

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: CHRISTOPHER N. :  
: CASE NO. 1979-12  
APPELLANT :

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,

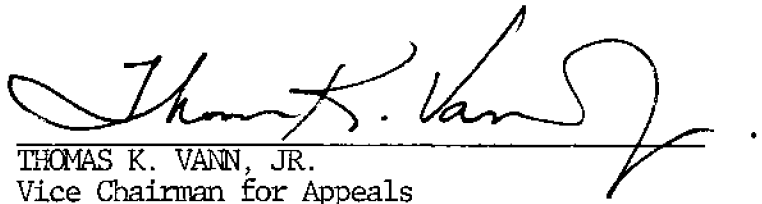
DETERMINES AND ORDERS, that the Findings of Fact of the Hearing Officer are accepted, but the Conclusions of Law and the recommendation made by the Hearing Officer are not accepted on the ground that there is evidence in the record to support the decision of the Local Board, and

DETERMINES AND ORDERS, that the Local Board is not required to pay for the independent evaluation obtained by the parents, and

DETERMINES AND ORDERS, that the decision of the Local Board regarding the placement of the Appellant is hereby sustained.

Mr. McClung, Mrs. Oberdorfer, and Mrs. Huseman dissented.

This 12th day of July, 1979.

  
THOMAS K. VANN, JR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: CHRISTOPHER N.                   :  
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CASE NO. 1979-12  
REPORT OF HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an automatic appeal from a decision by the Rockdale County Board of Education (hereinafter "Local Board") not to accept the recommendation of the regional hearing officer regarding the special education placement of Christopher N. (hereinafter "the Student"). The regional hearing officer recommended that the Student should be kept in the private residential program at the Village of St. Joseph. The hearing officer found that the Local School System could not provide the Student with an appropriate program within the public school setting as proposed by the Local School System. The Hearing Officer recommends that the decision of the Local Board be reversed.

PART II  
FINDINGS OF FACT

On May 18, 1979, a hearing was held under the provisions of Public Law 94-142 for the purpose of determining the appropriateness of the placement of the Student. Both the Local School System and the Student were represented by counsel. The regional hearing officer rendered her report on June 14, 1979. The Local Board met on June 27, 1979, and, after considering the hearing officer's recommendation, voted to reject the recommendation.

The regional hearing officer found that the Local School System had complied with all aspects of the required procedural safeguards and the full disclosure requirements had been met. The parents of the Student did not raise any objections during the conduct of the hearing regarding any procedural defects and none have been raised on appeal.

From the evidence presented, the regional hearing officer found that the Student had serious emotional problems with a need for on-going counseling and psychological support, that the Student needed a closely structured environment, and that the environment "must be offered on a 24-hour basis in order to assure maximum educational development." The hearing officer also found that regression would most likely occur if the placement of the Student was changed.

The Local Board voted to reject the recommendation of the hearing officer, but the reasons for the rejection were not stated. It appears the sole basis for the rejection

is the Local Board's contention that an adequate and appropriate education can be provided within the public schools.

The record shows that the Student, aged eleven and one-half, was initially admitted to the first grade in the public schools of another county. His behavior problems were soon evident and he was assigned to a special education class. Because of continued problems in the public school, the Student was then taken to South Metro Children's Center. The Student's mother then withdrew him from the South Metro Children's Center, and, upon the advice of her pediatrician, she enrolled the student in the Village of St. Joseph where he lived on the campus during the week and went home on weekends. During the period of residency at the Village of St. Joseph, he was given a very structured environment which reinforced a positive self-image and avoided situations which would result in defeat.

The testimony of all the witnesses clearly established that the finding of the regional hearing officer that the student continued to have serious emotional problems with a need for a closely structured environment was correct. There was also substantial testimony which showed that if the student was relocated into the public school system, there would be a period of regression.

The Local School System contended during the hearing that the closely structured environment could be provided within the public school setting during normal school hours. The remainder of the time while the Student was out of the

school setting would require the family to work with student, but counseling services were available for the family to assist them in controlling the situation.

The witnesses for the Local School System testified that a program could be developed for the Student which would permit him to learn. There was also testimony that the Student expressed interest in going into the public school system and that it was the impression of the school system witnesses that the student would view entrance into the public schools as an indication that he had made substantial progress and was not really different from other students.

There was not any substantial disagreement among the witnesses that the public school system could provide the Student with an adequate educational opportunity during the period that he was in actual attendance at the school. The main point of disagreement was the fact that the witnesses appearing on behalf of the Student testified that there was a need for the student to remain within a structured environment after the normal school hours, and that without the continued structured environment, the student would be unable to progress during the normal schooling period. The additional support services provided during the remainder of the day were as important for the Student's ability to learn as the actual educational experience provided for the Student during the normal schooling period.

PART III  
CONCLUSIONS OF LAW

The Local Board has not enumerated any error on the part of the regional hearing officer's findings of fact. The burden of proof is placed on the Local School System to establish that its determinations are proper.

The findings by the regional hearing officer that the Student requires 24-hour services are supported by the evidence contained within the record. The Local School System did not offer any showing that it could provide 24-hour care for the Student. Instead, the Local School System attempted to establish that it could provide an adequate program during the normal school hours. The finding by the regional hearing officer that the student should remain at the Village of St. Joseph, therefore, is supported by the evidence contained within the record submitted.

In the absence of any showing of clear error on the part of the regional hearing officer, the findings of the hearing officer are binding on the State Board of Education on review of the initial hearing proceedings. The State Board of Education had adopted the standard that if there is any evidence to support the finding made at the initial hearing, then such findings are binding on review. Antone v. Greene County Bd. of Educ., Case No. 1976-11. See, Ransum v. Chattooga County Bd. of Ed., 144 Ga. App. 783 (1978). The Hearing Officer, therefore, concludes that the regional hearing officer conducted a fair and reasonable

proceeding; that the findings are supported by the evidence contained in the record, and that the decision made by the hearing officer is also supported by the evidence contained in the record.

#### PART IV

#### RECOMMENDATION

Based on the foregoing findings and conclusions and the record submitted, the Hearing Officer is of the opinion that the recommendation made by the regional hearing officer is supported by the evidence and that the proper placement for the Student is at the Village of St. Joseph. The Hearing Officer, therefore, recommends that the decision of the Rockdale County Board of Education rejecting the decision of the regional hearing officer be reversed

*L. O. Buckland*

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L. O. BUCKLAND  
Hearing Officer