

STATE BOARD OF EDUCATION

STATE OF GEORGIA

MEGAN WHELPLEY,	:	
	:	
Appellant,	:	CASE NO. 2010-42
	:	
vs.	:	
	:	
DOUGLAS COUNTY	:	
BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by Megan Whelpley (Appellant) from a decision by the Douglas County Board of Education (Local Board) to terminate her teaching contract because of other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940 after she was charged with aggravated assault, a felony under Georgia law. Appellant claims that there was no evidence to support her dismissal under any other good and sufficient cause. The Local Board’s decision is SUSTAINED.

On October 22, 2009, Appellant, a teacher, engaged in an argument with her boyfriend while in her home. During the argument, Appellant cut the boyfriend with a knife. The investigating police officers who were called to the scene arrested Appellant, charged her with aggravated assault, a felony, and jailed her.¹ During the course of the investigation and her arrest, Appellant told the investigating officers different stories about what happened. The following day, Appellant was released from jail. A few days later, Appellant sent some telephone text messages to one of her students in which she discussed going to court, obtaining a restraining order and a substitute teacher’s toughness.

Upon learning of the incident, the school system moved to terminate Appellant's teaching contract under the provisions of O.C.G.A. § 20-2-940(a)(8), other good and sufficient cause. A hearing was conducted before the Local Board. The Local Board concluded that there was evidence sufficient to terminate Appellant's teaching contract. Appellant then filed an appeal with the State Board of Education.

¹ O.C.G.A. § 16-5-21 provides, in part, that “a person commits the offense of aggravated assault when he or she assaults ...with a deadly weapon or with any object...when used offensively against a person, is likely to or actually does result in serious bodily injury... [A] person convicted of the offense of aggravated assault shall be punished by imprisonment for not less than one nor more than 20 years.”

Appellant claims that there was no evidence to support a finding of other good and sufficient cause because the school system did not introduce any evidence that the incident impaired her ability to teach. The Local Board argues that the evidence that Appellant cut her boyfriend with a knife, was charged with a felony, gave conflicting stories to the investigating officers, and involved her students in her personal affairs constituted sufficient evidence to support Appellant's dismissal for other good and sufficient cause.

"Any other good and sufficient cause" is one of the reasons provided under O.C.G.A. §20-2-940(a) for terminating a teacher's contract. The phrase, however, "is not a catch-all phrase that permits a local board to arbitrarily designate any reason or circumstance as a basis not to renew an employee's contract. Instead, the phrase is limited to actions taken (or not taken) by an employee that adversely impact on the employee's ability to be effective." *Cooper, et al. v. Atlanta City Board of Education*, Case No. 2005-08 (Ga. SBE, Nov. 10, 2004), *aff'd.*, *Atlanta Independent School System v. Berto, et al.*, Civil Actions No. 2004CV94309 and 2004CV94312 (Fulton Cnty. Sup. Ct., Aug. 25, 2005). The phrase "contemplates some improper action on the part of the employee before any disciplinary action is taken." *Wolf v. Fulton Cnty. Bd. of Educ.*, Case No. 2005-10 (Ga. SBE, Nov. 10, 2004).

"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 evidence in the instant case showed that Appellant cut her boyfriend with a knife during the course of an argument although she did not feel threatened at the time, he was leaving her house upon her request, and he had not struck her. Appellant attempted to excuse her actions by testifying that her boyfriend had previously assaulted her and she was afraid he would damage her car as he exited her house through the garage. There was also evidence that Appellant gave conflicting stories to the investigating police officers. Appellant also engaged one of her students in a communication about her affair. Although Appellant was not convicted, or even prosecuted, the Local Board could conclude that Appellant committed a felony crime, which violated Appellant's teaching contract. Although the school system did not present evidence that Appellant's teaching ability had been impaired, the evidence that Appellant attacked another human being with a knife, engaged her students in conversations about her personal affairs and had violated her teaching contract could lead the Local Board to conclude that Appellant had engaged in improper actions and was no longer the role model they wanted in their system. The State Board of Education concludes that there was evidence to support the Local Board's decision.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision to terminate Appellant's teaching contract. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of March 2010

William Bradley Bryant
Vice Chairman for Appeals