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Shannon M. Garvey
Roger Williams University School of Law

Christopher H. Lordan
Roger Williams University School of Law

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Constitutional Law. *Bandoni v. State*, 715 A.2d 580 (R.I. 1998). In the absence of a directive to the contrary, each word in a clause of the state constitution is deemed to be carefully chosen, thus defining the intention and effect of the constitution's framers. A constitutional provision does not give rise to a cause of action where the legislature has remained silent and where the enumerated right, as well as the means for its enjoyment and protection are not fully defined.

In *Bandoni v. State*, the Rhode Island Supreme Court faced the issue of whether victims were entitled to collect monetary damages from state officials when the officials failed to notify the victims of their constitutional rights. The *Bandoni* court, while not condoning the failure to notify the victims, declined to allow the suit for damages under either a theory of common law negligence or a constitutional violation. Additionally, the court felt the determination of whether such a remedy was contemplated or allowed resided with the legislature.

**FACTS AND TRAVEL**

Lorraine and Robert Bandoni were injured in a drunk driving accident in Coventry, R.I. on August 1, 1992. While traveling on a motorcycle the Bandonis were struck by a truck driven by Robert L. Richardson (Richardson). Lorraine Bandoni was thrown from the motorcycle and suffered minor injuries. Robert Bandoni was seriously injured in the accident, suffering, among other ailments, a shattered left leg and pelvis. Subsequently, the police arrested Richardson and charged him with driving while intoxicated. On August 5, 1992, Lorraine Bandoni contacted the Coventry police regarding the accident investigation. She requested, and was assured, that the Coventry Police Department would notify both her

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2. Id. at 582.
3. See id. at 584.
4. See id. at 582.
5. See id. at 582-83.
6. See id.
7. See id. at 583.
8. See id. A blood test revealed that Richardson's blood-alcohol content was more than two times the legal limit in Rhode Island. See id.
9. See id.
and her husband regarding the pending criminal investigation. However, this was not to be the case.

On August 12, 1992, Richardson was arraigned and formally charged with driving while intoxicated. The Bandonis were neither notified of this arraignment nor the subsequent pre-trial hearing which took place on September 23, 1992. At the pre-trial hearing, Richardson pled nolo contendere to a reduced charge of “reckless driving and other offenses against public safety.” He was sentenced to one year’s unsupervised probation, ordered to make a $250 contribution to the Victims’ of Crime Indemnity Fund, and payment of court costs. Richardson did not lose his license for any period of time.

The Bandonis first learned of the plea bargain while preparing for a civil lawsuit against Richardson. After learning that their right to address the court had been disregarded due to the officials’ failure to notify them, the Bandonis filed suit. Their claim against the town of Coventry, pursuant to Rhode Island General Laws section 45-15-5, alleged that the town officials had failed to uphold their statutory and constitutional rights. The Bandonis

11. See Bandoni, 715 A.2d at 583.
12. See id.
13. Id.
14. See id.
15. See id. Rhode Island General Laws sections 31-27-2.6(a) and (c) state: Driving under the influence of liquor or drugs, resulting in serious bodily injury—(a) When serious bodily injury of any person other than the operator is caused by the operation of any motor vehicle, the operator of which is under the influence of any intoxicating liquor, . . . the person so operating the vehicle shall be guilty of driving under the influence of liquor or drugs, resulting in serious bodily injury . . . (c) Any person charged with the commission of the offense set forth in subsection (a) shall, upon conviction, be punished by imprisonment for not less than one year and for not more than ten (10) years and by a fine of not less than five thousand dollars ($5,000). The sentencing judge shall have the discretion to sentence the person to any unit of the adult correctional institution. Additionally, the license of the person may be revoked for a period of up to two (2) years.

Id.
16. See Bandoni, 715 A.2d at 583.
17. See id.
19. See Bandoni, 715 A.2d at 583.
then filed suit against the town of Coventry, the State of Rhode Island, and their respective agents under a common law negligence theory for failure to notify them of the pending criminal action, thus violating their rights under the Rhode Island Constitution. The Rhode Island Constitution, Victim’s Bill of Rights amendment, provides a victim of crime the right to address the court regarding the effect the defendant’s action has had on them before sentencing. Additionally, the Bandonis alleged numerous violations of various statutory rights under the Victim’s Bill of Rights. The Bandonis argued that, had they been notified of the court dates, they would have been there to object to the plea bargain and request restitution from Richardson pursuant to Rhode Island law.

