

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

|                            |   |                         |
|----------------------------|---|-------------------------|
| <b>CHRISTOPHER SAVAGE,</b> | : |                         |
|                            | : |                         |
| <b>Appellant,</b>          | : |                         |
|                            | : | <b>CASE NO. 1994-41</b> |
| <b>vs.</b>                 | : |                         |
|                            | : | <b>DECISION</b>         |
| <b>DEKALB COUNTY</b>       | : |                         |
| <b>BOARD OF EDUCATION,</b> | : |                         |
|                            | : |                         |
| <b>Appellee.</b>           | : |                         |

This is an appeal by Christopher Savage (Appellant) from a decision by the DeKalb County Board of Education (Local Board) to deny his request for payment of attorney fees following Appellant's successful defense against a termination action. Appellant claims that equity requires payment of the attorney fees. The Local Board's decision is sustained.

The dismissal action against Appellant was brought under the provisions of the Fair Dismissal Act, O.C.G.A. § 20-2-940 *et seq.* While the action was pending, Appellant continued to receive his regular salary. After two days of hearings, Appellant moved to have the action dismissed for lack of evidence. The Local Board voted to uphold Appellant's motion and dismissed the action.

The Fair Dismissal Act does not have any provision for the payment of attorney fees if a teacher or other employee successfully defends against charges made under the Fair Dismissal Act. In the absence of any such statutory authority, the State Board of Education cannot direct a local board of education to pay attorney fees.

Appellant argues that attorney fees should be available under the Fair Dismissal Act because they are available to state and other employees in other actions. This argument only points out that if the General Assembly wanted attorney fees to be available under the Fair Dismissal Act, explicit reference would have been made to recovering attorney fees.

The State Board of Education concludes that the Local Board properly denied Appellant's request for attorney fees. The Local Board's decision, therefore, is SUSTAINED.

This 11<sup>th</sup> day of August, 1994.

Mrs. King, Mr. Owens, Mr. Sessoms, Dr. Thomas and Mr. Williams were not present.

Robert M. Brinson  
Vice Chairman for Appeals