

STATE BOARD OF EDUCATION

STATE OF GEORGIA

AUDRENA WINSTEAD,

Appellant,

v.

COBB COUNTY BOARD OF  
EDUCATION,

Appellee.

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CASE NO. 1980-11


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 Cobb County Board of Education herein appealed from is hereby affirmed.

This 10th day of July, 1980.

  
THOMAS K. VANN, JR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

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| AUDRENA WINSTEAD     | : | CASE NO. 1980-11 |
|                      | : |                  |
| Appellant,           | : |                  |
|                      | : |                  |
| vs.                  | : | REPORT OF        |
|                      | : |                  |
| COBB COUNTY BOARD OF | : | HEARING OFFICER  |
| EDUCATION,           | : |                  |
|                      | : |                  |
| Appellee.            | : |                  |

PART I

SUMMARY OF APPEAL

This is an appeal by Audrena Winstead (hereinafter "Appellant") from a decision by the Cobb County Board of Education (hereinafter "Local Board") upholding the decision of a hearing tribunal to expel Appellant because of a finding that she was selling illegal drugs while a student. Appellant appeals on the ground there was not any evidence she was selling illegal drugs. The Hearing Officer recommends that the decision of the Local Board be upheld.

PART II

FINDINGS OF FACT

On February 7, 1980 Appellant was introduced to an undercover police officer and offered to sell him some

"Quaaludes" and some "Acid". The officer arranged to purchase a thousand "hits of Acid" and approximately "500 Quaalude tablets". The officer testified that the Appellant delivered the Quaalude tablets in a plastic bag and sold him "Blotter Acid" interleaved in the pages of a Sunday school book. A warrant for Appellant's arrest was subsequently issued based upon the information provided by the police officer.

On March 11, 1980, Appellant's parents were notified that she was being expelled for violation of the Local Board policy against selling drugs. The policy provided:

"A student selling, buying, or distributing...illegal drugs is subject to immediate expulsion and will be reported to the appropriate law enforcement agency, subject to due process."

Appellant requested a hearing on the expulsion and a three-member tribunal was convened to hear the charges. The hearing was held on March 20, 1980. The hearing tribunal decided Appellant had violated the Local Board policy and recommended expulsion. Upon appeal to the Local Board by Appellant, the Local Board decided, on April 9, 1980 to uphold the expulsion. An appeal to the State Board of Education was filed on April 23, 1980.

During the hearing before the three-member tribunal, the police officer testified he had eight years

experience in police work. He also testified that the substances that were given to him, which were identified by Appellant as "Quaaludes" and "Acid", had the markings and physical characteristics of what in his experience were illegal drugs. Over the objection of Appellant's counsel he also testified that the report from the State Crime Lab came back positive.

### PART III

#### CONCLUSIONS OF LAW

Appellant has appealed to the State Board of Education on the ground there was no evidence to establish that the substances received by the police officer were illegal drugs. This contention is based upon the fact that the substances were identified in the testimony by their street name rather than by the chemical names that appear in the Controlled Substances Act. Additionally, Appellant argues that there was no positive identification that the substances were in fact illegal drugs because the police officer was not a toxicologist he could not, of his own knowledge, testify that the substances were in fact illegal drugs. Appellant also argues that there was no evidence she was a student during the period of time of the incident.

The Local Board argues that in an administrative hearing the level of proof required in a criminal proceeding is not present. The Local Board also argues that there was evidence before the three-member tribunal which would permit it to find that Appellant was selling illegal drugs.

The State Board of Education does follow the "any evidence" rule. Although the evidence before the three-member tribunal may have been insufficient to sustain a criminal conviction, there was evidence upon which the tribunal could make an administrative finding that Appellant was selling illegal drugs. The Hearing Officer, therefore, concludes that there was sufficient evidence before the three-member tribunal to sustain their finding. Additionally, Appellant's contention there was no evidence that she was a student is not a basis for reversal. If she was not a student, the expulsion order would not have any effect upon her, and she did not have to submit to the hearing.

#### PART IV

#### RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion that

there was sufficient evidence before the three-member tribunal to sustain its recommendation and that the Local Board properly decided that Appellant should be expelled for the sale of illegal drugs. The Hearing Officer, therefore, recommends that the decision of the Cobb County Board of Education to expel Appellant be sustained.

*L. O. Buckland*

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L. O. BUCKLAND  
Hearing Officer