

STATE BOARD OF EDUCATION

DEC 9 1982

STATE OF GEORGIA

IN RE: JIMMY S.

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: CASE NO. 1982-22  
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:  
: DECISION OF STATE  
:  
: HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by the parents of Jimmy S. (hereinafter "Student") from the decision of a regional hearing officer that the Student was not severely emotionally handicapped, that the program offered by the Carroll County Board of Education was adequate, and that the parents were not entitled to reimbursement of the costs of private residential treatment they had incurred prior to the hearing. The appeal was made on the grounds that the competent evidence presented to the regional hearing officer did not support the decision. The State Hearing Officer sustains the decision of the regional hearing officer.

PART II

FINDINGS OF FACT

The Student is seventeen years old and presently enrolled in a private residential facility located in Florida where he

was voluntarily enrolled by his parents in January, 1982, before any testing or evaluation was done by the Carroll County School System (hereinafter "Local System"). The Student attended the Carrollton City Schools during his first ten grades and part of the eleventh grade. During the summer of 1981, between his tenth and eleventh years in school, the Student ran away from home and was referred to juvenile authorities. Counselling was obtained for the Student by his parents, and, upon the advice of an independent counsellor, the Student was admitted to a hospital in November, 1981. The Student was then withdrawn from the public school and admitted to the private residential facility.

The Student's parents requested financial assistance from the Carrollton City Schools, but, when a hearing on the Student's placement was undertaken, it was determined that the Student came under the jurisdiction of the Carroll County Board of Education rather than the Carrollton City School System. His parents were residents of Carroll County and had paid tuition to the Carrollton City School System in order for him to attend.

The Student's parents requested the Local System to evaluate the Student and make payment for the private residential facility. The Local System held a placement committee meeting on August 24, 1982. The placement committee, with the exception of the Student's parents, decided that the Student

could be offered a program within the Local System and that the parents were not entitled to reimbursement. The parents then requested a hearing before a regional hearing officer, which was held on September 28, 1982. The Student's parents appealed to the State Board of Education from the regional hearing officer's decision on November 4, 1982.

The regional hearing officer found that the Student had been adopted when he was four years of age and that he had not had any problems until he reached adolescence. During junior high school, his school work began to decline. By the time he had withdrawn from school, he had received two "F" grades. The remaining academic grades were "C's" and "D's", and he made "A's" and "B's" in band, physical education and other non-academic courses. The hearing officer found that the Student's difficulties were primarily manifested in the home --- he rebelled against his parents, lied about his school work, changed grades on his report cards, spent long periods of time on the telephone with his friends, and played his stereo too loudly. In school, he was sometimes tardy or truant from classes, was moody, had a short attention span, did not attend to tasks, and was unsure of his goals, but he did not present any problems to his teachers. He did not exhibit any signs of aggressiveness, was not self-abusive, did not use drugs or abuse alcohol, was not psychotic, and

did not present a danger to either himself or others. He did not evidence any learning disability. Although his grades were not as high as they could have been, he was able to score on achievement tests at expected levels.

The regional hearing officer found that the Student had gone to live with one of his teachers for a period of time, but this situation was ended at the Student's father's request. The Student had obtained some counselling from a private psychologist before being placed into the private residential facility, but he had not obtained any assistance through the Carrollton City School System. The teachers in the Carrollton City School System did not view the Student as being unlike other students within the school and had not referred him for any evaluations. The parents also had not made any requests for the Carrollton City School System to perform any evaluations. The regional hearing officer found that the Local System had never been in a position to offer services to the Student since the Local System had never been informed that the Student had any problems.

Based upon the evidence presented, the regional hearing officer decided that the Student could not be classified as having a severe behavior disorder. The regional hearing officer's decision was based upon the facts that the Student was able to maintain satisfactory interpersonal relationships

with several others, including both members of his peer group and adults, he was able to learn while enrolled in the Carrollton City School System, he did not display any chronic or persistent inappropriate behavior, and he did have any acute depression except after he was admitted to the private residential facility and at those times when other personal situations arose which were normally depressive, e.g., when the Student's girl friend had an abortion. The Student did, however, have a personality problem and needed to be in a situation where he would have counseling, structure, consistency in his programs, and family counseling.

The regional hearing officer decided that the program of tracking the Student in the Carroll County High School with family counseling was an adequate program for the Student in the least restrictive environment. Also, because the Student's parents had placed the Student into the private residential facility before making any request for evaluation and placement, the regional hearing officer decided that the Student's parents were not entitled to reimbursement for any of the costs they had incurred.

### PART III

#### CONCLUSIONS OF LAW

The Student's parents have appealed the decision of the regional hearing officer on the grounds the competent evidence

presented at the hearing did not support the decision. They point out that the psychiatrists and psychologists who testified on their behalf had all worked with the Student for longer periods of time than the psychologists who testified on behalf of the Local System. They also point out that only the psychiatrists are qualified to present a medical diagnosis on whether the Student is severely emotionally disturbed, and the Local System did not have any psychiatrists testify that the Student was not severely emotionally disturbed.

There was, however, evidence presented to the regional hearing officer which supports the decision. The testimony of the teachers and other school personnel showed that the Student did not have any significant problems while he was attending school, he was able to learn while he was attending school, he did not exhibit any abnormal behavior while in school, and he was able to maintain friendships with several people. When a structured situation was presented to the Student while he was in school, he responded positively. The actions of the Student show that he was not severely emotionally disturbed when measured against the criteria for severely emotionally disturbed students that were presented at the hearing.

The record clearly shows that the Student's parents did not make any requests for evaluation before they withdrew the

Student from the public school and placed him in the private residential facility. As pointed out by the regional hearing officer, the parents are not eligible for reimbursement of their costs when the placement is made without the benefit of prior evaluation by the local school system, or if the local school system did not have available a adequate program. In this case, the Local System had an adequate program available for the the Student.

PART IV

DECISION

Based upon the foregoing findings and conclusions, and the record submitted, the State Hearing Officer is of the opinion that the decision of the regional hearing officer is supported by the evidence received at the hearing. The decision of the regional hearing officer, therefore, is

AFFIRMED.

  
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L. O. BUCKLAND  
State Hearing Officer