The Rhode Island Supreme Court, on appeal, was presented with the issue of whether victims are entitled to collect monetary damages from state officials when the officials failed to notify the victims of their constitutional rights. The Bandonis asserted that they should be allowed to present the victim impact statement they would have presented at trial. Furthermore, they argued that the measure of damages should be based on whatever restitution the trial judge felt was reasonable.

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21. See Bandoni, 715 A.2d at 583.
22. See id. at 583-84. The Bandonis claimed several statutory violations. See R.I. Gen. Laws § 12-28-3(a)(15) (1956) (1994 Reenactment) (stating that a victim has the right “[t]o be informed by the prosecuting officer of the right to request that restitution be an element of the final disposition of a case”); id. § 12-28-4.1(a) (stating that “the victim of the criminal offense shall, upon request, be afforded the opportunity to address the court regarding the impact which the defendant’s criminal conduct has had upon the victim” prior to the plea negotiations acceptance); id. § 12-28-4.3(a) (stating that “[l]n all misdemeanor cases heard before the district court, the victim of the alleged criminal offense shall be afforded the opportunity to address the court during the pretrial conference, . . . to explain the impact which the defendant’s criminal conduct has had upon the victim and to comment on the proposed disposition of the case”); id. § 12-28-5.1 (providing automatic entry of a civil judgment against the defendant after the court orders defendant to make financial restitution to the victim of a crime).
24. See Bandoni, 715 A.2d at 582.
25. See id. at 583.
26. See id. The Bandonis suggested staging a “mini-trial” where they could present their victim’s impact statement. See id.
BACKGROUND

Article I, section 23 of the Rhode Island Constitution, entitled "Rights of Victims of Crime,"\(^{27}\) was enacted to protect victims' rights when they had been harmed as a result of crime.\(^{28}\) Both the legislature and the judiciary committee felt that the present statutory rights afforded to victims, as well as the enforcement of those rights, were severely inadequate.\(^{29}\) The goal in establishing the Rights of Crime amendment was to create "greater support" for victims of crime.\(^{30}\) Enforcement of the statutory and constitutional rights would be mandatory, but specific conditions would be determined by the general assembly and the courts.\(^{31}\) However, the legislative history did not categorically assign the duty to establish the precise components (such as remedies) to either the general assembly or the court.\(^{32}\)

ANALYSIS AND HOLDING

The Rhode Island Supreme Court held, in a controversial 4-1 ruling, that the Bandonis did not have a private cause of action against the state or its officials and that, essentially, the Bandonis were asking the court to create a cause of action by "judicial

\(^{27}\) R.I. Const. art. I, § 23 (1987):
A victim of crime shall, as a matter of right, be treated by agents of the state with dignity, respect and sensitivity during all phases of the criminal justice process. Such person shall be entitled to receive, from the perpetrator of the crime, financial compensation for any injury or loss caused by the perpetrator of the crime, and shall receive such other compensation as the state may provide. Before sentencing, a victim shall have the right to address the court regarding the impact which the perpetrator's conduct has had upon the victim.

\(^{28}\) See Constitution of the State of Rhode Island and Providence Plantations: Annotated Edition 11 (1988). Article I, section 23 sets forth a provision vesting a right in the victim to confront their perpetrator in court, describing the consequence their criminal conduct has had upon the victim. Resolution 86-00140 (as it was formerly called) was originally passed in May 1986. It was then submitted to the Committee on Style and Drafting in June of 1986. The resolution gained final approval and was passed with style changes on June 26, 1986. See id.

\(^{29}\) See id. (noting that in order to best protect the rights of victims, all parts of the criminal justice system must work together). "The judiciary Committee concluded that while the general assembly has addressed the problem of victim rights, enforcement has been inadequate." Id.

\(^{30}\) Bandoni, 715 A.2d at 583.
\(^{31}\) See id. at 583-84.
\(^{32}\) See id. at 584.
rule." The court first addressed the Bandonis' claim of common law negligence. The Bandonis claimed that the officers' failure to notify them of their rights amounted to a breach of duty which could be remedied through monetary damages. The court reviewed the established rule that, when a statute contains unambiguous language, the court must interpret the statute literally. Additionally, the court noted that statutes are "subject to strict construction" when they set forth rights that did not exist at common law. The court explained that it was not within their function to "rewrite or amend statutes" and that the legislature had not intended for the court to act in such a manner. Therefore, the court concluded that judicial restraint prevented them from finding a cause of action based in negligence since there was no existing duty at common law to notify victims of their rights, in addition to the fact that the legislature had failed to provide for civil liability in situations such as this.

