

YOU AND THE LAW

Assessing the Legality of State Tournament Bans in Interscholastic Athletics

Beau F. Scott and Leeann M. Lower

St. Patrick High School v. New Jersey Interscholastic
Athletic Association, No. 10–cv–948 (DMC),
2010 WL 715826 (D. N.J. 2010)

State high school athletic associations are tasked with facilitating equitable athletic opportunities for all member schools. To accomplish this task, state associations implement rules designed to ensure competitive balance (Johnson, Tracy, & Pierce, 2015). With over 7.8 million participants, interscholastic athletics are extremely popular and garner the attention of millions of spectators each year (National Federation of State High School Associations, 2015). Stakeholders (e.g., coaches, parents, athletic directors) often challenge policies and sanctions by state associations based on how these restrictions affect interested teams or athletes. This review examines St. Patrick High School's (St. Patrick) case against the New Jersey State Interscholastic Athletic Association (NJSIAA) regarding sanctions given to the school for breaking association rules regarding out-of-season open gyms.

Facts of the Case

St. Patrick (Plaintiff) is a private school located in Elizabeth, New Jersey, and a member of the NJSIAA (Defendant). The NJSIAA is responsible for regulating and coordinating interscholastic athletic

Beau F. Scott, School of Kinesiology, Ball State University. Leeann M. Lower is an assistant professor of Sport Management, College of Education and Human Ecology, The Ohio State University. Please send author correspondence to bscott@ses.k12.in.us or lower.34@osu.edu

competition within the state, including boys basketball, for which St. Patrick had a history of successful teams.

All state athletic associations, including the NJSIAA, have rules explicitly prohibiting recruiting students for athletic reasons (Johnson et al., 2015). Upon receiving reports of athletically motivated recruiting, the NJSIAA hired a private investigator to report on St. Patrick's boys basketball program activities. During the investigation, the private investigator attended several open gyms held by the boys basketball team and uncovered St. Patrick holding illegal out-of-season open gyms prior to the start of the 2009–2010 season, which violated NJSIAA rules.

St. Patrick attended a formal hearing addressing the illegal open gyms, for which the NJSIAA's Controversy Committee ruled the boys basketball team would be banned from participation in the state tournament. St. Patrick appealed the sanction to the association's Executive Committee, but the state tournament ban was upheld. This appeal process typically requires a 10-day review period between committee hearings, but the NJSIAA accelerated the process to determine St. Patrick's eligibility for the upcoming state tournament. The plaintiff sought injunctive relief on the association's decision to ban the St. Patrick boys basketball team from the state championship, alleging that the NJSIAA violated procedural due process provided by the 14th Amendment and that the actions of the private investigator constituted unreasonable searches and seizures prohibited by the Fourth Amendment.

Court Analysis

Plaintiff Complaint

To substantiate a due process claim, the plaintiff must prove that a state actor deprived an interest associated with the Fourteenth Amendment's protection of life, liberty, or property without due process of the law. Neither party disputed the NJSIAA's status as a state actor. St. Patrick asserted that the NJSIAA violated their property right to participate in the state tournament, a right that they deemed "the most critical benefit of membership in the NJSIAA" (para. 12). The plaintiff cited *Perry v. Sinderman* (1972), which determined that a property interest can constitute a mutually explicit understanding

between a government employer and employee (i.e., the state association and a member school).

St. Patrick alleged that the association did not follow the “clearly-established procedures for such discipline” (para. 12). The plaintiff argued that the state association did not follow established procedures for levying a punishment to a member school as dictated in their bylaws. St. Patrick contended that the association’s insistence on accelerating the appeal review period to meet the deadline for state tournament seeding violated the previously set standards on time in the appeal process.

Finally, St. Patrick accused the NJSIAA of unreasonable searches and seizures prohibited by the Fourth Amendment, in their use of the private investigator. The plaintiff argued that students and parents expect some level of privacy within the school grounds. Moreover, because neither school official nor student gave consent to the private investigator, the search was argued to be unreasonable. Furthermore, the plaintiff asserted that because the collection of evidence gained by the private investigator was collected in an unconstitutional manner, the evidence entered during the appeal process was improper and thus could not be used to determine a punishment.

Defendant Response

The defendant sought to dismiss the claims of violations of the 14th and Fourth Amendment regarding due process and unreasonable searches and seizure. The defense argued that accelerating the appeal timeline was essential under the circumstances because the postseason basketball seeding was imminent. Moreover, the defense argued that the amount of time given to the plaintiff to prepare their appeal was sufficient because the submission for the written appeal was not changed, rather it was the review period for members of the Executive Board that was altered. The defense referenced *Goss v. Lopez* (1975) when stating that the exact timing and nature of a hearing depends on the accommodations required by the parties involved. In this case, the defense required an expedited hearing that was deemed permissible. Regarding the plaintiff’s claim regarding impermissible evidence, the defense argued that this dispute (whether true or not) had no bearing on the claim of a due process violation.

