

STATE BOARD OF EDUCATION

STATE OF GEORGIA

MARY BETH PALMER,

Appellant

CASE NO. 1976-8

vs.

PUTNAM COUNTY BOARD OF EDUCATION

Appellee

Upon recommendation of the Superintendent of Schools, Mr. Archie Swymer, at a regular meeting of the Putnam County Board of Education on April 13, 1976, the board made a tentative decision not to renew the teaching contract of Mary Beth Palmer for the 1976-77 school year. Ms. Palmer was a tenured teacher under the definition given in the Fair Dismissal Act. After she was notified Ms. Palmer requested a hearing and on April 20, 1976, the Superintendent gave in writing exact reasons for board action, which included:

1. Incompetency, inefficiency, and nonperformance of assigned duties,
2. Failure to comply with reasonable orders, requests or directions of the Superintendent or principal,
3. Favoritism (this charge was subsequently dropped),
4. Unfavorable recommendations by her principals for re-election every year she taught at Putnam County High School.

The case was heard by the Board of Education on May 18, 1976, and the decision, by a three-two vote, was against Ms. Palmer whereupon she appealed the adverse decision to the State Board of Education.

DID THE PUTNAM COUNTY BOARD OF EDUCATION CONSTITUTE A  
FAIR AND IMPARTIAL BODY TO HEAR THIS CASE?

In Putnam County Board of Education vs. Kauffman, (State Board of Education, Case No. 1976-9) we decided and held that just because a local board of education tentatively decided not to re-employ a teacher, for that reason alone it would not be disqualified to render a fair and impartial decision. There is no persuasive evidence in this case that the Board of Education was prejudiced or biased. It should be observed that the superintendent failed to recommend this appellant for re-employment and the board merely acted upon his recommendation.

This enumeration of error is without merit.

#### HEARSAY

Appellant argues, and quite accurately, that the transcript is replete with hearsay evidence. This probably results from the fact that the Board of Education at the hearing was not represented by an attorney. Ms. Palmer had very capable legal counsel. However, there is sufficient evidence in the record of probative value, not hearsay, which supports the local board decision.

This enumeration of error is without merit.

#### PRIOR ACTS OF THE TEACHER

Appellant contends that the Board cannot consider any misconduct of the teacher prior to the immediate school year. This argument is based upon the premise that when a new contract is given, prior faults or shortcomings of the teacher are waived. We cannot accept this argument in this case, for each year the principal gave the appellant a qualified recommendation for re-employment the subsequent year. We do not consider it material that such information did not appear in her contract of employment. Even so, we believe that general inability, misconduct or bad attitude of a teacher may be shown by acts and deeds over several years, for minor infractions can accumulate and later become major problems. The entire record of performance, good or bad, should be considered at a hearing, provided it has some relevancy to the issue.

This enumeration of error is without merit.

#### ON THE MERITS

As we held in *Kauffman*, supra, our responsibility on appeal is not to weigh the evidence and give a de novo opinion on where the greater weight of evidence lies, but is to determine if there is clearly sufficient evidence to authorize the local board's decision. (See *Hallford v. Banks*, 236 Ga. 472). We have considered the entire record in this case and hold that the Putnam County Board of Education sufficiently carried the burden of proof and we affirm its decision.

This the 11th day of August, 1976.

Mr. Vann, Mr. Stenbridge, Mr. Smith, Mr. Neville and  
Mrs. Huseman voting to affirm. Mr. Hendricks, Mrs. Oberdorfer,  
Mr. McClung and Mr. Whaley voting to reverse. Mr. Kilpatrick  
was not present.

  
Richard Neville, Vice Chairman  
for Appeals