STATE BOARD OF EDUCATION

STATE OF GEORGIA

JAMES V. KAUFFMAN,

Appellant

CASE NO. 1976-9

VS.

PUTNAM COUNTY BOARD OF EDUCATION,

Appellee

James V. Kauffman brought this appeal to the State Board of Education from a decision by the Putnam County Board of Education not to renew his teaching contract for the 1976-77 school year. Mr. Kauffman, the principal of the Putnam County High School, had been employed by that system for more than three years.

While meeting in regular session on February 10, 1976, the Putnam County Board of Education heard a recommendation by the Superintendent of Schools, Mr. Archie Swymer, that Mr. Kauffman be reemployed for the following school year. Thereupon, one member of the school board moved to accept the Superintendent's recommendation. However, the motion received no second and from the record in this case, it appears that no other board action was taken on this matter prior to April 15, 1976. The Superintendent later wrote Mr. Kauffman informing him that the board had decided not to renew his contract and that the action of the board at the February 10 meeting was based upon charges of insubordination, nonperformance of duties and inefficiency.

On May 26, 1976, Mr. Kauffman was given a hearing which resulted in a three-two vote not to employ him. He then appealed the adverse decision to the State Board of Education raising four issues:

1. Was the evidence sufficient as a matter of law to justify the refusal to renew Mr. Kauffman's contract?
2. Did the board of education, within the meaning of the Fair Dismissal Act, decide not to renew the contract of Mr. Kauffman prior to April 15, 1976, as required by law?
3. Was the Putnam County Board of Education such an impartial tribunal as required by law to hear the charges filed against Mr. Kauffman and did the board err in failing to refer the matter to an impartial tribunal, such as the Professional Practices Commission, for hearing?

4. Was Mr. Kauffman furnished a concise summary of the evidence to be used against him as required by the Fair Dismissal Act?

In support of the charges brought against Mr. Kauffman, the board of education contends that there are three incidents supporting the charges:

1. The alleged nonenforcement of a classring policy of the board.
2. Confusion concerning the scheduling of band as a part of the curriculum for the 1975-76 school year.
3. Enforcement of the school board's hair length policy by withholding pictures from the school annual until some effort was made to comply with this policy.

We have carefully reviewed the entire record and find against the Putnam County Board of Education. Each of the charges of wrongdoing was satisfactorily explained by the appellant or substantiated by evidence introduced by him. However, we are not persuaded as much by the strength of the appellant's case as we are by the weakness of the appellee's. Under the Fair Dismissal Act (Ga. Code Ann. Section 32-2101C(e), the burden of proof is cast upon the school board and we hold that the Putnam County Board of Education has failed to carry that burden in this case.

On appeal review by the State Board of Education must consider the legal sufficiency of the evidence and not so much the weight (or quantity) of the evidence. We must decide if the local board decision can be sustained under a reasonable view of the evidence which it considered. We hold this rule to be the standard by which we review the evidence of cases on appeal. Needless to say, each case must be judged on its own merits but in every case a local board must make a prima facie case supporting its decision and must clearly carry the initial burden. We believe that this rule complies with the full intent of the Fair Dismissal Act (Ga. Laws 1975, page 360). Once that burden is clearly carried by the school board, we are inclined to follow the general laws of evidence of this State in that appellate courts cannot weigh the evidence in cases on appeal and where there is some evidence to support the decision, it should be upheld. (See Comtrol, Inc. v. H-K Corporation, 134 Ga. App. 349(352) and Taylor v. Georgia Power Co., 136 Ga. App. 412(413).

As this case has been decided on the merits, it is not necessary to consider other issues raised by the appellant. However, we want to comment on the

question of whether or not a local board of education which tentatively decided not to renew a teacher's contract can later sit as a fair and impartial tribunal? Our answer is yes. Certainly, it is possible for a board or board members not to be fair or impartial as the appellant in this case sought to prove. But, we do not hold, as a matter of law, that just because a local board tentatively decides against renewing a teacher's contract that it is automatically disqualified as an impartial tribunal. The Fair Dismissal Act expressly provides that when a local board has tentatively decided not to renew a contract, then written notification of that decision must be given the teacher and a right to a hearing follows. The Act also provides that the local board may conduct this hearing or it may designate an impartial tribunal of three to five people or it may refer the case to the State of Georgia, Professional Practices Commission.

While we hold that a board is not automatically disqualified to hear such a case as this one, it is often desirable to refer a case like this one to another hearing body. Such action would have avoided all suggestions of impropriety. We have in this State a capable, functioning and well-staffed Professional Practices Commission, and the State Board of Education encourages local systems to use it whenever possible.

The decision of the Putnam County Board of Education in this case is reversed.

This the 11th day of August, 1976.

By all members of the State Board of Education except for Mr. Kilpatrick, who was absent.

Richard Neville

Richard Neville, Vice-Chairman
for Appeals