In considering the Bandonis' claim of a constitutional tort, the court examined both the plain language and the legislative history behind the Rights of Victims of Crime amendment to the Rhode Island Constitution. The court concluded that a cause of action could not be derived from the amendment itself, due to the fact that it is overly broad and does not enumerate ways that victim's rights can be enforced. In making this determination, the court analyzed whether article I, section 23 was self-executing. The

33. Id.
34. See id. at 583-84.
35. See id. (citing Wayne Distrib. Co. v. Rhode Island Comm'n for Human Rights, 673 A.2d 457, 460 (R.I. 1996)).
37. See Bandoni, 715 A.2d at 585 (citing Accent Store Design, 674 A.2d at 1226).
38. See id.
39. See id. at 588. The majority asserted that the legislators had modeled the victim's rights amendment after section 12-28-2 of the Rhode Island General Laws, which uses broader language than that of section 12-28-3, which establishes specific provisions. In fact, the only substantial difference between section 12-28-2 and article I, section 23, of the state Constitution is that the amendment is expressed in mandatory terms. See id.
40. See id. at 586; see also Davis v. Burke, 179 U.S. 399, 403 (1900) (holding that "[a] constitutional provision may be said to be self-executing if it supplies a
court found that the amendment merely enumerated general principles, not a specific right or ways to protect or enforce that right, thus the amendment was not self-executing.\textsuperscript{41} The court ultimately refused to address the issue of whether there exists a cause of action for damages stemming from the victim’s rights amendment, thereby precluding the Bandonis any remedy for the violation of their rights.

The court firmly believed that the creation of a new cause of action is a legislative function.\textsuperscript{42} The majority explained that the court’s function is to interpret the law, not to create new law, and that the judiciary can only enforce existing rights, not enlarge them.\textsuperscript{43} In accordance with this interpretation of the doctrine of separation of powers, the court refused to grant a remedial mechanism where the legislature had failed to provide one.\textsuperscript{44} The Rhode Island Supreme Court affirmed that “once Congress has spoken, a court cannot override the unambiguous words of an enacted statute and substitute for them the court’s views of what individual legislators likely intended.”\textsuperscript{45}

\textit{Dissent}

In his dissent, Justice Flanders asserted that victims possess a fundamental right under the Rhode Island Constitution. Therefore, the majority’s failure to recognize this right, simply because the legislature had not given it’s explicit authority, is “very troubling.”\textsuperscript{46} The dissent argued that the framer’s intent is clear: to allow victims legal recourse; and furthermore, this court was not required to look to the General Assembly to expressly provide for a

\textsuperscript{41} See \textit{Bandoni}, 715 A.2d at 587-88.

\textsuperscript{42} See \textit{id.} at 584 (quoting \textit{Accent Store Design}, 674 A.2d at 1226; \textit{Ferreira}, 652 A.2d at 968).

\textsuperscript{43} See \textit{id.} at 584, 596.

\textsuperscript{44} See \textit{id.} at 596.

\textsuperscript{45} \textit{Id.} at 593 (quoting State v. Narragansett Indian Tribe, 19 F.3d 685, 699-700 (1st Cir. 1994)).

\textsuperscript{46} \textit{Id.} at 601 (Flanders, J., dissenting).
private right of action. The dissent further advanced the theory that specific rights, enumerated in the constitution, such as those in the Victim's Bill of Rights, should be judicially enforced, absent an "express textual negation" within the body. This includes creating a remedy for a violation of these rights. Arguing that article I, section 23 is self-executing, Justice Flanders stated that the fundamental right of a victim to be awarded a remedy was completely expounded in the Victim's Bill of Rights. The dissent further asserted that the drafters intent was to afford victims a greater opportunity for protection and enforcement of their rights; thus, no further legislative directive was necessary.

The dissent noted that inaction by the legislature cannot be the sole basis for refusing to uphold a constitutionally enumerated right. The foundation for this assertion was that framers do not normally state specific enforceable rights, either as private rights of action or as remedies, that should be provided while in the process of drafting constitutional amendments. The dissent reasoned that absent a mandate to the contrary, the court is not barred from enforcing fundamental constitutional rights by fashioning appropriate remedies. Ultimately, the dissent concluded, the judiciary has the power to enforce violations of constitutional rights by creating equitable remedies without legislative directives.

