

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JAMES L. DABNEY,

Appellant,

v.

HENRY COUNTY BOARD OF
EDUCATION,

Appellee.

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CASE NO. 1980-6

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, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Henry County Board of Education herein appealed from is hereby affirmed.

Messrs. McClung and Foster were not present.

This 8th day of May, 1980.


THOMAS K. VANN, JR.
Vice Chairman for Appeals

MAY 1 1980

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JAMES L. DABNEY,	:	CASE NO. 1980-6
	:	
Appellant,	:	
	:	
vs.	:	REPORT OF
	:	
HENRY COUNTY BOARD OF	:	HEARING OFFICER
EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

This is an appeal by James L. Dabney (hereinafter "Appellant") from a decision by the Henry County Board of Education (hereinafter "Local Board") to dismiss him from his job as a bus driver because he violated the speed limit for schoolbuses. The appeal questions the sufficiency of the evidence, the severity of the punishment and the discriminatory application of the punishment. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

In May, 1979, Appellant entered into a contract with the Local Board for the 1979-1980 school year.

The contract provided that it could be terminated at any time for "violations of the provisions of this contract, safety regulations, or other lawful causes...."

On December 7, 1979, a notice was sent to all bus drivers employed by the Local Board which pointed out that the speed limit for busses within the State of Georgia was 40 miles per hour and that "Any driver who receives a citation for speeding will be recommended for dismissal by the Henry County Board of Education." Appellant received a police citation for speeding from the county police on December 19, 1979. The testimony of the ticketing officer showed that Appellant was traveling a radar-indicated speed of 54 miles per hour with children aboard. Appellant was given a written notice of the charges against him with a listing of the witnesses to testify at the hearing. The hearing was held before the Local Board on February 11, 1980. The Local Board decided on the same day to dismiss Appellant. The appeal to the State Board of Education was filed by Appellant on February 15, 1980.

PART III
CONCLUSIONS OF LAW

Appellant has set forth four reasons for reversing the decision of the Local Board:

1. The evidence does not support the dismissal;
2. The dismissal is contrary to law;
3. The dismissal is harsh and undue, and
4. The dismissal is discriminatory.

An examination of the record, however, does not give any support for any of Appellant's contentions. The evidence clearly shows, and Appellant admitted, that he was traveling at the rate of 54 miles per hour with students aboard his bus. Appellant's contract provided that he was subject to dismissal if he violated any safety regulations, and all bus drivers were given notice on December 7, 1979 that they were subject to dismissal for speeding violations. It is, therefore, clear that there was sufficient evidence to establish that Appellant violated the speeding regulations and was aware that he was subject to dismissal for such a violation.

Ga. Code Ann. §32-2101c(a) provides that "the contract of employment of a teacher, principal or other employee having a contract for a definite term may be

terminated or suspended for the following reasons: "(1) Incompetency; (2) Insubordination; (3) Wilful neglect of duties and...(8) For any other good and sufficient cause." Ga. Code Ann. §32-2104c(a)(1) provides that a Local Board of Education is authorized to "terminate the contract of the teacher or other school employee" under §32-2101c. Appellant's violation of the speed regulations within the State of Georgia could be deemed to fall within any one of the listed reasons for dismissal set forth in Ga. Code Ann. §32-2101c(a), and the Local Board had the authority under the provisions of Ga. Code Ann. §32-2104, to dismiss Appellant. It does not, therefore, appear that Appellant's dismissal was contrary to law. Also, the decision whether to terminate an employee who is found to have established cause is within the discretionary power of the Local Board of Education. Although Appellant may consider his dismissal to be harsh and undue, the legislature has granted Local Boards of Education the power to dismiss an employee. Appellant's contention that the punishment is harsh and undue, therefore, does not establish a basis for reversing the decision of the Local Board, since the decision was within the statutorily granted powers of the Local Board.

Appellant's final contention is that his dismissal was discriminatory because testimony during the hearing established that a second bus was following

him which was not cited by the county police department and the driver of the second bus was not dismissed. The fact that the second bus driver was not ticketed and not dismissed does not establish any discrimination on the part of the Local Board. If any discrimination was present, the discrimination was on the part of the county police department, rather than on the part of the Local Board. The bus drivers were notified they would be subject to dismissal if they received a citation for speeding. The second driver did not receive a citation for speeding, and under the terms of the notice given to the bus drivers, was not subject to dismissal. It does not, therefore, appear that the Local Board discriminated against Appellant by dismissing him for receiving a speeding citation.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, it is the opinion of the Hearing Officer that the Local Board had the statutory authority to dismiss Appellant based upon the evidence that Appellant exceeded the speed limit for busses within the State of Georgia. The Hearing Officer, therefore, recommends that the decision of the Henry County Board of Education

be sustained.

L. O. Buckland

L. O. BUCKLAND
Hearing Officer