

STATE BOARD OF EDUCATION
STATE OF GEORGIA

WALTER J.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1989-18
v.	:	
	:	DECISION
WARE COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Walter J. (“Appellant”) from a decision by the Ware County Board of Education (“Local Board”) to uphold a decision to expel Appellant from school for the remainder of the 1988-1989 school year and to remove all credits received for the quarter because of a determination that Appellant had brought marijuana onto the school campus. Appellant maintains that there was not any evidence to support the decision of the Local Board. The decision of the Local Board is reversed.

On May 17, 1989, a student disciplinary tribunal conducted a hearing on charges that Appellant had brought marijuana on the school campus. During the hearing, evidence was presented that on Thursday, May 4, 1989, the assistant principal was informed by a student that she had overheard Appellant discuss the sale of some marijuana with another student. The assistant principal began an investigation by first questioning the other student with whom Appellant allegedly had been talking. The assistant principal found a bag of marijuana on the first student, and he called the sheriff’s office to pick up the student.

The assistant principal then questioned and searched Appellant, but did not find any evidence of marijuana. Appellant’s locker was then searched and nothing was found. The assistant principal then conducted a search of the van that Appellant had driven to school. The

butt of a marijuana cigarette, approximately one-quarter to one-half inch long, was discovered behind the driver's seat under a bed sheet that Appellant's mother kept in the van. The cigarette butt had the appearance of being several hours or days old. Appellant denied any knowledge of the cigarette. The assistant principal took the cigarette to the office and showed it to the deputy sheriff, who stated that it looked like a marijuana cigarette. The sheriff's department determined that the cigarette was marijuana when a detective conducted tests on the cigarette butt.

Evidence was presented that Appellant had driven the van on Monday, Tuesday, and on the Thursday morning when the marijuana cigarette was discovered. The vehicle had been in an automobile repair shop approximately one month before, during the week preceding April 10, 1989. The disciplinary tribunal recommended Appellant's expulsion for the remainder of the quarter and loss of credits for the semester. The Local Board subsequently upheld the decision and Appellant appealed to the State Board of Education.

On appeal, Appellant maintains that there was no evidence presented to establish that he had possessed the marijuana cigarette, or had any knowledge of its existence. The Local Board maintains that Appellant had possession and control of the vehicle for the days immediately preceding the discovery, the assistant principal had received information from a reliable witness, and Appellant was familiar with marijuana paraphernalia.

The State Board of Education is bound to uphold the decision of a local board of education if there is any evidence to support the decision of the local board. See, Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11. In the instant case, however, there was no evidence to link Appellant with possession of the marijuana. At most, the evidence shows that Appellant may have been aware of the marijuana cigarette, but it is insufficient to establish actual awareness or possession.

The Local Board argues that students should not be able to bring drugs to school and avoid responsibility by merely leaving the drugs in their car and denying any knowledge of their presence. The Local Board's position expresses a valid concern, but we do not believe the facts of this case will provide students with such an expansive argument. In the instant case, the cigarette was old (although the witnesses could not determine how old) and very small, other people had access to the vehicle, and Appellant's connection with the cigarette can only be based upon mere speculation. We support every effort to eliminate drugs in the school environment, but we do not believe that this requires local systems to rely upon mere speculation.

Based upon the foregoing, the record presented, and the briefs of counsel, it is the opinion of the State Board of Education that there was no evidence to support the decision of the Local Board to expel Appellant and deprive him of all his credits for the semester. The decision of the Local Board, therefore, is hereby

REVERSED.

Mr. Foster, Mr. Smith and Mr. Lathem voted not to reverse the decision. Mr. Sears, Mr. Owens, Mrs. Baranco, Mr. Abrams and Mr. Carrell voted to reverse the decision of the local board. Mrs. Cantrell was not present.

This 14th day of September, 1989

John M. Taylor
Vice Chairman For Appeals