

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JEFF J. SILER, :
 :
 Appellant, :
 v. : **CASE NO. 1991-19**
 RANDOLPH COUNTY : **DECISION**
 :
 BOARD OF EDUCATION :
 :
 Appellee. :

PART I

SUMMARY

This is an appeal by Jeff J. Siler (“Appellant”) from a decision by the Randolph County Board of Education (“Local Board”) to terminate his contract because of willful neglect of duty and insubordination. The Local Board’s decision followed a recommendation made by a Professional Practices Commission Tribunal. The Local Board’s decision is sustained.

PART II

FACTUAL BACKGROUND

For ten years, Appellant worked for the Local Board, the last six years as an assistant principal at the Randolph Clay High School. Sometime in March, 1991, the Local Superintendent notified Appellant that she was going to terminate his contract because of willful neglect of duty, insubordination, and other good and sufficient causes.¹ On April 17, 1991, a hearing tribunal established by the Professional Practices Commission (“PPC”) conducted a hearing on the charges.

During the hearing, the PPC Tribunal established that Appellant operated a t-shirt company. He used the telephone at the school to make calls to t-shirt suppliers and distributors. None of the calls were charged to the school system, but they were made during school hours. On March 14, 1991, the principal told Appellant that he was not to conduct any type of personal business at the school between the hours of 7:30 a.m. and 4:00 p.m. Within a few days thereafter,

¹O.C.G.A. § 20—2—940 requires a local board to give a teacher written notice of the charges that form the basis of a proposed dismissal. The charge letter in this case was not a part of the record. Appellant stipulated at the beginning of the hearing that no violations of due process had occurred. We, therefore, can only speculate, based upon the hearing tribunal’s decision, and the transcript, what were the charges and when they were made.

however, Appellant made some calls to t-shirt companies and distributors. The Local Superintendent then brought the charges involved in this case.

Appellant tried to defend himself by asserting that he was being dismissed because he had filed a complaint with the Equal Employment Opportunity Commission (“EEOC”) in June, 1990. The record shows that shortly after Appellant filed his complaint, on July 2, 1990, the Local Superintendent met with attorneys in Atlanta to discuss Appellant’s dismissal. These conferences continued through at least August 18, 1990. On September 5, 1990, the Local Superintendent gave Appellant a letter in which she claimed there was sufficient evidence available to charge him with incompetency and willful neglect of duties, but she did not provide him with any basis for making such charges. Instead, she offered to not go forward with the charges if he would drop his EEOC charges and submit to a Professional Development Plan Appellant met with the Local Superintendent on September 5, 1990, and tape recorded the conversation he had with her. During the meeting, the Local Superintendent again stated that she would not attempt to dismiss Appellant if he would drop his EEOC charges and submit to a PDP.² Appellant refused to drop the charges. The Hearing Officer for the PPC Tribunal did not allow the September 5, 1990, letter or the tape recording to be submitted as evidence to support Appellant’s claim that he was being dismissed in retaliation for his refusal to drop the EEOC charges. The PPC Tribunal held there was sufficient evidence to establish that Appellant willfully neglected his duties and had been insubordinate. The PPC Tribunal recommended that the Local Board terminate Appellant’s contract. On May 9, 1991, the Local Board voted to terminate Appellant on the grounds of willful neglect of duty and insubordination. Appellant then appealed to the State Board of Education.

PART III

DISCUSSION

Appellant claims that the Local Board dismissed him because he filed a discrimination complaint with the EEOC. In connection with the claim, Appellant attempted to introduce two items of evidence before the PPC Tribunal that heard his case. The PPC Tribunal Hearing Officer ruled that the two items of evidence could not be introduced because they represented attempts to settle a dispute. One item was a letter that the Local Superintendent wrote to Appellant on September 5, 1990. Appellant also sought to introduce a tape recording of a conversation he had on September 5, 1990, with the Local Superintendent. Without the tape recording and the letter, the PPC Tribunal found that Appellant had failed to persuade them that there was any connection between the EEOC charges he had made and the charges made by the Local Superintendent against Appellant.

Regarding the September 5, 1990, letter, the PPC Tribunal Hearing Officer found that an offer and a counteroffer had been made, and that it was against public policy for him to admit it

² O.C.G.A. § 20—2—210 provides that if the teacher receives any unsatisfactory ratings in an annual evaluation then the teacher will be required to submit to a personal development plan. Here, however, Appellant had not received any unsatisfactory ratings and was not, therefore, subject to having to participate in a PDP.

as evidence.³ He later listened to the tape and ruled that it was inadmissible for the same reasons.

The standard for review by the State Board of Education is that if any evidence exists 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 Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (St. Bd. of Ed., 1976)

Both parties agreed to having an impartial member of the State Bar of Georgia to act as a hearing officer. The hearing officer, after reviewing the proffered evidence, declined to admit it into evidence. The decision by the hearing officer was a correct legal ruling. Unless the decision was erroneous the State Board should give deference to his ruling.

Based on the evidence before the tribunal and as adopted by the Local Board of Education, there was sufficient evidence to sustain the decision of the local board.

PART IV

DECISION

Based upon the foregoing, the State Board of Education is of the opinion that there is sufficient evidence to support the decision of the Local Board. The Local Board's decision, therefore, is hereby

SUSTAINED.

This 12th day of September, 1991.

Mr. Abrams voted no. Mr. Brinson, Mr. Foster, and Dr. King were not present.

Richard C. Owens
Acting Vice Chairman for Appeals

³ Transcript, p. 296.