

STATE BOARD OF EDUCATION

STATE OF GEORGIA

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|--------------------------|---|-----------------|
| KENNY YEARWOOD, | : | |
| | : | |
| Appellant, | : | |
| | : | |
| vs. | : | CASE NO. 1979-1 |
| | : | |
| STEPHENS COUNTY BOARD OF | : | |
| EDUCATION, | : | |
| | : | |
| Appellee. | : | |

O R D E R

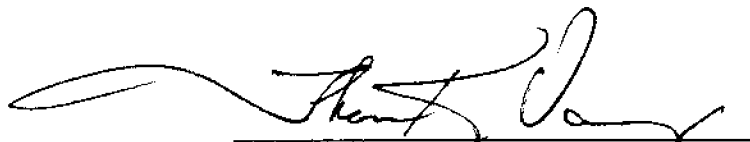
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Stephens County Board of Education herein appealed from is hereby affirmed.

Mr. Smith was not present.

This 8th day of March, 1979



THOMAS K. VANN, JR.
Vice Chairman for Appeals

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| | : | |
| Appellee. | : | |

PART I

SUMMARY OF APPEAL

Kenny Yearwood (hereinafter "Appellant"), a student, has appealed from a decision of the Stephens County Board of Education (hereinafter "Local Board") that he be expelled from school during the winter quarter of the 1978-1979 school term, and that he attend the remainder of the term on probation. The appeal was made on the grounds that the punishment was too harsh and that the school system should provide alternative, individual, forms of punishment. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II
FINDINGS OF FACT

Appellant's parents were notified by letter on December 19, 1978, that Appellant was suspended from school because of "the possession of partially burned marijuana joints in his car on December 15, 1978." Appellant's parents were then given written notice on December 21, 1978 that the Local Board would hold a hearing on the matter on December 26, 1978 and that they could present testimony and have an attorney present.

At the hearing on December 26, 1978, Appellant appeared with his parents. Neither the Local Board nor Appellant had legal counsel present. The questioning during the hearing was limited, but the transcript establishes that Appellant was a seventeen year old senior student. Two partially burned marijuana cigarettes were found in Appellant's car while it was parked on the school campus. The parents related that they were aware of the marijuana and had been working with and counselling Appellant since their discovery. As a part of their method of teaching, they had not asked him to remove the two cigarettes from the car, but instead relied on his ability to abstain from further use even in the presence of the cigarettes.

The Local Board voted to expel Appellant for the winter quarter and place him on probation for the balance of his school career. Appellant's parents were given written notice of the Local Board's decision on December 27, 1978. The appeal to the State Board of Education was then made on January 2, 1979.

PART III

CONCLUSIONS OF LAW

The control and management of the schools within a county are the responsibility of the local board of education. Ga. Code Ann. §32-901. The local board of education is required to make the decisions in any matter of local controversy which involves the construction or administration of the school law. Ga. Code Ann. §32-910(a). When an appeal is made to the State Board of Education, the State Board of Education is required to confine its review to the record of the matter that was prepared at the hearing before the local board of education. Ga. Code Ann. §32-910(d). If there is any evidence in the record to support the decision of the local board, then the State Board of Education cannot disturb the decision of the local board. Ransum v. Chattooga County Board of Education, 144 Ga. App. 783, 442 S.E.2d 374

(1978); Antone v. Greene County Board of Education, Case No. 1976-11.

In the instant case, the appeal was made to the State Board of Education because Appellant's parents believe that the decision of the Local Board is too harsh and that the Local Board should provide alternative programs. There is, however, evidence in the record which shows that Appellant had possession of the marijuana cigarettes. The State Board of Education, therefore, is required to uphold the decision of the Local Board.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, the arguments, and the briefs and letters submitted, it is the opinion of the Hearing Officer that the Stephens County Board of Education had the power and authority to make the decision to expel Appellant for one quarter and place him on probation for the remainder of his school career. The Hearing Officer, therefore, recommends that the decision herein of the Stephens County Board of Education be upheld.

L. O. Buckland

L. O. BUCKLAND
Hearing Officer