

STATE BOARD OF EDUCATION

STATE OF GEORGIA

G. J.,	:	
	:	
	:	
Appellant	:	
	:	
	:	CASE NO. 1998-38
	:	
vs.	:	
	:	
GWINNETT COUNTY	:	
BOARD OF EDUCATION	:	
	:	DECISION
Appellee	:	

This is an appeal by G. 1. (Student) from a May 26, 1998 decision by the Gwinnett County Board of Education (Local Board) to expel him from regular school classes until January 5, 1999 if he completes 40 hours of community service by December 1, 1998. The Local Board also gave him the opportunity to attend an alternative school during his expulsion period. The Local Board's decision followed a student disciplinary tribunal's findings that the Student participated in stealing some beer and bringing it onto his campus. The Student argues that the punishment is too harsh because he was an unwilling participant. The Local Board's decision is sustained.

On April 24, 1998, the Student and three others left school without authorization and went to a grocery store where two of the other students stole some beer from a truck. As the group drove around, three of the other students drank some of the beer, but there was still beer in the car when they returned to the campus. The students were observed and detained upon their arrival on campus. An assistant principal searched the car and found three cases of beer, from which 20 cans had been consumed. In addition, some cigarettes and lighters were found.

The Student was charged with violating the Local Board's rules 3, which prevents the theft or possession of stolen private property, 7, which prevents the possession of tobacco, 10, which prevents unauthorized absences from school, and 11, which prevents any acts subversive to good order and discipline. The Student admitted all of the charges except the Rule 3 violation.

On appeal to the State Board of Education, the Student claims that the Local Board erred in finding him guilty of violating Rule 3. In addition, the Student claims that the punishment is too harsh. The Student claims that he was a victim of circumstances because he did not intend to steal any beer, did not drink any beer, and was in the car only because he needed a ride back to campus.

The evidence presented, however, shows that the Student exercised dominion and control over the beer by passing it to the other students and giving some beer to a construction worker they passed while driving in the car. "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). The State Board of Education concludes that there was some evidence to support the finding that the Student was in possession of stolen private property while on the school campus.

"A local board of education is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. *See, Boney v. County Board of Education for Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947); *Braceley v. Burke County Bd. of Ed*, Case No. 1978-7." *Joseph M v. Jasper Cnty. Bd. of Educ.*, Case No. 198 1-40 (Ga. SBE, Feb. 11, 1982). Upon finding that the Student violated four of its rules of discipline, the Local Board was authorized to expel the student. O.C GA. § 20-2-751. The Student has not shown that the Local Board abused its discretion.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board's decision was not an abuse of discretion. Accordingly, the Local Board's decision is
SUSTAINED.

Mr. J.T. Williams, Jr. was not present. The seat for the 2nd Congressional District is vacant.

This 12th day of November 1998.

Larry Thompson
Vice Chairman for Appeals