To address the plaintiff's alleged Fourth Amendment violation, the defendant pointed out that the private investigator attended only open-gym sessions held by St. Patrick (i.e., no closed practices or private meetings). The defense argued that the very nature of an open-gym session presents no expectations of privacy, as the purpose of open gyms is to allow outside stakeholders the opportunity to see athletes play. Furthermore, the defense referenced the actions of the private investigator, stating that there were no physical searches of persons or lockers.

Court Decision

The district court ruled in favor of the defendant and denied the plaintiff's motion for injunctive relief. To gain injunctive relief, the plaintiff had to prove the likelihood of success based on merits of their claims (i.e., 14th and Fourth Amendment claims) and irreparable harm if relief is not granted. The court ruled the appeal process constitutional because it allowed the defense to respond to the allegations, provide context for their actions, and state why those actions were necessary, even though the process was expedited. As the NJSIAA appeal process was applied consistently, the plaintiff was not likely to succeed based on their due process claim. Regarding the illegal search and seizures claim, the plaintiff had to prove their expectation for privacy outweighed the state actor's need to manage a breach of public order. Because the open gyms were held to allow players more exposure from college coaches (i.e., members of the public), the court ruled the school should not expect privacy in such situations. The court also ruled that simply because an event occurs on private property does not mean privacy interests are held, citing *Illinois v. Andreas* (1983). The court also ruled that irreparable harm would not be experienced by the plaintiff, referencing cases such as *Dziewa v. PIAA* (2009) and *Sharon City School District v. PIAA* (2009) that determined ineligibility of participation in interscholastic athletics is not an irreparable harm. The court supplemented this sentiment by stating that St. Patrick had the opportunity to play a full regular season, which included a county tournament and out-of-state events. Thus, injunctive relief was not granted based on irreparable harm.

Implications

Interscholastic athletic associations frequently hear cases regarding eligibility of teams and individuals who have committed infractions. Although these cases vary in nature and context, many revolve around due process claims. The results of this case serve to educate coaches and athletic administrators about probable outcomes of due process litigation regarding appealing sanctions given to schools for violating competitive balance rules. As this case reinforces the constitutionality of a state tournament ban as a form of punishment for infractions against state athletic association rules, schools should thoughtfully consider their allegations of constitutional violation prior to filing a legal complaint. The application of this case has already served as precedent in subsequent cases, with courts confirming a state tournament ban does not constitute irreparable harm (*Doe v. Banos*, 2010; *Mattison v. East Stroudsburg University*, 2013).

Furthermore, this case serves as a warning to basketball programs around the country, demonstrating possible repercussions for violating athletic association bylaws. As issuing state tournament bans is a practice that is still commonly used across the United States (Lanni, 2016; Woog, 2016), schools should take note of the outcome of this case to gauge probable outcomes of similar cases. By publishing a review of state association rules in an association newsletter, the athletic association can make schools more aware of what constitutes permissible behavior within the context of the association's bylaws and the possible punishment that can be levied for violations. Schools can hold preseason compliance meetings with coaches to inform them of state association rules and restrictions that may have changed and to remind them of acceptable practices to meet athletic eligibility requirements. Last, state athletic associations can use the NJSIAA's hiring of a private investigator as a possible solution to investigate alleged wrongdoings in states with limited in-house resources. In the ever-changing environment of interscholastic competitive balance, these strategies help ensure that schools are in compliance with association bylaws and they maximize the efficiency of athletic departments.

References

- Doe v. Banos, 260 Ed. Law Rep. 704 (713 F. Supp. 2d 404).
- Dziewa v. PIAA, 2009 WL 113419 (E.D. Pa. 2009).
- Goss v. Lopez, 95 S. Ct. 729 (42 L. Ed. 2d 725).
- Illinois v. Andreas, 103 S. Ct. 2219 (77 L. Ed. 2d 1003).
- Johnson, J. E., Tracy, D. R., & Pierce, D. A. (2015). National review of interscholastic competitive balance solutions related to the public-private debate. *Journal of Amateur Sport*, 1(1), 29–51. <https://doi.org/10.17161/jas.v1i1.4920>
- Lanni, P. (2016). No. 1 seed Wayne Hills disqualified from playoffs. Retrieved from <http://highschoolsports.nj.com/news/article/-6222386433128475531/no-1-seed-wayne-hills-disqualified-from-playoffs-for-using-ineligible-player-report-says/>
- Mattison v. East Stroudsburg University, No. 3:12-CV-2557, 2013 WL 1563656 (M. D. Pa. April 12, 2013).
- National Federation of State High School Associations. (2015). *2014–2015 high school athletics participation survey*. Retrieved from http://www.nfhs.org/ParticipationStatistics/PDF/2014-15_Participation_Survey_Results.pdf
- Perry v. Sinderman, 92 S. Ct. 2694 (33 L. Ed. 2d 570).
- Sharon City School District v. PIAA, 2009 WL 427373 (W. D. Pa. 2009).
- Woog, D. (2016). Danbury disqualified from state tournament finals. Retrieved from <http://staplessoccer.com/danbury-disqualified-from-state-tournament-finals/>