

STATE BOARD OF EDUCATION

STATE OF GEORGIA

YVONNE GEE,)
Appellant,)
v.) CASE NO. 1985-17
MONROE COUNTY BOARD OF EDUCATION,)
Appellee.)

O R D E R

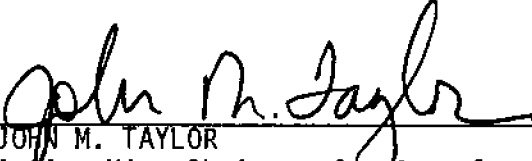
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 appeal is hereby dismissed because of lack of jurisdiction.

Mrs. Cantrell, Mrs. Baranco, Mr. Foster and Mr. Temples were not present.

This 8th day of August, 1985.



JOHN M. TAYLOR
Acting Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

YVONNE GEE,)	
)	
Appellant,)	CASE NO. 1985-17
)	
v.)	
)	
MONROE COUNTY BOARD)	
OF EDUCATION,)	
)	REPORT OF
Appellee.)	HEARING OFFICER

PART I

SUMMARY OF APPEAL

This appeal by Yvonne Gee (hereinafter "Appellant") is based upon the nonrenewal of Appellant's contract of employment as a media specialist by the Superintendent of the Monroe County Board of Education (hereinafter "Local Board"). Appellant requested that the Local Board grant her a hearing to hear a matter of local controversy, namely, her nonrenewal, under O.C.G.A. § 20-2-1160. The Local Board's School Superintendent (hereinafter "Superintendent") notified Appellant that her request for a hearing was denied. Appellant filed this appeal questioning whether O.C.G.A. § 20-2-1160 requires the Local Board to convene as a tribunal to inquire into the circumstances surrounding Appellant's nonrenewal and alleging that the decision not to renew her contract was arbitrary and capricious, was an abuse of discretion, and was based on political or

other constitutionally impermissible reasons; i.e., retaliation for her membership in, and constitutionally protected activities on behalf of, the Georgia Association of Educators. The Local Board maintains that Appellant was not entitled to a hearing under O.C.G.A. § 20-2-1160 because, under O.C.G.A. § 20-2-942, a teacher who has not achieved the so-called "tenure"¹ benefits of that section is not entitled to a hearing when her contract is not renewed and no hearing was granted, thus denying the State Board of Education jurisdiction over this appeal. The Hearing Officer recommends the appeal be dismissed.

PART II

FACTUAL SUMMARY

The record in this case consists of correspondence which has been exchanged between Appellant and the Superintendent, Appellant's attorney and the Superintendent, and a letter from Appellant addressed "Dear School Board Member." The first letter in the record is a letter from the Superintendent dated March 15, 1985, notifying Appellant that the Superintendent would not recommend her for the 1985-86 school year based upon her personality and relations with others, lack of teaching experience, overall management of the library, lack of a positive

¹ After a specified period of employment, O.C.G.A. § 20-2-942 grants teachers certain rights which are commonly called "tenure" rights, even though the statute does not use the term "tenure."

attitude, and a deficiency in communication skills. Appellant wrote the letter addressed "Dear School Board Member" on March 24, 1985 discussing her nonrenewal and requesting to be allowed to present more specific information at a board meeting. Appellant wrote the Superintendent on March 29, 1985 requesting that the Local Board convene as a tribunal under O.C.G.A. § 20-2-1160 for the purpose of hearing a matter of local controversy, namely, her nonrenewal. The Superintendent responded on April 10, 1985 by denying Appellant's request for a hearing and taking the position that reemployment of non-tenured personnel is covered by O.C.G.A. § 20-2-941, and that no hearing was required. On May 2, 1985, Appellant notified the Superintendent of her intent to appeal the decision of the Monroe County Board of Education denying her request for a hearing to the State Board of Education and requesting a reconsideration of the decision not to grant her a hearing. The Superintendent reiterated his position that Appellant was not entitled to a hearing May 9, 1985 and Appellant filed this appeal June 4, 1985.

PART III

DISCUSSION

Appellant claims, on appeal to the State Board of Education, that O.C.G.A. § 20-2-1160 "requires the Local Board to convene as a tribunal for inquiry into the circumstances surrounding Appellant's nonrenewal, including allegations that the nonrenewal decision was arbitrary and capricious, was an abuse of

discretion, and was based on political or other constitutionally impermissible reasons." She contends that, if the Local Board had granted her request for a hearing, she would have demonstrated that she performed her job in an exemplary manner, that she was recommended for reemployment by her principal, that she was extremely popular with the faculty, students and parents, and that the nonrenewal decision was arbitrary and capricious and an abuse of discretion. She further contends that she would have shown that she is President of, and actively promotes the local chapter of the Georgia Association of Educators, and that the real reason for the nonrenewal decision was retaliation for her constitutionally protected activities.

The circumstances and issues raised are the same as those in Trotter, et al. v. Dalton City Board of Education, Case No. 1985-4, which was argued with the instant case, and the discussion therein is wholly applicable to the instant case; i.e., the State Board of Education does not have jurisdiction to decide this appeal because a hearing was not conducted by the Local Board.

PART IV

RECOMMENDATION

Based upon the foregoing, the record submitted, and the briefs and arguments of counsel, the State Hearing Officer is of the opinion the State Board of Education lacks jurisdiction

in the instant case because there has not been a hearing before the Local Board as required under the provisions of O.C.G.A. § 20-2-1160. The State Hearing Officer, therefore, recommends that the appeal herein be DISMISSED.

L. O. Buckland

L. O. BUCKLAND
State Hearing Officer