

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JOHN S.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1990-33
v.	:	
	:	DECISION
HOUSTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by John S. (“Appellant”) from a decision by the Houston County Board of Education to permanently expel him from school based upon charges that he accosted another student with a knife on school property. The decision of the Local Board is sustained.

On the evening of April 20, 1990, the students of Rumble Junior High School were presenting a choral program. Two students opened an exterior door that exited from the hallway behind the auditorium stage. Appellant, a Warner Robins High School student, was standing outside the door while he waited for the program to conclude. One of the students called the other student a name. Appellant overheard the remark and thought it was directed to him. The two students withdrew back into the building. Within two or three minutes, the students again opened the door. When the door opened, Appellant gained entrance into the building. He then approached one of the students. The student testified that Appellant placed a lighted cigarette near the front of his face, pulled a knife from his pocket, and held the knife at his side while he demanded an apology from the student. Upon receiving the apology, Appellant departed from the building. Three students testified that they saw a knife in Appellant’s hand. Appellant testified that he did not have a knife and another student who was in the hallway testified that he did not see a knife and did not see Appellant reach into his pocket to remove anything. A teacher, who was also in the hallway at the time of the incident, testified that she had to use a flashlight in

order to identify the students she was working with because it was so dark in the hallway.

After the performance was over, the teachers who were responsible for the program became aware that an incident had occurred; none of the students reported the incident to the teachers when it happened. The teachers conducted a limited investigation and then turned the matter over to the assistant principal for investigation and action.

Appellant was arrested and tried in juvenile court on charges of aggravated assault. The juvenile court judge found that there was insufficient evidence to establish that Appellant had displayed a knife. Appellant was found to have committed simple assault and was placed upon probation with the stipulation that he attend school regularly.

At the hearing before the Local Board, evidence was presented that a private school expelled Appellant before he enrolled in Warner Robins High School because he had carried a gun to the school. The Local Board voted to permanently expel Appellant from its schools.

Appellant maintains that there was insufficient evidence to establish that he possessed a knife and that permanent expulsion is too harsh. Additionally, Appellant claims that it was improper to introduce evidence that he was expelled from the private school for possessing a gun. Finally, Appellant maintains that he suffers from clinical depression, which makes him a handicapped student under the provisions of the Education for All Handicapped Children Act, 20 U.S.C. § 1401 et seq., and he cannot be expelled from school because of his handicap.

The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion, or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooga County Bd. of the decision of the Local Board, the decision was not arbitrary or capricious, and Appellant does not come under the provisions of the

Education for All Handicapped Children Act, 20 U.S.C. § 1401 et seq. The Local Board's decision, therefore, is

SUSTAINED.

This 13th day of February, 1991.

Larry A. Foster
Vice Chairman For Appeals