

STATE BOARD OF EDUCATION

STATE OF GEORGIA

GEORGE MARSHALL, :
Appellant, :
v. : CASE NO. 1981-2
MUSCOGEE COUNTY BOARD :
OF EDUCATION :
Appellee. :

O R D E R

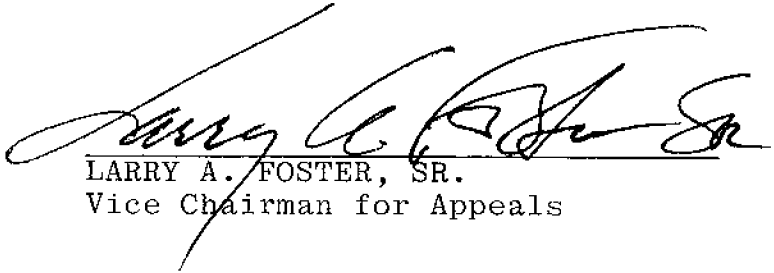
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 decision of the Muscogee County Board of Education herein appealed from is hereby affirmed.

Mr. Stenbridge, Mr. McClung and Mrs. Oberdorfer were not present.

This 9th day of April, 1981.


LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION
STATE OF GEORGIA

GEORGE MARSHALL,	:	
	:	
Appellant	:	CASE NO. 1981-2
	:	
vs.	:	REPORT OF
	:	
MUSCOGEE COUNTY BOARD	:	HEARING OFFICER
OF EDUCATION,	:	
	:	
Appellee	:	

This is an appeal by George Marshall (hereinafter "Appellant") from a decision by the Muscogee County Board of Education (hereinafter "Local Board") not to renew his teaching contract because of insubordination, wilful neglect of duties, and other good and sufficient causes. Appellant's appeal is based on his contention the evidence does not support the Local Board's decision. The Hearing Officer recommends that the decision of the Local Board be sustained.

Appellant was given notice on April 15, 1980 that the Superintendent did not recommend to the Local Board that his teaching contract be renewed and the Local Board had tentatively decided not to renew his contract. Appellant requested a hearing and a statement of charges. Appellant was charged with insubordination, wilful neglect of duties, and other good and sufficient cause. The Local Board requested the Professional Practices Commission to conduct a hearing on the charges. The Professional Practices Commission convened a hearing on

September 22, 1980. On November 19, 1980, the Professional Practices Commission found that the evidence presented supported the charges and recommended that Appellant's contract not be renewed. On November 25, 1980, the Local Board accepted the findings and recommendations of the Professional Practices Commission and voted not to renew Appellant's contract. Appellant mailed an appeal to the Local Superintendent on December 24, 1980.

The Local Board has moved to dismiss the appeal on the grounds it was not timely filed because it was received by the Local Superintendent more than thirty days after the Local Board's decision was made. Ga. Code Ann. §32-910(b) provides that an appeal to the State Board of Education ". . . shall be filed with the local superintendent within 30 days of the decision of the local board. . . ." In the instant case, the appeal was mailed within the thirty day period, but was received by the Local Superintendent more than thirty days after the Local Board made its decision. Appellant argues that Ga. Code Ann. §32-2101c(c) governs the timeliness of the appeal. This section provides that service of any notice ". . . shall be deemed to be perfected when said notice is deposited in the United States Mail. . . ." Ga. Code Ann. §32-2101c(f) provides that appeals to the State Board of Education shall be made in accordance with the provisions of Ga. Code Ann. §32-910. The Local Board argues that Ga. Code Ann. §32-910 is controlling

and requires actual delivery to the local superintendent within thirty days. The Hearing Officer concludes that the appeal was timely filed when deposited in the mail within thirty days after the Local Board's decision. Ga. Code Ann. §32-2101a(c) establishes a rule of procedure to be followed in hearings regarding the nonrenewal of teacher contracts. There is nothing in either Ga. Code Ann. §32-2101c(f) or Ga. Code Ann. §32-910 which establishes a requirement or need for changing the rule of procedure when an appeal is taken. The Hearing Officer, therefore, concludes that the State Board of Education has jurisdiction in this matter.

Appellant has appealed to the State Board of Education on the ground the evidence does not support the findings made by the Professional Practices Commission. The State Board of Education follows the rule that if there is any evidence to support the decision of the Local Board, the decision must stand. Ransom v. Chattooga County Board of Education, 144 Ga. App. 783 (1978). A review of the record shows there was evidence presented before the Professional Practices Commission tribunal of acts of insubordination and wilful neglect of duties. The credibility of the witnesses was a decision the Professional Practices Commission tribunal had to make. The Hearing Officer, therefore, concludes that the Local Board could decide not to renew Appellant's teaching contract because of insubordination, wilful neglect of duties, and other

good and sufficient causes. Ga. Code Ann. §32-2101c. The Hearing Officer, therefore, recommends that the decision of the Muscogee County Board of Education be sustained.

(Appearances: For Appellant - Katrina L. Breeding; For Muscogee County Board of Education - Hatcher, Stubbs, Land, Hollis & Rothschild, James E. Humes II)

L. O. Buckland
L.O. BUCKLAND
Hearing Officer