

STATE BOARD OF EDUCATION  
STATE OF GEORGIA

WILLIAM C. BAKER, )  
Appellant, )  
v. ) CASE NO. 1985-48  
HOWARD B. STROUD, )  
Appellee. )

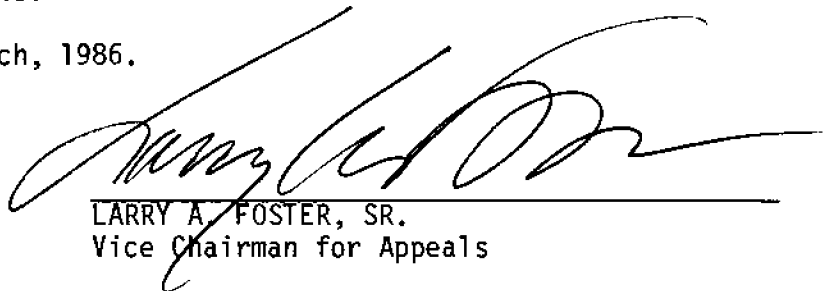
O R D E R

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 no action be taken with respect to Appellant's teaching certificate.

This 13th day of March, 1986.



LARRY A. FOSTER, SR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

WILLIAM C. BAKER,	)	
	)	CASE NO. 1985-48
Appellant,	)	
	)	
v.	)	
	)	REPORT OF
HOWARD B. STROUD,	)	SPECIAL MASTER
	)	
Appellee.	)	

PART I

SUMMARY

This is a report on the exceptions filed by William C. Baker (hereinafter "Appellant") from a report and recommendation by the Professional Practices Commission (hereinafter "PPC") to the State Board of Education. The PPC recommended suspension of Appellant's teaching certificate for a period of ninety (90) days for conduct and actions which constituted personal conduct which was "... detrimental to the health, welfare, discipline or morals of pupils and other good and sufficient cause." Appellant's exceptions are that the incident which gave rise to the charges occurred in March of 1982 and, since that time, he has, according to his principal and all other superiors who testified, been an excellent teacher, there was absolutely no evidence that his conduct affected his students in any way, the delay in the hearing allowed all the students present at the 1982 incident

to graduate and leave prior to the hearing, there is no relationship between Appellant's conduct and his employment as a teacher, his conduct was not detrimental to the health, welfare, etc., of the pupils, and there was no evidence in the record to support the conclusion that there has been an effect on Appellant's ability to teach.

## PART II

### FACTUAL BACKGROUND

The facts of this case have been more fully set forth in Part III of the PPC report, a copy of which is attached to this report. Briefly, the case involved an incident which occurred in March, 1982. At that time, Appellant served as faculty advisor to the Key Club at Hart County High School and in that capacity took a group of student Key Club members to a convention in Macon, Georgia. Appellant warned the students against drinking before they left and he quickly checked the vehicles in which they traveled, but he failed to discover large quantities of beer which the students had hidden in their suitcases and in the vehicles. He made an initial check of the students' rooms on arrival at the hotel in Macon, but did not check the rooms further in the afternoon or evening. Appellant drank alcoholic beverages in his hotel room, but the findings of the PPC do not indicate that he did so in front of the students or that he was inebriated. There was a Key Club convention code of conduct, which the PPC found applicable to Appellant, which prohibited his partaking of

alcoholic beverages during the convention. Appellant contended the convention's code of conduct did not apply because he was an adult. The students under his control carried numerous hidden cases of beer to the convention and when Appellant was in his room, they drank beer in their rooms. Had Appellant checked the students' rooms in the evening after dinner he could have discovered the students' drinking beer. Due to the commotion caused by his students or other students on the floor, Key Club convention officials discovered the beer drinking activity around 1:00 o'clock a.m. A hearing was held by the Key Club officials the next day. The students were given the option of leaving the convention or performing extra duties as punishment. It was the understanding of the students and Appellant that if the students accepted the extra duties, that would be the end of the matter. The students performed the extra duties and Appellant never reported the incident to his school system or to the parents of the students.

At the request of a citizen of Hart County, the PPC, in the latter part of 1984, began investigating the incident described above. Based upon that investigation, a finding of probable cause to revoke Appellant's certificate was made and a hearing regarding that matter was held. The hearing was held on June 26, 1985. The Hart County Board of Education has never taken any action against Appellant.

PART III  
DISCUSSION

This case comes before the State Board of Education as a case of original jurisdiction based upon the State Board of Education's authority to provide by regulation for revoking certificates for good cause after investigation is had and notice and a hearing is provided. O.C.G.A. §20-2-282. The State Board of Education has exercised that authority by promulgating State Board Policy GBBC, which states in part that personal conduct which seriously reduces the certificate holder's effectiveness in his or her employment position or which is detrimental to the health, welfare, discipline or morals of pupils is good cause for revoking or suspending a person's certificate. O.C.G.A. §20-2-282 does not specifically provide, as does Policy GBBC, for suspending a teacher's certificate. GBBC allows the State Board to take a less severe action than revocation and, because it is less severe than that authorized by law, it would appear to be within the State Board's authority to suspend rather than revoke a teacher's certificate. However, under O.C.G.A. §20-2-282, good cause for revocation of the teacher's certificate must exist in order for the State Board to suspend a teacher's certificate. No lesser standard of cause for suspension of a certificate is provided in the statute. Thus, the State Board of Education must first determine that good cause exists for revocation of a certificate. Then, the State Board of Education may choose to lessen the punishment from revocation to suspension. Once

the State Board of Education determines there is good cause to revoke a certificate, the State Board would be authorized to reduce that punishment to a suspension based upon the severity of the offense or possible mitigating circumstances.

