

NEW YORK COURT OF APPEALS

Santer v. Board of Education of the East Meadow Union Free School District

23 N.Y.3d 251 (2014) · Decided May 6, 2014

SUMMARY

The New York Court of Appeals considered whether disciplining public-school teachers for a union picketing demonstration violated their First Amendment rights. Applying the Pickering balancing test, the court held that the teachers' labor-related expression addressed a matter of public concern, but that the school district's interests in student safety and effective operations outweighed the teachers' interests in conducting the demonstration in the manner used. The court therefore upheld the disciplinary arbitration awards and reversed the Appellate Division.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Abdus-Salaam, J.; Abdus-Salaam; Lippman; Pigott; Read; Rivera; Smith
JURISDICTION	New York
DECIDED	May 6, 2014
DISPOSITION	reversed
PROCEDURAL POSTURE	The Board of Education appealed as of right to the New York Court of Appeals from Appellate Division orders reversing Supreme Court orders and vacating arbitration awards disciplining teachers for a parking-based picketing demonstration.
STANDARD OF REVIEW	Under Education Law § 3020-a (5) and CPLR 7511, judicial review of an arbitration award is narrowly limited to whether the award violates a strong public policy, is irrational, or clearly exceeds a specifically enumerated limitation on the arbitrator's power. In compulsory arbitration, the award must also have evidentiary support and cannot be arbitrary and capricious. The First Amendment Pickering balance is reviewed as a question of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Board of Education of the East Meadow Union Free School District v. Richard Santer, Barbara Lucia

TOPICS

first amendment

free speech

employment arbitration

labor law

municipal law

PRACTICE AREAS

constitutional law

employment law

labor law

employment arbitration

municipal law

QUESTIONS PRESENTED

1. Whether the teachers' car-based picketing demonstration constituted speech or expressive conduct protected by the First Amendment.
2. Whether the teachers' speech addressed a matter of public concern under the Pickering framework.
3. Whether the District's interests in student safety and effective school operations outweighed the teachers' First Amendment interests in using this particular manner, time, and place of protest.
4. Whether the arbitration awards were subject to vacatur under CPLR 7511 because they violated a strong public policy, were irrational, or exceeded the arbitrators' authority.

HOLDINGS

1. The teachers' demonstration constituted speech or expressive conduct subject to First Amendment protection, even though it involved conduct that the arbitrators found was intended to create a disruption.
2. The teachers' speech concerning the ongoing labor dispute and collective bargaining negotiations addressed a matter of public concern.
3. The District justified disciplining the teachers because their interests in engaging in protected speech in the manner employed were outweighed by the District's interests in protecting students and maintaining effective school operations.
4. The arbitration awards did not violate a strong public policy, were not irrational, and did not clearly exceed a specifically enumerated limitation on the arbitrators' power; therefore, the awards were confirmed.

KEY QUOTATIONS

“Accordingly, we conclude that petitioners’ demonstration constituted “speech” subject to First Amendment strictures, and now consider that speech in the context of the Pickering balancing test.” (263)

“the public employer need only “make a substantial showing that the speech is . . . likely to be disruptive” to satisfy the balancing test and meet its burden under Pickering” (266)

“petitioners’ interests in engaging in that constitutionally protected speech in a manner that interfered with the safety of students were outweighed by the District’s interests in maintaining an orderly, safe school” (269)

FACTUAL BACKGROUND

Teachers at Woodland Middle School had engaged in weekly picketing concerning a stalled collective bargaining agreement. On March 2, 2007, during heavy rain, 16 teachers used eight legally parked cars on both

sides of the public street in front of the school and displayed picketing signs from the cars. The arrangement prevented parents from using the ordinary curbside drop-off area, causing children to exit vehicles in the middle of congested traffic and in the rain. The demonstration caused actual traffic and operational disruption, including late-arriving teachers, parent complaints, police involvement, and the need to arrange homeroom coverage, although no child was injured.

PROCEDURAL HISTORY

The District commenced disciplinary proceedings under Education Law § 3020-a against Santer, Lucia, and other teachers after a demonstration in which teachers parked on both sides of a public street in front of the school. Arbitrators found Santer and Lucia guilty of misconduct and imposed fines of \$500 and \$1,000, respectively. Supreme Court denied their CPLR article 75 petitions to vacate the awards. The Appellate Division reversed, concluding under *Pickering* that the teachers' speech addressed a matter of public concern but that the District had not shown sufficient disruption to justify discipline. The Court of Appeals reversed the Appellate Division in both proceedings, denied the petitions, and confirmed the awards.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No remand was ordered. In each proceeding, the Appellate Division order was reversed, the petition was denied, and the arbitration award was confirmed.

CASES CITED

- *Pickering v. Board of Education of Township High School District 205, Will County*, 391 U.S. 563 (1968)
- *Matter of Santer v. Board of Education of East Meadow Union Free School District*, 101 A.D.3d 1026 (2d Dep't 2012)
- *Matter of Lucia v. Board of Education of East Meadow Union Free School District*, 109 A.D.3d 545 (2d Dep't 2013)
- *Matter of United Federation of Teachers, Local 2, AFT, AFL-CIO v. Board of Education of City School District of City of New York*, 1 N.Y.3d 72 (2003)
- *City School District of the City of New York v. McGraham*, 17 N.Y.3d 917 (2011)
- *Matter of Sprinzen (Nomberg)*, 46 N.Y.2d 623 (1979)
- *Matter of New York State Correctional Officers & Police Benevolent Association v. State of New York*, 94 N.Y.2d 321 (1999)
- *Matter of Motor Vehicle Accident Indemnification Corp. v. Aetna Casualty & Surety Co.*, 89 N.Y.2d 214 (1996)
- *Rankin v. McPherson*, 483 U.S. 378 (1987)
- *Locurto v. Giuliani*, 447 F.3d 159 (2d Cir. 2006)
- *Melzer v. Board of Education of City School District of City of New York*, 336 F.3d 185 (2d Cir. 2003)

- United States v. National Treasury Employees Union, 513 U.S. 454 (1995)
- Texas v. Johnson, 491 U.S. 397 (1989)
- Spence v. Washington, 418 U.S. 405 (1974)
- United States v. Grace, 461 U.S. 171 (1983)
- Carey v. Brown, 447 U.S. 455 (1980)
- Gregory v. Chicago, 394 U.S. 111 (1969)
- Connick v. Myers, 461 U.S. 138 (1983)
- Waters v. Churchill, 511 U.S. 661 (1994)
- Snyder v. Phelps, 562 U.S. 443 (2011)
- San Diego v. Roe, 543 U.S. 77 (2004)
- Bose Corp. v. Consumers Union of United States, Inc., 466 U.S. 485 (1984)
- State Employee Bargaining Agent Coalition v. Rowland, 718 F.3d 126 (2d Cir. 2013)
- Vernonia School District 47J v. Acton, 515 U.S. 646 (1995)
- Lewis v. Cowen, 165 F.3d 154 (2d Cir. 1999)
- Pappas v. Giuliani, 290 F.3d 143 (2d Cir. 2002)
- Heil v. Santoro, 147 F.3d 103 (2d Cir. 1998)
- Shelton v. Tucker, 364 U.S. 479 (1960)
- Jackler v. Byrne, 658 F.3d 225 (2d Cir. 2011)