**CONCLUSION**

Guided by the principles of judicial restraint, the Bandoni court held that article I, section 23 is not self-executing; thus, a cause of action for damages would not be sustained other than in extreme circumstances. The court concluded that, in this instance, the creation of a cause of action for a violation of victim's rights properly resided with the legislative branch of government. Thus,
it is the legislature's, not the supreme court's, duty to expand on the specific provisions or mechanisms necessary to enforce a constitutional amendment.

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Constitutional Law. *Brousseau v. Town of Westerly*, 11 F. Supp.2d 177 (R.I. 1998). A limited, minimally intrusive body search of students conducted by school officials is constitutionally permissible when the circumstances dictate the reasonableness of the search, and the search conducted is the most efficient response to the situation.

In *Brousseau v. Town of Westerly,* the United States District Court for the District of Rhode Island was confronted with the issue of whether a warrantless search of a minor student in a public school was a violation of both state and federal constitutions and the state statutory right to privacy. In granting the defendant's motion for summary judgment, the District Court held that (1) the student had a legitimate expectation of privacy that she would not be searched; (2) the search conducted was minimally intrusive; (3) the state interest in protecting students was compelling; (4) the method of search conducted was the most effective in light of the situation giving rise to the necessity of a search; and (5) the search was reasonable under the circumstances.

**FACTS AND TRAVEL**

On January 10, 1996, Sarah Brousseau attended lunch in the cafeteria of the Babcock Middle School in Westerly, Rhode Island. Cafeteria workers had prepared pizza for lunch on that day, and sometime during the day a cafeteria worker discovered that a large knife used for cutting pizzas, approximately 13½ inches long, was missing. Assistant principal John Carson was notified of the situation and, with the assistance of several staff members, began a search for the missing knife. Finding nothing, the assistant principal urged any student with any information regarding the knife's location to come forward. No student did so, and school principal

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2. See id. at 181.
3. See id. at 182.
4. See id.
5. See id.
6. See id. at 183.
7. See id. at 180.
8. See id.
9. See id.
10. See id.
Joy Sacco authorized Carson to conduct a pat-down search of all students present in the cafeteria. The students were separated into lines by sex, with Carson and another male teacher searching male students. The female students, including Sarah Brousseau, were patted down by two female school employees. Each student was patted in the front and back pocket areas, as well as the ankles for possible concealment of the missing knife. Despite the search effort, the knife was not produced. It was found later in an empty pizza box in a dumpster behind the school cafeteria.

ANALYSIS AND HOLDING

Plaintiff claimed that the school officials' search of her person was in violation of her Fourth and Fourteenth Amendment rights under the U.S. Constitution, the Rhode Island Constitution, and Rhode Island statutory law. According to the district court, "the threshold question with respect to all of these claims is whether the search was unreasonable." In order to determine what is an unreasonable search, the court relied upon the United States Supreme Court's interpretation of the Fourth Amendment.

The United States District Court for the District of Rhode Island found that the Fourth Amendment, which provides protection against any unreasonable searches, is applicable to student searches by public school officials. The expectation of privacy for students in a school setting, however, is in some respects "a lesser expectation of privacy than members of the population gener-

11. See id.
12. See id.
13. See id.
14. See id.
15. See id.
16. See id.
17. See id.
18. See id. (stating that Article 1, section 6 of the Rhode Island Constitution prohibits unreasonable searches).
19. See id. (stating that Rhode Island General Laws section 9-1-28(a)(1) prohibits unreasonable intrusions of an individuals privacy).
20. Id.
21. See id. at 180-81.
22. See id. at 180 (quoting New Jersey v. T.L.O., 469 U.S. 325, 333 (1985)).
ally." Accordingly, the court must examine the context in which the necessity for a search arises and "balance[es] the need to search against the invasion which the search entails" in assessing the "reasonableness" of a search. As a starting point, the court must consider "whether the . . . action was justified at its inception," and whether the search was "reasonably related in scope to the circumstances which justified the interference in the first place."

Although a student generally has a lesser expectation of privacy, a school official cannot conduct a search without adequate justification. In the case at bar, Sarah clearly had a legitimate expectation that she would not be subject to a search that included the unwanted and unjustified touching of her body. However, that expectation does not necessarily render a search unreasonable; the school official's search in Sarah's case was limited in both method and scope. The court concluded that the search, a brief "pat-down" that lasted for only a few seconds, was reasonable because there was minimal intrusion on her privacy, and the purpose of the search was achieved in the least intrusive manner.

