

STATE BOARD OF EDUCATION

STATE OF GEORGIA

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| SHANE N., | : | |
| | : | |
| Appellant, | : | |
| | : | CASE NO. 1994-58 |
| vs. | : | |
| | : | DECISION |
| JOHNSON COUNTY | : | |
| BOARD OF EDUCATION, | : | |
| | : | |
| Appellee. | : | |

This is the second appearance of a case involving the expulsion of a student who carried a gun to school and threatened another student by putting the gun to the other student's head. Student Shane N. (Student) is appealing from a decision by the Johnson County Board of Education (Local Board) not to re-admit him. The decision of the Local Board is sustained.

Hearing on Remand

The State Board of Education considered this case in April, 1994, and remanded it to the Local Board with direction to "make a determination consistent with its January 9, 1992 decision as to whether the student should be allowed to enroll in the school system." Shane N. v. Johnson County Board of Education, Case No. 1994-4, (Ga. SBE, Apr. 14, 1994).¹ We also stated "The Local Board should have considered a recommendation by the Tribunal or conducted a hearing itself on the issue of whether the Student should be allowed to enroll in the school system based upon evidence of the Student's current behavior and the effects of rehabilitation."

The Local Board conducted a hearing on remand on May 12, 1994. The Local Board received testimony from four of the members of the committee that had met on September 14, 1993 to consider the Student's re-admission. The Local Board also received the transcripts of the committee hearing and the hearing before the Student Disciplinary Committee on December 8, 1993, which led to the first appearance of this case before the State Board of Education.

The committee members testified that they discounted the Student's good behavior because he had been a good student before he took the loaded .38-calibre gun and placed it in the back of the student he said he planned to kill. They also testified that they were concerned because the Student had not received any psychiatric counseling and the Student did not show any remorse at the hearing.

After consideration of all the evidence the Local Board voted not to permit the Student to re-enter the Johnson County School System. As a basis for its decision, the Local Board found:

¹ The Student was originally suspended on January 7, 1992, until the end of the then current school year. The suspension was conditioned on the Student reapplying for admission, at which time a committee appointed by the Local Superintendent was to determine whether he could be readmitted.

14. [The Student] apparently received limited, if any, counseling while on probation despite counseling being a specific condition of the probation. Further, upon the mother's request to withdraw him from the Masonic Home, no psychological or other evaluation was done to determine whether Shane had learned to cope with the stresses which led to the incident on January 7, 1992, and could safely return to his home and school environment.

15. The testimony of Michael Stewart [social worker at Masonic Home] is that [the Student] continued to have incidents in which he got angry within the Masonic Home community, he described that he still "tensed up." He further described incidents during [the Student's] stay in which he reacted in a physical manner, hitting the wall or otherwise expressing his anger toward peers. Specifically, Mr. Stewart indicated that [the Student] still put up a "tough guy front."

19. A psychological evaluation admitted into evidence in these proceedings indicated that [the Student] has 'internalized values which are socially unacceptable['] and another psychological evaluation specifically recommended that [the Student] be removed from the home and school environment.

20. A committee appointed by the board of education in September 1993 to evaluate [the Student's] request to be readmitted to the school recommended that he not be readmitted. The testimony of several members of that committee indicate that their decision was based on some of the facts outlined above as well as [the Student's] comments, demeanor and lack of remorse. They observed that [the Student] appeared to be detached and nonchalant about the proceedings and about the incident in January, 1992. All commented on [the Student's] lack of remorse regarding his actions.

21. Neither Mr. Rossman [probation officer], Mr. Stewart [social worker], nor [the Student's] mother have ever discussed with him why he brought a loaded gun to school on January 7, 1992, and held it to the head of another student. There exists no evidence in the record that [the Student] has ever been counseled about his reasons for this incident or that he has dealt with these reasons himself.

Decision of Local Board, dated May 19, 1994.

Following the Local Board's decision, the Student filed a timely appeal to the State Board of Education.

Arguments on Appeal

The Student claims that the Local Board failed to follow the directions of the State Board of Education to evaluate his behavior at the time he applied for re-admission to see if he was rehabilitated and that the Local Board based its decision on the behavior at the time of the incident. The Student also argues that the Local Board failed to present any evidence to show that his present behavior is such that he should be excluded from school.

The Local Board contends, and we agree, that it considered the matter "consistent with its January 9, 1992 decision," which was to require Shane, "if he ever wants to attend school in

Johnson County again, ... to appear before a committee appointed by the superintendent to be evaluated before he can enroll.” When Shane sought to re-enroll, the superintendent arranged for him to appear before a committee. The transcript of that committee meeting is part of the record. That committee recommended that Shane not be allowed to enroll. The committee determined that “no evidence was presented which would provide the necessary assurance that Shane would not commit in the future an act similar to that for which he was convicted in juvenile court and suspended from school.”

The Local Board also received testimony and other evidence at the hearing on remand on May 14, 1994, which support its decision not to permit the Student to re-enroll.

We think it was proper for the Local Board to consider all circumstances in this case, including the initial incident, as well as evidence of the Student’s conduct since the initial incident, including evidence on the issue of the Student’s rehabilitation.

“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 Educ., 144 Ga. App. 783, 242 S.E.2d 374 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976).” Roderick J. v. Hart Cnty. Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991).

Decision

It is our opinion that there is sufficient evidence in the record to support the decision of the Local Board not to permit the Student to re-enroll. The decision of the Local Board, therefore, is hereby SUSTAINED.

This 10th day of November, 1994.

Mr. Sessoms was not present.

Robert M. Brinson
Vice Chairman for Appeals