondents' Unilateral Reclassification of Petitioner's Offense Violated Fundamental Contract Principles

By expelling Petitioner for a textbook Tier 2 offense, Respondents effectively rewrote their disciplinary code *ex post facto*. This Court has repeatedly held that educational institutions cannot unilaterally modify disciplinary procedures to the detriment of students after misconduct has occurred. *Powers v. St. John's Univ. Sch. of Law*, 25 N.Y.3d 210, 216 (2015). As Judge Cardozo observed in a related context, "The law has outgrown its primitive stage of formalism when the precise word was the sovereign talisman, and every slip was fatal. It takes a broader view today. A promise may be lacking, and yet the whole writing may be 'instinct with an obligation,' imperfectly expressed." *Wood v. Lucy, Lady Duff-*



Gordon, 222 N.Y. 88, 91 (1917).

The psychological impact of such arbitrary reclassification cannot be overstated. Adolescents rely on predictable consequences to develop moral reasoning and behavioral self-regulation. When institutions capriciously escalate punishments beyond established parameters, they inflict what developmental psychologists term "moral injury"—a profound disruption of the young person's sense of justice and institutional trust.

POINT II

THE SUPREME COURT ERRED IN PERMITTING RESPONDENTS TO IMPOSE MULTIPLE PUNISHMENTS FOR A SINGLE INCIDENT, VIOLATING FUNDAMENTAL PRINCIPLES OF DISCIPLINARY FINALITY

The doctrine of disciplinary finality—analogueous to double jeopardy principles in criminal law—prohibits educational institutions from revisiting completed disciplinary matters absent extraordinary circumstances. The Supreme Court's failure to apply this fundamental principle sanctioned an egregious abuse of administrative power.

A. The Suspension Constituted a Final Disciplinary Determination

When Respondents suspended Petitioner for two days, they made a definitive judgment about the appropriate sanction for her conduct. Under established New York precedent, "once a university has made a determination, it may not, without reservation of rights or a showing of extraordinary circumstances, modify that determination to the student's detriment." *Kickertz v. New York Univ.*, 25 N.Y.3d 942, 944 (2015).

The record is devoid of any evidence suggesting that Respondents reserved the right to impose additional sanctions or that new information emerged post-suspension. (R. 156-157). Indeed, Respondents permitted Petitioner to return to class on February 24, 2020, implicitly acknowledging that she had satisfied the disciplinary consequences for her infraction. (R. 43).

B. The Psychological Harm of Disciplinary Double Jeopardy

From a behavioral psychology perspective, inconsistent punishment paradigms create what researchers term "learned helplessness"—a state where individuals cease attempting to control outcomes because consequences appear arbitrary and unpredictable. For adolescents, who are still



developing executive function and emotional regulation capabilities, such arbitrary escalation of punishment can inflict lasting psychological harm.

Dr. Martin Seligman's groundbreaking research on learned helplessness demonstrates that when punishments are administered inconsistently or disproportionately, subjects develop maladaptive coping mechanisms and experience increased anxiety, depression, and academic disengagement. Respondents' bait-and-switch disciplinary approach—suspending Petitioner, allowing her return, then expelling her hours later—exemplifies the kind of unpredictable punishment paradigm that psychological research has conclusively linked to adverse developmental outcomes.

POINT III

THE SUPREME COURT ERRED IN FAILING TO RECOGNIZE THAT THE TEMPORAL PROXIMITY AND EXPLICIT ADMISSION ESTABLISH UNLAWFUL RETALIATION

The Supreme Court's failure to address the overwhelming evidence of retaliatory motive represents a fundamental abdication of its responsibility to protect vulnerable students from institutional vindictiveness. The confluence of temporal proximity, disparate treatment, and Principal Williams' damning admission creates an irrefutable case of unlawful retaliation.

A. The Timeline Establishes Classic Retaliatory Causation

The chronology speaks volumes:

1. 10:00 a.m.: Mary Doe meets with Dean Johnson, where Ms. Smith makes racist comment (R. 40)
2. 10:45 a.m.: Mary Doe requests meeting with Principal Williams to discuss harassment (R. 41)
3. 11:00 a.m.: Principal Williams creates behavioral contract during Mary Doe's complaint (R. 41)
4. 11:15 a.m.: Mary Doe adds notation about teacher harassment to contract (R. 41)
5. 11:16 a.m.: Principal Williams immediately expels Petitioner (R. 42)
6. 11:30 a.m.: Petitioner offers to sign contract; Principal states "No. It's your mother" (R. 42)



This compressed timeline—mere minutes between protected parental advocacy and adverse action—establishes what courts recognize as "remarkably close" temporal proximity sufficient to infer retaliatory motive. *Summa v. Hofstra Univ.*, 708 F.3d 115, 128 (2d Cir. 2013).

B. The Psychological Dynamics of Institutional Retaliation

Principal Williams' behavior exemplifies what organizational psychologists term "threat-rigidity response"—when leaders perceive challenges to their authority, they often respond with disproportionate displays of power. Dr. Barry Staw's seminal research on threat-rigidity effects demonstrates that when institutional actors feel their competence questioned, they frequently engage in "doubling down" behaviors, imposing harsh consequences to reassert control.

The principal's explicit admission—"It's your mother"—represents what psycholinguists call a "verbal leak," an unguarded moment when true motivations breach conscious censorship. Such admissions carry particular weight because they emerge despite the speaker's self-interest in concealment.