In this case, the safety and welfare of the student body was threatened. Thus, the urgency and importance of the officials' interest in searching students was justified by the dangerous nature of the item that was the focus of the search. A large knife in the possession of a young child presented the possibility of a serious accident and/or injury. Under the circumstances, it was certainly reasonable for the school officials' to respond to this grave concern.

23. Id. at 181 (quoting Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646, 657 (1995)).
24. Id. at 180 (quoting Camara v. Municipal Court, 387 U.S. 523, 536-37 (1967)).
25. Id. at 181 (quoting T.L.O., 469 U.S. at 341 (quoting Terry v. Ohio, 392 U.S. 1, 20 (1968))). The United States Supreme Court set forth four factors to be considered when determining the reasonableness of a search as:

"1. The nature of the privacy interest upon which the search intrudes.
2. The character of the intrusion.
3. The nature and immediacy of the governmental concern at issue.
4. The efficacy of the means employed in meeting that concern."

Id. (quoting Vernonia, 515 U.S. at 654-60).
26. See id.
27. See id.
28. See id. at 181-82.
29. See id. at 182.
30. See id.
by administering a limited bodily search of the students.31 Moreover, the officials' use of the search was the most effective means to directly address the situation, especially after no student voluntarily complied with a request to provide information about the whereabouts of the knife.32 The court noted that the plaintiff did not suggest any possible alternative means that may have been equally efficacious, if not more, in addressing that concern.33 Therefore, for the purposes of Fourth Amendment analysis, the search conducted by the school officials was reasonable under the circumstances.34

The court next turned to plaintiff's claims under the Rhode Island Constitution and Rhode Island statutory law.35 The district court found that the Rhode Island Constitution is "co-extensive with the Fourth Amendment of the United States Constitution."36 The court concluded that, like its federal counterpart, the state constitution prohibits only unreasonable searches.37 Thus, since the search conducted by the school officials was not unreasonable, plaintiff's claim based upon her rights under the state constitution must also fail.38 Likewise, Rhode Island's statute only protects from unreasonable invasions of privacy.39 Even though the Rhode Island Supreme Court has never interpreted General Laws section 9-1-28.1(a)(1), the district court concluded that "it is difficult to believe that the Rhode Island General Assembly intended to impose liability for constitutionally permissible searches by governmental officials."40 Thus, plaintiff's claim for damages pursuant to Rhode Island's invasion of privacy statute also failed.41

CONCLUSION

In Brousseau v. Town of Westerly, the United States District Court for the District of Rhode Island concluded that, when con-
ducting searches of students, so long as school officials act reason-
ably and appropriately under the circumstances, the searches will
be in violation of the federal constitution or Rhode Island state
law. Thus, the minimally intrusive pat-down search conducted by
the Westerly school officials searching for a missing pizza knife,
was sufficiently limited and reasonable under the circumstances.

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Constitutional Law. Casey v. Newport School Committee, 13 F. Supp. 2d 242 (D.R.I. 1998). When a student is removed from a high school class for disciplinary reasons, his due process rights are not violated where a formal grievance procedure existed and when no evidence is presented to demonstrate the violation of a protected right.

In Casey v. Newport School Committee, the United States District Court for the District of Rhode Island held that although a high school student was legally entitled to a public education under state law, that right did not confer entitlement to particular aspects of the educational program, especially when the student was assigned to an alternative program for disciplinary reasons.

FACTS AND TRAVEL

The plaintiff, Lochiel MacDonald (MacDonald), attended Rogers High School in Newport, Rhode Island as a freshman during the 1995-96 academic year. During the course of the school year, MacDonald's numerous instances of unruly behavior in the classroom resulted in disciplinary action. On one such occasion, he threatened his science teacher, Dale Hennessey. Accordingly, Hennessey relayed a report of the incident to the dean of students, who in turn reported the incident to the police. The Newport police conducted an investigation but ultimately no charges were filed due to a lack of evidence to prosecute.

Although no criminal charges were brought, school officials decided to expel MacDonald from Hennessey's class for the remainder of the academic year. He was given individual instruction by another science teacher for that period. Despite such instruction, MacDonald continued the same poor academic performance as he had prior to removal, and he eventually failed the course.

