

STATE BOARD OF EDUCATION

STATE OF GEORGIA

VINCENT J. CALHOUN,
Appellant,

vs.

DEKALB COUNTY BOARD OF
EDUCATION,

Appellee.

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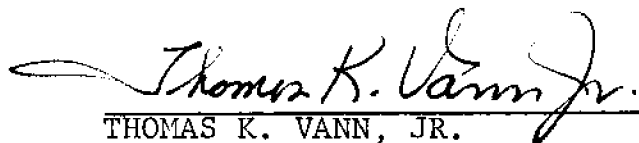
CASE NO. 1977-8

O R D E R

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the decision herein of the DeKalb County Board of Education to expel Appellant, Vincent J. Calhoun, be, and is hereby, affirmed.

This 18th day of October, 1977.


THOMAS K. VANN, JR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

VINCENT J. CALHOUN,	:	CASE NO. 1977-8
	:	
Appellant,	:	
	:	
vs.	:	
	:	
DEKALB COUNTY BOARD OF	:	REPORT OF
EDUCATION,	:	HEARING OFFICER
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

On March 1, 1977, the DeKalb County Board of Education (hereinafter "Local Board") held a hearing on charges against Vincent J. Calhoun (hereinafter "Appellant"), a fifteen year old student in the eleventh grade of Gordon High School. The specific charges against Appellant were (1) possession of a dangerous weapon (fork), (2) assault on a faculty member, (3) vandalism of the assistant principal's office, and (4) use of vulgar, obscene, and profane language and gestures on school property (Gordon High School) on Wednesday, February 16, 1977.

Previous written notice of the hearing and charges had been given to Appellant's mother on February 23, 1977.

The notice also advised Appellant of the right to be represented by an attorney, and provided a list of witnesses to be called by the Local Board and their expected testimony.

Immediately following the hearing, the Local Board decided to permanently expel Appellant. The appeal, filed March 30, 1977, is from that decision.

PART II

FINDINGS OF FACT

The evidence was uncontroverted, and uncontested in the appeal. On February 16, 1977, the assistant principal was informed that Appellant had missed a morning class. The assistant principal was later on lunchroom duty and when Appellant entered the lunchroom, the assistant principal told Appellant that he wanted to see Appellant after Appellant finished eating. When Appellant finished eating, the assistant principal told him about the class and told him to go to the office. Appellant became angry and began cursing the assistant principal. He then initially picked up a tray, but then picked up a fork and started towards the assistant principal in a threatening manner. A group of students and Appellant's sister restrained him and no

injuries resulted. Appellant then left the cafeteria. The assistant principal telephoned Appellant's mother from the cafeteria area and asked her to come to the school. While the assistant principal was on the telephone, Appellant entered the assistant principal's office and knocked everything on the assistant principal's desk to the floor. Appellant was observed by two other students. When he finished, Appellant walked out of the office and left the campus.

An investigation was made at the school and the principal recommended that Appellant be expelled. At the hearing before the Local Board, Appellant, who did not make an appearance, was represented by his father.

PART III

CONCLUSIONS OF LAW

In the appeal, Appellant does not deny any of the factual circumstances of the case. The argument raised by counsel is that the decision of the Local Board was too severe. As an adjunct argument, counsel suggested that because Appellant was not represented by an attorney, the Local Board should have made a probing inquiry into

Appellant's background and circumstances in order to determine if Appellant was "behaviorally disordered." Appellant's basis for this argument is Appellant's contention that Ga. Code Ann. § 32-605a sets forth a policy of providing behaviorally disordered children, or children with special educational needs, with special services and an opportunity to participate in such programs, and it was therefore incumbent on the Local Board to meet the need if one existed.

Appellant's argument, however, does not have any legal support on appeal. First, there does not exist any statutory or constitutional requirement for the Local Board to make an inquiry into Appellant's background in order to determine the nature of the discipline to be imposed. Second, the State Board of Education is limited in its review to determining if the Local Board observed the Appellant's rights to due process and had the power to act in the manner it acted. In reviewing these issues, the State Board of Education will look at the facts and also decide if there has been any abuse of discretion. See, Boney v. County Bd. of Educ. of Telfair County, 203 Ga. 152, 45 S.E.2d 442 (1947); Toney v. City of Commerce Bd. of Educ., Case No. 1976-6.

In the instant case, there is no question that Appellant assaulted the assistant principal with a fork in the school lunchroom, used profane language, and knocked everything on the assistant principal's desk to the floor. Appellant was given written notice of the charges on a timely basis and given the opportunity to be represented by counsel. The Local Board rendered its decision on a timely basis following the hearing and Appellant has appealed to the State Board of Education. There has not, therefore, been any denial of Appellant's substantive or procedural rights of due process.


Appellant has not contested the power of the Local Board to expel Appellant. From the transcript, it is apparent that the Local Board was aware of other available disciplinary alternatives. There is nothing in the record, nor has there been anything suggested, which indicates that the Local Board abused its discretion by expelling Appellant.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the transcript, and arguments of counsel, the Hearing

Officer concludes that the DeKalb County Board of Education has the power and authority to expel Appellant and there was no abuse of discretion in such expulsion. The Hearing Officer, therefore, recommends that the decision of the DeKalb County Board of Education expelling Appellant be affirmed.



L. O. BUCKLAND
Hearing Officer