

STATE BOARD OF EDUCATION

STATE OF GEORGIA

DWIGHT F.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1994-23
vs.	:	
	:	DECISION
CLAYTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY

This is an appeal by Dwight F. (Student) from a decision by the Clayton County Board of Education (Local Board) to uphold the decision of a Student Discipline Tribunal to permanently expel the Student from all Clayton County schools because he brought a .32-calibre derringer gun on campus. The Student claims the punishment is too harsh. The Local Board's decision is reversed and remanded.

PART II

FACTUAL BACKGROUND

The Student is thirteen years old and was in the seventh grade. On January 10, 1994, an Assistant Principal at Riverdale Middle School discovered a .32-calibre derringer gun in the Student's book bag. The Assistant Principal took the Student to the Principal's office, where the Principal questioned the Student. The Student said he had taken the gun from his father's office and brought it to school for protection. The gun was not loaded and the Student did not have any bullets.

At the hearing before the Student Discipline Tribunal, the Student admitted he brought the gun to school for self-protection. The Student Discipline Tribunal voted to permanently expel the Student from all Clayton County schools. The Student appealed to the Local Board, which upheld the Student Discipline Tribunal's decision.

PART III

DISCUSSION

Local boards of education have the authority to expel students from school. See, O.C.G.A. § 20-2-755. The State Board of Education will not substitute its judgment for a local board's judgment if the local board's judgment is within its authority and the discipline is commensurate with the infraction.

The State Board of Education stated in the case of Michael C. v. Houston County Board of Education, Case No. 1992-19 (Ga. SBE, Sep. 10, 1992), that:

[p]ermanent expulsion is a quick and easy answer to the immediate problem. Unfortunately, in most instances, it only creates greater societal problems. The need for an education is critical in our society. Without an education, the chances of the Student being dependent upon society are vastly increased, whether under a welfare system or a penal system. Permanent expulsion may solve a short-term problem, but it results in a longer-term problem.

The issue is whether permanent expulsion is an appropriate penalty under the facts of this case. In the absence of extenuating circumstances permanent expulsion is an extraordinary measure, a measure that has the effect of depriving a student of a free public education.

Given the nature and severity of permanent expulsion, the local board of education bears the burden of justifying such a severe punishment. In justifying the permanent expulsion the local board must consider other disciplinary measures such as suspension, other models for delivery of educational services such as alternative programs, and the reason why no alternatives are appropriate.

In the instant case the Student, a thirteen-year-old seventh grader, brought a .32-calibre derringer to school in his book bag. The weapon was not loaded and the Student did not have any bullets.

There is no question that a pistol is a dangerous weapon and ammunition may be hidden. Arguably, the presence of a pistol is a threat *per se*. However, apart from the presence of the weapon, there were no facts or circumstances in the record showing that anyone was endangered, or that there was a potential for danger.

More importantly, the record does not reflect consideration by the Local Board of other disciplinary measures, such as long-term suspension, or consideration of removing the Student from the regular classroom environment and placing the Student in an alternative program. The State Board of Education concludes that permanent expulsion is too severe under the circumstances.

PART IV

DECISION

Based upon the foregoing, the State Board of Education is of the opinion that the Local Board abused its discretion in permanently expelling the Student for bringing a .32-calibre derringer gun on campus, where the gun was not loaded and the Student did not have any bullets. The Local Board's decision, therefore, is hereby REVERSED AND REMANDED for a determination by the Local Board consistent with this decision.

This 8th day of September, 1994.

Messrs. McGlamery, Sessoms and Williams were not present

Robert M. Brinson
Vice Chairman for Appeals