

STATE BOARD OF EDUCATION

STATE OF GEORGIA

TOMMY McGHEE, :
Appellant, :
v. : CASE NO. 1982-4
GRIFFIN-SPALDING COUNTY :
BOARD OF EDUCATION, :
Appellee. :

O R D E R

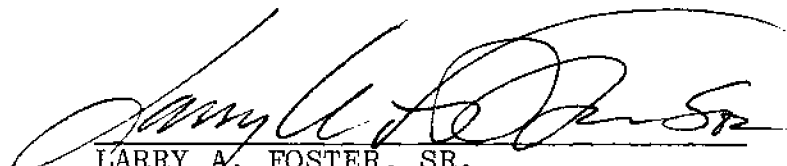
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 Griffin-Spalding County Board of Education herein appealed from is hereby sustained.

Mr. Lathem was not present.

This 10th day of June, 1982.


LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION
STATE OF GEORGIA

TOMMY MCGHEE,	:	
	:	
Appellant,	:	CASE NO. 1982-4
	:	
vs.	:	
	:	
GRIFFIN-SPALDING COUNTY	:	REPORT OF HEARING
BOARD OF EDUCATION,	:	OFFICER
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

This is an appeal by Tommy McGhee (hereinafter "Appellant") from a decision by the Griffin-Spalding County Board of Education (hereinafter "Local Board") not to renew his contract as an elementary school principal after hearing charges of incompetency and immorality. Appellant maintains that procedural errors were made during the hearing which deprived him of due process. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

On April 7, 1982, Appellant was notified in writing by the Superintendent of the Griffin-Spalding County School System that Appellant would not be recommended for employment

to conduct a further investigation of the charges.

During the hearing, the Superintendent testified that he had obtained the assistance of the Professional Practices Commission. He also testified that as a result of his and the Professional Practices Commission investigations, he determined that he should not recommend renewal of Appellant's contract. Appellant's counsel objected to the testimony of the Superintendent concerning the investigation by the Professional Practices Commission, but the objection was over-

Page 2 of 7

as a principal for the 1981-1982 school year. Appellant responded on April 8, 1981, and wrote that he would not appeal the decision, but he wanted to be considered for any other position within the School System. On April 22, 1982, however, Appellant requested a list of the reasons why he was not recommended for renewal. During the ensuing months, a number of letters were exchanged between the Superintendent and Appellant and Appellant's attorney. On August 14, 1981, Appellant was furnished a written statement of the charges against him and a list of the witnesses who would provide testimony. Additionally, the hearing date was set and Appellant was informed that he had the right to subpoena documents and witnesses. The hearing before the Local Board was held on August 26, 1981.

Testimony at the hearing revealed that Appellant had been employed by the Local System for seventeen years and had just completed his first year as a principal. It was also his first year in an elementary school. At the beginning of the school year, some of the teachers began complaining about Appellant and the manner in which he was treating them. The Superintendent became aware of the complaints and brought them to Appellant's attention.

During the hearing, two teachers testified that they had been sexually harrassed by Appellant. Appellant

Appellant appealed the decision to the State Board of Education. Due to problems with the court reporter, the transcript of the hearing was not submitted to the State Board of Education until March, 1982.

PART III

CONCLUSIONS OF LAW

Appellant's objections on appeal relate primarily to the evidence that was introduced during the hearing. The appeal claims that Appellant was denied procedural due process when (1) the Superintendent was allowed to testify that a Professional Practices Commission investigation was conducted; (2) a letter written by the Superintendent was introduced which made reference to the sexual harrassment charges, and (3) cross-examination of Appellant was permitted concerning an incident that occurred during 1976.

With respect to the Superintendent being allowed to testify that he had requested the Professional Practices Commission to conduct an investigation, Appellant cites Cawthorn Motor Company v. Schaufler, 153 Ga. App. 282 as the basis for claiming he was denied due process. The Cawthorn Motor case concerned the question of whether the hearsay rule was violated if an investigator testified about the results of his investigation. The Court ruled that it could find no

authority which would permit the investigator to testify. Testimony can, however, be given that relates to the fact that an investigation has been made. See, Kelly v. State, 82 Ga. 441 (1889). Appellant is making the same claim as was made in the case of Ransum v. Chattooga Cty. Bd. of Ed., 144 Ga. App. 783 (1978). In Ransum, a board of trustees had recommended nonrenewal of the teacher's contract before the superintendent made his recommendation. The Court held that it was permissible for the superintendent to testify that a recommendation had been made by the board of trustees in order to show the basis for his recommendation. The instant case follows the Ransum case in that the Superintendent testified that he had obtained an investigation by the Professional Practices Commission, but he did not testify as to what were the results of the investigation, or the methods used in the investigation. The investigator from the Professional Practices Commission did not testify, and there was no testimony concerning the results of the investigation. The testimony was also offered only to explain the Superintendent's recommendation. The Hearing Officer, therefore, concludes that there was no error in permitting the Superintendent to testify that he had asked for and received an investigation by the Professional Practices Commission.

One of the letters written by Appellant which had been introduced into evidence made reference to an incident

that occurred during 1976. When Appellant was cross-examined by counsel for the School System, he was questioned about the nature of the 1976 incident. Appellant's counsel objected to the line of questioning on the grounds it was irrelevant and immaterial to the proceedings. The objection was overruled and the questioning continued. Appellant maintains on appeal that the line of questioning was prejudicial to him and denied him due process. A party, however, is permitted to conduct a searching and thorough cross-examination. Ga. Code Ann. §38-1705. The Hearing Officer, therefore, concludes that no error was committed in permitting the counsel for the School System to question Appellant about the 1976 incident.

The final error urged on appeal is the introduction of a letter written by the Superintendent to Appellant which mentioned the Superintendent's investigation of the circumstances surrounding the sexual advances charges. Appellant argues that he was denied the opportunity to cross-examine the witnesses referred to in the letter. The letter was admitted on the grounds it had been referred to in the Superintendent's letter which outlined the charges against Appellant and therefore formed a basis for the charges and the Superintendent's recommendation. Appellant was able to examine two of the teachers who had complained to the Superintendent. The introduction of the letter was made to explain the

Superintendent's conduct and not to prove the charges. The Hearing Officer, therefore, concludes that the introduction of the Superintendent's letter is not grounds for reversing the decision of the Local Board.

PART IV
RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion that Appellant was afforded due process during the conduct of the hearing and no grounds exist for reversing the decision of the Local Board. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.

(Appearances: For Appellant - Haas, Holland, Lipshutz, Levison and Gibert; Theodore G. Frankel; For Appellee - Beck, Goddard, Owen and Murray; James C. Owen, Jr.)



L. O. BUCKLAND
Hearing Officer