

STATE BOARD OF EDUCATION

CRISP COUNTY BOARD OF)
EDUCATION,)
Appellee)
v.)
MR. ZACHERY COOK b/n/f)
MS. ROSA EVERETTE and)
MS. ROSA EVERETTE)
Appellants)

CASE NO. 1975-5

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ORDER

On Friday, January 10, 1975, Appellant ROSA EVERETTE was telephoned by Mr. W. R. Sampson, Principal of the Crisp County High School, and told that her son, ZACHERY COOK, was being sent home because of his involvement in a fight with one Ray Darley, Jr., on the grounds of the Crisp County Junior High School. On Monday, January 13, 1975, ZACHERY COOK via ROSA EVERETTE, was officially notified that he had been suspended from the Crisp County High School for being in violation of School Board Policy 3.18 -- Dangerous Weapons.

On January 23, 1975, Appellants were advised by letter from Mr. James W. Hurt, Attorney for Crisp County Board of Education, that the Board would hold a hearing on February 3, 1975, regarding this suspension. This letter was accompanied with statements obtained from witnesses which had been prepared by Mr. W. R. Sampson, Principal of the Crisp County High School on January 15, 1975, and Mr. Erskine R. Weaver, Principal of the Crisp County Junior High School on January 20, 1975. The January 23rd letter and accompanying statements, comprising a fairly detailed statement of charges, were delivered to the Appellants on January 24, 1975, by Mr. Willie Pickens, Visiting Teacher for the Crisp County Board of Education.

As scheduled, a hearing was held on February 3, 1975, before the Crisp County Board of Education and neither ZACHERY COOK nor his mother, MS. ROSA EVERETTE, nor their attorney, was present. Even so, the hearing was held in effort to determine whether or not ZACHERY COOK had violated Crisp County School Board Policy 3.18, which reads as follows:

3.18 Dangerous Weapons. Any pupil who brings on any school ground or school bus or has in his possession anything which might be used as an injurious or deadly weapon, including, but not limited to, knives, pistols, or other lethal weapons, shall be subject to the following:

1. The pupil shall be suspended from school immediately.
2. The pupil and one parent, preferably both parents, must appear before the Crisp County Board of Education for a hearing before he is allowed to return to school. He is entitled to counsel at this hearing.
3. The Board will determine whether and under what conditions the pupil shall be allowed to return to school.

Following the hearing, the Crisp County Board of Education voted to suspend ZACHERY COOK permanently from the Crisp County High School. On February 4, 1975, MS. EVERETTE was notified by letter that ZACHERY COOK had been permanently suspended or expelled. On February 24, 1975, the Appellant was notified that his previously filed Motion for Reconsideration was denied and the Appellants then filed a Notice of Appeal to the State Board of Education, upon two issues: (1) Whether the evidence introduced at the hearing was sufficient to sustain the decision of the board of education of Crisp County; and (2) Were ZACHERY COOK and/or MS. ROSA EVERETTE denied procedural due process. Appellant argues that there was no hearing afforded ZACHERY COOK prior to his dismissal, and under Goss v. Lopez, a decision rendered by the U. S. Supreme Court on January 22, 1975, this failure was a denial of procedural due process.

Upon review of the record, we find sufficient evidence to support the decision of the local board. The State Board of Education follows the "any evidence" rule and will reverse only when there is no competent evidence to authorize the decision of the local board of education.

Whether or not the local board of education denied ZACHERY COOK his procedural due process rights poses a difficult question. However, we read the entire record and transcript as clearly affording ZACHERY COOK an opportunity to explain his side of the case after accusations were made. ZACHERY COOK was questioned by Mr. W. R. Sampson, his principal, prior to his suspension. The record shows that Mr. Sampson wrote a letter to the Superintendent of Crisp County Schools on January 13, 1975, and in that letter he tells what transpired and what ZACHERY COOK "claims" took place. Mr. Sampson writes that he talked with both ZACHERY COOK and Ray Darley, Jr., his adversary, and, "After conferring with ZACHERY COOK, and learning his story, I called his mother and had Mr. Just take ZACHERY COOK home. I talked with Ray Darley, Jr., and then called Ray Darley, Sr., to apprise him of the situation." Mr. Sampson further states that he went to the scene where the fight was to have taken place and took various statements from people who were near the fight or who witnessed it.

We conclude that ZACHERY COOK was given an opportunity to explain his version of the facts and had a conference with his principal prior to his suspension and that the principal was fair and very diligent in making an investigation of all the facts and circumstances prior to suspension. He even called the boy's mother and told her what happened.

We do not find this fact situation being an altercation between two high school boys anywhere near the facts of Goss v. Lopez. In the Lopez case, there was a mass suspension of some 75 students who were allegedly involved in a school disturbance in the lunchroom. Lopez testified that he was not a party to the event but was an innocent bystander and was never given a hearing and was never given an opportunity to tell his side of the story. Apparently, all 75

students were suspended at one time as if all had been involved in the disturbance. Mr. Justice White, in writing the opinion for the majority, stated, "At the very minimum, therefore, students facing suspension and the consequent interference with a protected property interest must be given some kind of notice and afforded some kind of hearing... Disciplinarians, although proceeding in utmost good faith, frequently act on the reports and advice of others; and the controlling facts and the nature of the conduct under challenge are often disputed... It would be a strange disciplinary system in an educational institution if no communication was sought by the disciplinarian with the student in an effort to inform him of his defalcation and to let him tell his side of the story in order to make sure that an injustice is not done." (Emphasis ours). He also writes that a student should at least be given rudimentary precautions against unfair or mistaken findings of misconduct and arbitrary exclusion from school. (Emphasis ours). However, as the court writes, "In the great majority of cases the disciplinarian may informally discuss the alleged misconduct with the student minutes after it has occurred. We hold only that, in being given an opportunity to explain his version of the facts at this discussion, the student first be told what he is accused of doing and what the basis of the accusation is. Lower courts which have addressed the question of the nature of the procedures required in short suspension cases have reached the same conclusion."

In the Lopez case, a mass suspension resulted from a general disturbance in which no investigation took place. In this case, Mr. Sampson, the principal, conducted a thorough investigation, talked with both boys involved in the altercation, listened to their side of the story and then temporarily suspended ZACHERY COOK, the same day calling his mother over the telephone and informing her

what ZACHERY COOK had done.

It should be noted that the Lopez case cites an exception to the requirement of post-suspension hearings: "Students whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be immediately removed from school. In such cases, the necessary notice and rudimentary hearing should follow as soon as practicable, as the District Court indicates."

In summary, we find there was no violation of procedural due process rights against ZACHERY COOK under the decision of Goss v. Lopez, and that evidence in the record was adequate to support the decision of the Crisp County Board of Education to permanently suspend (or expel) ZACHERY COOK this the 8th day of May 1975.

UNANIMOUS DECISION OF THE
STATE BOARD OF EDUCATION OF THE
STATE OF GEORGIA (EXCEPT MR. STEWART
WHO WAS ABSENT)

By: _____
Richard Neville
Vice Chairman for Appeals