

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: DONALD H.

APPELLANT

:  
:  
:

CASE NO. 1979-11

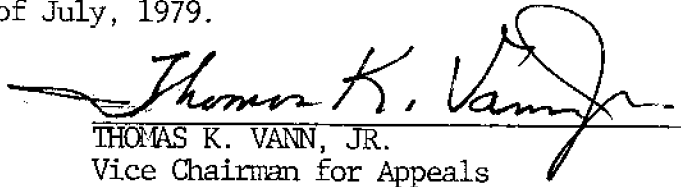
O R D E R

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 DeKalb County Board of Education herein appealed from is hereby affirmed.

This 12th day of July, 1979.

  
THOMAS K. VANN, JR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: DONALD H.

:  
:  
:  
:  
:  
:  
:  
:

CASE NO. 1979-11

REPORT OF HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by the mother of Donald H. (hereinafter "the Student") from a decision by the DeKalb County Board of Education (hereinafter "Local Board") to accept the decision of the regional hearing officer that the Local Board was not responsible for reimbursing the costs of private residential placement incurred by the mother during the period June, 1976 through March 16, 1979. The Hearing Officer recommends that the decision of the Local Board be affirmed.

PART II

FINDINGS OF FACT

The hearing before the regional hearing officer was held on May 31, 1979 with both the Student and the Local School System represented by counsel. The regional hearing officer issued his opinion on June 4, 1979, and the Local Board adopted the decision on June 6, 1979. The Student's mother thereafter appealed the decision on June 14, 1979.

The appeal was made on the grounds that the evidence showed that the Student was a handicapped child during the period June, 1976 through March 16, 1979; that the Local School System failed to provide a free appropriate public education during the period, and the parent was therefore entitled to reimbursement. The hearing officer, however, found that the student was not handicapped during the period involved, that the Local School System could have provided the student with an appropriate education, and the Local School System was not negligent in its handling of the case. The regional hearing officer concluded that the Local School System was not responsible for reimbursing the educational expenses incurred.

The record shows that the Student did not have any problems until his parents were divorced shortly before or while he was in the eighth grade (the testimony was sketchy on dates). Shortly thereafter, the Student's grades began to drop, he was consistently truant, and he began smoking marijauna. There was testimony that the mother could no longer control the Student, he became withdrawn, and he refused to socialize with other students. Attempts were made to enroll him in different programs within the school system, but the Student refused to attend. A social worker, who was working with the Student and the mother, recommended to the mother that she consider placing the Student in a residential program in an effort to eliminate his access to drugs and to provide him with psychiatric and psychological

care. The social worker, however, did not consider the Student to be in need of special education services. The mother withdrew the Student from the public school system and obtained his placement at Anneewakee Treatment Center in June, 1976. The Local School System did not thereafter have any contact with the Student until October, 1978, which was just prior to the time the Student was to graduate from the program and receive a high school equivalency diploma.

The testimony established that the Student had the ability to learn in a regular classroom setting. The principal problem was his continual truancy. His difficulties were described as "crisis" motivated and not the result of any long-term disabilities. The Student was not identified as having any learning disabilities and could have been served within the Local School System in its regular classroom programs. Additionally, the Local School System could have provided the Student with the necessary support services.

There was evidence in the record which supports the findings of the regional hearing officer. There does not, therefore, appear to be any error in his findings that the Student was not handicapped. Additionally, there was evidence that the Local School System could have provided the necessary support services. The Hearing Officer, therefore, concludes that the Local School System could not have identified the Student as a handicapped student; but, if the parent had sought assistance after implementation of Public Law 94-142, such assistance was available.

PART IV  
CONCLUSIONS OF LAW

The State Board of Education has adopted the standard that if there is "any evidence" to support the decision rendered, then it will not disturb that decision on review. Antone v. Greene County Bd. of Educ., Case No. 1976-11. The Appellate Courts of Georgia have also upheld this as the standard of review which the State Board of Education must apply. Ransum v. Chattooga County Bd. of Ed., 144 Ga. App. 783 (1978).

In the instant case, there is evidence in the record which supports the findings made by the regional hearing officer that the Student was not "emotionally disturbed" or "handicapped" as defined under Public Law 94-142 and the regulations issued thereunder. Additionally, the record contains evidence that the Local School System could have provided the Student with an adequate education with the necessary support services.

The parent in this case is essentially taking the position that in every case of abnormal behavior there is a need that can or must be met by providing an adequate educational program. Nothing, however, has been cited which indicates that this is the intent of Public Law 94-142, and the Hearing Officer does not read such an intent into the law. The Hearing Officer, therefore, concludes that the decision of the regional hearing officer is supported by the evidence produced at the hearing.