

STATE BOARD OF EDUCATION

STATE OF GEORGIA

WILLIAM CLARK, :  
Appellant, :  
v. : CASE NO. 1980-29  
DAN TAYLOR, :  
Appellee.

O R D E R

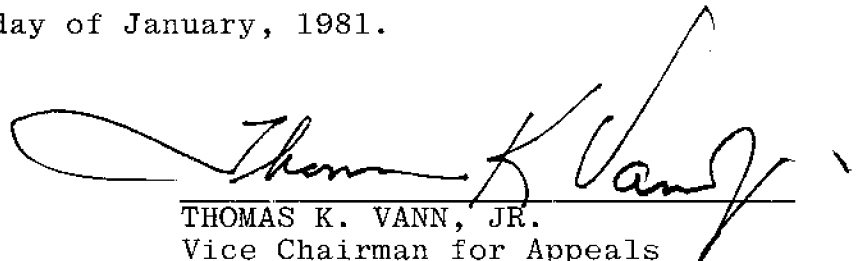
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 effect of the Wheeler County Board of Education's failure to adopt a motion to terminate, is hereby affirmed, but state funds cannot be used to make payments to a person who does not hold the proper certification for the position held.

Mr. Stembridge was not present.

This 8th day of January, 1981.

  
THOMAS K. VANN, JR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

WILLIAM S. CLARK,	:	
	:	
Appellant	:	
	:	CASE NO. 1980-29
vs.	:	
	:	REPORT OF HEARING
WHEELER COUNTY BOARD	:	HEARING OFFICER
OF EDUCATION,	:	
	:	
Appellee	:	

PART I

SUMMARY OF APPEAL

This is an appeal by the Superintendent of Schools of Wheeler County (hereinafter "Appellant") from a decision of the Wheeler County Board of Education (hereinafter "Local Board") not to terminate the contract of a principal of the Wheeler County School System. The appeal is based on the contention the Local Board exceeded its authority in refusing to terminate the contract of an employee who had permitted his certification to lapse. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

On September 23, 1980, the Local Board held a hearing on Appellant's recommendation that the contract of one of the

principals of the Wheeler County School System (hereinafter the "Principal") should be terminated because he had permitted his certification to lapse. The Local Board found that the Principal was employed as a principal with an AS-5 certificate which expired on August 31, 1980. The Local Board also found that the Principal had made diligent efforts to obtain his certification since its expiration, had not obtained his certification at the time of the hearing, but would obtain it within three or four weeks. Three Local Board members voted to terminate the Principal's contract and three voted against terminating the contract. The Local Board declared that the contract would remain in effect because the motion to terminate had failed to carry a majority vote of the members of the Local Board.

The transcript shows that the Principal signed a standard teacher's contract on April 21, 1980. The contract provided, among other things, that his rate of pay was "based on a AS-5 certificate and 11 years approved experience", that he was "assigned to the duty of teaching at Wheeler County School System" and that the contract was "contingent upon the teacher continuing to hold a valid certificate issued by the State Board of Education. At the time of the signing, the Principal had an AS-5 certificate, which expired on August 31, 1980, and a T-4 certificate, grades 4 through 8, which is valid through August 31, 1981. The Principal thought his AS-5 certificate expired at the same time as his T-4 certificate and he did not take any steps to have it renewed

before August 31, 1980. When he became aware of his lapsed certificate, he immediately began taking steps to renew it.

On September 5, 1980, the Local Board was aware of the Principal's lapsed certificate when a meeting was held to consider what action should be taken. The Local Board re-requested clarification of the Principal's status from the State Superintendent of Schools. Appellant then gave notice of termination to the Principal on September 10, 1980, and a hearing before the Local Board scheduled.<sup>1</sup>

### PART III

#### CONCLUSIONS OF LAW

Appellant maintains that the Local Board was without its authority in refusing or failing to terminate the Principal because of the provisions of Ga. Code Ann. §32-655a(a). This section provides, in relevant part, that

"... no such personnel shall be employed in the public schools of this State unless they shall hold a certificate issued by the State Board certifying to his or her qualifications and classification in accordance with such regulations."

It is argued on behalf of the Local Board that the statute does not require the principal to be terminated.

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<sup>1</sup> The Hearing Officer observes that the record does not show there was compliance with the provisions of Ga. Code Ann. §32-2101c(b), which requires written notice of the proposed termination. If the Local Board had terminated the Principal, the lack of such notice may have been reversible error.

The statute does not state that the holder of two certificates must be terminated if one of the certificates lapses. Instead, it appears that the language prohibits the employment of an person who does not hold any certificate issued by the State Board of Education. In the instant case, the Principal was still the holder of a valid T-4 certificate. Therefore, notwithstanding the fact that is AS-5 certificate had lapsed, he was still an employable teacher under the provisions of the statute and the Local Board did not have to terminate him. The Hearing Officer concludes that the Local Board was within its authority in refusing to terminate the Principal because he still had a certificate issued by the State Board.

#### 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 the Local Board did not err in failing to terminate the contract of the Principal. The Hearing Officer, therefore, recommends that the decision of the Wheeler County Board of Education be sustained.

  
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L. O. BUCKLAND  
Hearing Officer