

STATE BOARD OF EDUCATION

STATE OF GEORGIA

STEPHEN A. CARRUTHERS,	:	
	:	
Appellant,	:	
	:	CASE NO. 1996-36
vs.	:	
	:	DECISION
MONROE COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This *is* an appeal by Stephen A. Carruthers (Appellant) from a decision by the Monroe County Board of Education (Local Board) not to renew his contract as an assistant superintendent for any other good and sufficient cause because he was indicted by a federal grand jury on charges of receiving child pornography. The Local Board's decision is reversed.

On January 23, 1996, a federal indictment was issued against Appellant based upon charges of receiving child pornography. The Local Superintendent immediately placed Appellant on administrative leave with pay. On April 8, 1996, the Local Superintendent notified Appellant that his contract would not be renewed for the 1996-1997 school year. Appellant requested a hearing and a notice of charges, which the Local Superintendent issued on May 3, 1996. The Local Superintendent informed Appellant that his contract was not being renewed for any other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940(a)(8) because he was indicted in federal court.

The Local Board conducted a hearing on May 21, 1996. The only evidence presented by the Local Superintendent was a copy of the federal indictment and his own testimony that it was his opinion that Appellant would be ineffective because of the indictment. Appellant, however, produced evidence that he was an effective administrator and the indictment had not diminished his effectiveness.

The burden of proof is on the Local Board in any hearing conducted for the purpose of not renewing an employee's contract. O.C.G.A. § 20-2-940(e)(4). In the instant case, there was no evidence presented that can serve as a basis for not renewing Appellant's contract. The Local Superintendent's unsupported speculation is not evidence. *See, Shuntaye P. V. Wilkinson Cnty. Bd. of Ed.*, Case No. 1992-4 1 (Ga. SBE, Mar. 11, 1993). The indictment also cannot be used as support for not renewing the contract. The indictment is no different than the charge letter submitted by the Local Superintendent to Appellant to inform him that his contract will not be renewed; it is simply a group of charges that have to be proven before any action can be taken

against Appellant. The State Board of Education concludes that the Local Board failed to carry its burden of proof as required by O.C.G.A. § 20-2-940(e)(4).

This does not mean that the State Board of Education believes in any leniency toward anyone involved with child pornography. It is always a serious concern if students may be placed in a harmful situation. If there was any evidence that Appellant was involved with child pornography, then the State Board of Education would be required to uphold the decision of the Local Board. Additionally, if there was any evidence, then it would have been prudent for the Local Superintendent to have suspended Appellant¹ and sought immediate termination of his contract, as well as reporting the situation to the Professional Standards Commission.

Nevertheless, mere allegations of misconduct are insufficient to terminate an employee's contract. It is only in the newspapers, on radio and television, and in public opinion that a person can be deemed guilty based upon mere allegations; in law, which we are bound to follow, guilt requires a local board of education to at least prove misconduct.

Because of the lack of any evidence to support the charges, the issue of whether a charge of "any other good and sufficient cause", standing alone, is sufficient is a moot issue. The State Board of Education, therefore, declines to address the issue at this time.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board failed to carry its burden of proof. Accordingly, the Local Board's decision is REVERSED.

This 12th day of September, 1996.

Ms. Julie D. Keeton and Mr. A. Joe McGlamery were not present. The seat for the Eleventh District is vacant.

Robert M. Brinson
Vice Chairman for Appeals

¹ Indeed, the Local Superintendent could take such action now, pending resolution of the charges.