Certificate actions, such as this, which arise under O.C.G.A. §20-2-282 and State Board Policy GBBC, are not subject to the any evidence rule as are decisions arising on appeal to the State Board of Education from local boards of education. In considering appeals from local board of education, the State Board of Education is required to sustain the decision of the Local Board if there is any evidence to support the local board's decision. In this case, the State Board is authorized to review the evidence and make its own determination as to whether the evidence provides good cause to revoke the certificate of Appellant.

The Special Master is of the opinion a distinction should be drawn between an act which warrants discipline of an employee and an act which warrants certificate revocation by the State Board of Education. Good cause for revoking a certificate should generally be of a more serious and long lasting nature than good cause for taking a disciplinary action against an employee. A certificate is a person's license to teach and practice their chosen profession. An action by the State Board of Education revoking a teacher's certificate affects the individual, not only with respect to their current employment, but statewide or nationwide. Many states have provisions, as does Georgia, that

revocation of a teaching certificate in another state constitutes grounds for denial of a certificate. All grounds which would justify disciplinary actions concerning an individual's employment would not necessarily justify certificate revocation. For example, a teacher could be disciplined for tardiness, but this would not warrant revocation of the teacher's certificate. Because certificate revocation affects the individual's license or right to practice in their chosen field, the cause for revocation should relate to the individual's ability or suitability to continue teaching.

Another reason also exists for distinguishing between certificate actions and employment actions. The State Board of Education should not be put in the position of taking certificate action against every teacher who should be disciplined by their employer for poor performance or negligent supervision. The State Board of Education could be required to act with respect to innumerable employment matters which would be better left to the discretion of local boards. Local boards know the true impact of the teacher's actions on the classroom and community. Local boards have the authority to take disciplinary action when the local situation demands such action.

The allegations against Appellant were that he was drinking in the presence of minor students at the time he was supervising them and that he allowed those minor students to drink in his presence. The evidence presented, however, was inconclusive

that Appellant allowed students, with his knowledge, to drink alcoholic beverages or that he drank alcoholic beverages in their presence. The PPC found that Appellant checked for alcohol in the vehicles in which they traveled, that Appellant warned the students not to drink alcohol, and that Appellant checked the students' rooms after they registered at the hotel. The PPC did not believe that Appellant drank in front of the students or that the students drank in front of Appellant. The evidence does not show any intention on the part of Appellant to allow the students to drink alcohol. Appellant could have checked on the students more often than he did, but that judgment would be made with the benefit of hindsight and his failure constitutes poor judgment at best, rather than an intentional act. The students were minors, but they were old enough so that it was unnecessary for Appellant be present at all times to insure their safety. The evidence shows that the students hid their drinking from Appellant. The situation which brought up the investigation did not occur until 1:00 o'clock a.m. Appellant was justified in being in his room asleep at that time. Again, Appellant could have checked the students before he went to bed, but that failure should not constitute an action for revocation of Appellant's certificate.

Appellant's acts of having alcohol in his own room, denial of the application to himself of the rules of the convention, and not reporting the incident to school officials and parents



were, with the benefit of hindsight, mistakes in judgment, but not acts which warrant action against his certificate. The rules which govern the convention should have been followed, but Appellant's violation of those rules should not result in suspension or revocation of his certificate.

While one might anticipate that the actions of Appellant in this case might result in some action by the employer, it is unlikely that one would anticipate that such acts would constitute acts for which Appellant's certificate could be revoked. Due process requires that one be put on notice of conduct which is proscribed and the consequences of that proscribed conduct. The charges in this case are that Appellant's conduct was detrimental to the health, welfare, discipline or morals of pupils and other good and sufficient cause. While the State Board of Education is not required to set forth grounds for certificate revocation with the specificity of a criminal statute, the grounds must specifically set forth the proscribed conduct so that it would be clear to a reasonable person that such conduct could result in certificate revocation. While the general charges made here clearly can be used to support revocation of a certificate for actions which constitute serious affronts to society, education or students, the Special Master does not believe such acts were proved in this case.

Finally, Appellant's actions have not been shown to have any effect on his performance as a teacher. Appellant's past principal, who is currently the curriculum director for the system,

testified that Appellant was an effective teacher. The former principal considered Appellant to be an honor to the teaching profession. Appellant's principal for the past four years testified that Appellant has received good evaluations, performed his duties well and is very conscientious. No testimony was presented that the 1982 incident has in any way affected Appellant's ability or suitability to teach.

#### PART IV

#### RECOMMENDATION

Based upon the record presented, the foregoing discussion, and the briefs of counsel, the Special Master is of the opinion that the evidence presented did not prove that Appellant was guilty of personal conduct which is detrimental to the health, welfare, discipline, or morals of pupils or other good and sufficient cause which would warrant suspension or revocation of his teaching certificate. The Special Master, therefore, recommends that no action be taken with respect to Appellant's teaching certificate.

  
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L. O. BUCKLAND  
SPECIAL MASTER