2. See id. at 246.
3. See id. at 244.
4. See id.
5. See id.
6. See id.
7. See id.
8. See id.
9. See id.
MacDonald brought claims for alleged violations of his due process rights against Hennessey, the City of Newport and the Newport School Committee. Included in the seven counts were alleged constitutional violations under 42 U.S.C. section 1983, with additional claims of intentional infliction of emotional distress, malicious prosecution and negligent supervision. The defendants moved for summary judgment on all counts.

ANALYSIS AND HOLDING

In his complaint, MacDonald asserted federal claims of procedural due process violations under 42 U.S.C. section 1983. First, MacDonald leveled claims against the City of Newport and the Newport School Committee on a theory of municipal liability. The district court began by turning to Monell v. Department of Social Services of New York, the landmark United States Supreme Court case in this area of law. In that case, it was held that a municipality can be held liable for the acts of an agent or employee "only if the constitutional violation at issue results from a policy, ordinance, regulation or decision officially adopted" by either the municipality's officers or from an established custom or practice of the municipality.

Applying Monell to the case at bar, the district court concluded that no evidence existed to support the notion that MacDonald's removal from class was the result of any custom or policy of either the City of Newport or the Newport School Committee. Furthermore, the complaint made no allegation that Hennessey, or any other individual, was acting on authority granted by either body. Nor did MacDonald demonstrate in any way how the actions alleged in his complaint were the result of a custom or practice. Finally, the school committee was found to be an improper party in

10. See id.
11. See id. at 245.
12. See id.
17. See id.
18. See id.
this case, as it is a department of the municipality. Therefore, only the municipality itself would be the appropriate party.

MacDonald's due process claim necessarily depended on the establishment that he had been deprived of a constitutionally recognized liberty or property interest. To do so, he needed to demonstrate a "legitimate claim of entitlement" to the interest at issue. In this case, MacDonald claimed that his right to a public education was thwarted by his removal from class. Although the court conceded that he did have a legitimate right to a public education, MacDonald was not deprived merely because he was removed from class; he was placed in an alternative program so as to continue his education. Thus MacDonald's right to a public education was not violated because the right does not encompass an entitlement to specific aspects of educational programs. Additionally, MacDonald's removal was only for five weeks. Therefore, the court concluded, his claim falls short of "total exclusion from the educational process for more than a trivial period."

MacDonald also claimed that his liberty interest in preserving his good reputation was damaged by Hennessey's allegedly false report. While recognizing that defamation is actionable in tort, the court cited the Supreme Court decision of Siegert v. Gilley, which established the idea that there is no constitutionally protected interest in reputation alone. The court also noted that even if such an interest were constitutionally protected, MacDonald showed no indication that he had suffered the requisite level of harm to properly seek a remedy at law for that claim.

19. See id.
22. See, e.g., Exeter-West Greenwich Regional Sch. Dist. v. Exeter-West Greenwich Teachers Assoc., 489 A.2d 1010, 1016 (R.I. 1985) (stating that when state law extends the right to an education to a general class, the state may not withdraw that right absent fundamentally fair procedures); see also Goss v. Lopez, 419 U.S. 565, 573-74 (1975) (stating that "the right to an education in Rhode Island is recognized and guaranteed in article XII, section 1, of the Rhode Island Constitution").
Despite plaintiff's claim to the contrary, he was entitled to pro-
cedural due process through the high school grievance procedure.29 Under that policy, a student may contest any disciplinary action taken against them. MacDonald did so, and exercised the entire appeals process built into the policy.30 The procedure was found to have satisfied due process requirements.31

As to the state law claims, the court applied the general rule articulated by the Supreme Court in United Mine Workers of America v. Gibbs.32 In Gibbs, the Supreme Court determined that:

[needless decisions of state law should be avoided both as a
matter of comity and to promote justice between the parties,
by procuring for them a surer-footed reading of applicable
law. Certainly, if the federal claims are dismissed before
trial, even though not insubstantial in a jurisdictional sense,
the state claims should be dismissed as well.33

Therefore, since the plaintiff's federal claim failed, the state claims should be dismissed as well.34

CONCLUSION

Any due process claims MacDonald sought to pursue were in-
valid because, under the given circumstances, no constitutionally
protected property or liberty interest existed. Therefore, defend-
ants violated no constitutional right, and the court granted defend-
ants' motion for summary judgment.

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29. See id.
30. See id.
31. See id.
34. See id.