

GEORGIA STATE BOARD OF EDUCATION

ATLANTA, GEORGIA

JAMEY DAVIS,	*	APPEAL
Appellant	*	CASE NO. 1975-18
vs.	*	
BURKE COUNTY BOARD OF EDUCATION,	*	
Appellee	*	

O R D E R

Jamey Davis, a tenth grade pupil, was expelled from the Burke County School System by the Burke County Board of Education after a hearing. He appealed the decision to this Board. This Board heard the appeal at its regular meeting on March 11, 1976.

After considering the transcript of the evidence before us from the hearing, the affidavit of the Superintendent, and the oral and written argument of counsel for Appellant and Appellee, we find the facts as follows:

FINDINGS OF FACT

1. Jamey Davis and his mother received written notice advising that permanent expulsion was being recommended by the high school principal, the reasons for the recommendation, and the time and place of the hearing. He appeared at the hearing with his attorney, mother, father and others. The Board Chairman postponed the hearing to an indefinite time to procure the presence of the Board Attorney. No objections were made to the postponement.

2. With the agreement of attorneys for Jamey Davis and the Board a hearing was rescheduled for a definite time and place. Jamey Davis and his mother were given written notice of the rescheduled time and place one day prior to the hearing. At the hearing Jamey Davis was present with his attorney and step-father. He participated in the hearing, testified, and was represented by attorneys throughout the procedure. Prior

to the commencement of the hearing the Board Attorney inquired of the attorney for Jamey Davis if there were any objections to the purpose, formalities or procedures prior to entering into the hearing. No objections were made or stated by attorneys for Jamey Davis.

3. At the hearing the oral testimony of Herbert Galbreath, principal, James D. Smith, superintendent, Mrs. Geraldine Daniely, teacher, Benny Young, step-father of Jamey Davis, and Jamey Davis was taken. Official records of the Board setting forth twenty-one written discipline notices for Jamey Davis were introduced in evidence without objection.

4. Jamey Davis is described by his attorney as "a child with significant learning and behavioral disabilities who has been permanently expelled for actions which are but manifestations of his untreated disabilities".

5. Jamey Davis committed the acts set forth in the discipline notices. Jamey Davis had been suspended for his conduct three or more times in the 1974-1975 school year and three times in the first three months of the 1975-1976 school year.

6. The acts committed by Jamey Davis disrupted and disturbed the teaching and learning process of the teacher and other pupils in the classroom.

7. The conduct of Jamey Davis was completely uncontrollable in the classroom.

From the facts we make the following conclusions of law:

CONCLUSIONS OF LAW

1. Jamey Davis was not denied procedural or substantive due process.

2. The evidence that the conduct by Jamey Davis disrupted the learning and teaching processes of the teacher and other pupils in the classroom is substantial. The evidence is substantial that his disruptive conduct was persistent and repetitive.

3. The conduct of a pupil in the public school which disrupts, disturbs or prevents teachers and other pupils to reasonably pursue the teaching and learning process can be reasonably regulated and disciplined. Expulsion for such persistent and repetitive misconduct is reasonable.

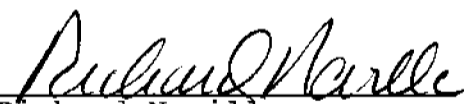
4. The decision by the Burke County Board of Education does not exclude access by Jamey Davis to alternatives offered by the State, the community, hospitals, institutions, physicians, professional counselors, psychiatrists, or psychologists, regional programs, students, other systems, or regional or area treatment centers, vocational or technical schools. The decision by the Burke County Board of Education does not prevent said Board and its administrators from cooperating with the student, his parents and his legal counsel in locating such alternatives and assisting the student in procuring the use thereof.

ORDER

IT IS, THEREFORE, ORDERED that the decision of the Burke County Board of Education be affirmed.

Mrs. Oberdorfer and Mr. McClung dissent.

STATE BOARD OF EDUCATION

By: 
Richard Neville,
Vice Chairman - Appeals

This order was prepared for the State Board of Education by Thomas K. Vann, Jr.