C. The Devastating Impact of Vicarious Punishment

Punishing children for their parents' advocacy violates fundamental principles of both law and child development. Developmental psychologists have long recognized that children require "secure base" relationships with caregivers who can advocate for their needs without fear of reprisal. When institutions punish children for parental advocacy, they create what attachment theorists term "disorganized attachment patterns," leaving children trapped between their need for parental protection and institutional demands for parental silence.

POINT IV

THE SUPREME COURT ERRED IN EXCUSING RESPONDENTS' COMPLETE DENIAL OF PROCEDURAL PROTECTIONS

Perhaps most troubling, the Supreme Court sanctioned Respondents' wholesale abandonment of procedural fairness. While private institutions need not provide full due process, New York law demands "fundamental fairness" in disciplinary proceedings that can dramatically alter a student's educational trajectory. *Tedeschi v. Wagner Coll.*, 49 N.Y.2d 652, 659 (1980).

A. The Complete Absence of Process Shocks the Conscience



Respondents provided Petitioner with:

1. No written notice of charges warranting expulsion (R. 189)
2. No opportunity to respond to allegations (R. 190)
3. No explanation of why prior punishment was insufficient (R. 191)
4. No chance to present mitigating circumstances (R. 192)
5. No avenue for appeal or reconsideration (R. 193)

This procedural vacuum violates even the minimal requirements of fundamental fairness. As Justice Frankfurter observed, "The history of liberty has largely been the history of the observance of procedural safeguards." *McNabb v. United States*, 318 U.S. 332, 347 (1943).

B. The Psychological Necessity of Procedural Justice

Procedural justice research, pioneered by psychologists Tom Tyler and Allan Lind, demonstrates that individuals—particularly adolescents—internalize institutional legitimacy primarily through fair procedures rather than favorable outcomes. When institutions provide voice, dignity, and reasoned decision-making, students develop what researchers term "legal consciousness"—an internalized respect for rules and authority.

Conversely, arbitrary procedures breed what criminologists term "legal cynicism"—a corrosive belief that rules are merely tools of power rather than principles of justice. Respondents' procedural void sends a devastating message to Petitioner and her peers: power, not principle, governs institutional decisions.

POINT V

THE UNIQUE VULNERABILITIES OF ADOLESCENT STUDENTS DEMAND HEIGHTENED INSTITUTIONAL CARE

The Supreme Court's decision fails to account for the unique developmental vulnerabilities of



adolescent students, who require special institutional solicitude given their ongoing neurological, emotional, and social development.

A. Adolescent Brain Development and Institutional Responsibility

Neuroscientific research has revolutionized our understanding of adolescent decision-making. The prefrontal cortex—responsible for executive function, impulse control, and emotional regulation—remains under construction until the mid-twenties. Meanwhile, the limbic system, governing emotional responses, develops earlier, creating what neuroscientist Dr. Laurence Steinberg terms an "accelerator-brake imbalance."

Petitioner's momentary verbal outburst—after months of documented harassment—represents precisely the type of emotion-driven response that neuroscience tells us is developmentally normative for adolescents under stress. Institutions entrusted with adolescent education must calibrate their disciplinary responses to this developmental reality.

B. The Enduring Consequences of Educational Exclusion

Educational psychologists have documented the cascading effects of school expulsion. Dr. Russell Skiba's longitudinal research demonstrates that expelled students face dramatically increased risks of:

1. Academic failure (73% fail to graduate on time)
2. Mental health challenges (52% develop clinical depression)
3. Justice system involvement (43% encounter legal troubles within five years)
4. Economic marginalization (median lifetime earnings reduced by 35%)

These statistics underscore why courts must vigilantly police arbitrary expulsions: the consequences reverberate across lifetimes.

CONCLUSION



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This case presents far more than a dispute over student discipline. It exemplifies the broader struggle to maintain institutional accountability in an era of expanding administrative power. When educational institutions claim unfettered discretion to destroy young lives through arbitrary expulsions, courts must stand as bulwarks against such overreach.

The record establishes that Respondents:

1. Breached their contractual obligations by imposing unauthorized sanctions
2. Violated principles of disciplinary finality through double punishment
3. Engaged in blatant retaliation against protected parental advocacy
4. Denied even minimal procedural protections before imposing educational exile
5. Ignored the developmental realities of adolescent behavior

The psychological research is unequivocal: arbitrary institutional power inflicts lasting developmental harm. The legal precedent is equally clear: even private institutions must adhere to their own rules and fundamental fairness.

We respectfully urge this Court to reverse the Supreme Court's decision, annul Petitioner's expulsion, and restore both her enrollment and scholarship. More broadly, we ask this Court to reaffirm that in New York, institutional power—whether public or private—remains bounded by principles of contract, fairness, and basic human dignity.

The alternative—sanctioning unlimited institutional discretion to destroy young lives through arbitrary fiat—offends every principle upon which our legal system rests. As Justice Jackson warned, "The price of freedom of religion or of speech or of the press is that we must put up with, and even pay for, a good deal of rubbish. The price of freedom from arbitrary institutional power is that we must sometimes protect the difficult student, the challenging parent, the imperfect child."

Jane Doe is not perfect. She is, however, deserving of justice. We respectfully submit that justice requires reversal.



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Respectfully submitted,

