

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JUDY A., JULIE A.
AND MARK A.

Appellant,

v.

COBB COUNTY BOARD OF EDUCATION

Appellee.

CASE NO. 1983-16

O R D E R

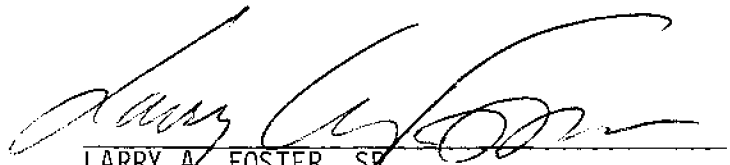
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 sustained.

All members were present.

This 11th day of August, 1983.



LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JUDY AKIN, JULIE ALBRIGHT)	
AND MARK ALBRIGHT,)	
)	
Appellants,)	CASE NO. 1983-16
)	
v.)	
)	
COBB COUNTY BOARD)	
OF EDUCATION,)	
)	
Appellee.)	REPORT OF HEARING OFFICER

This is an appeal by Judy Akin (hereinafter "Akin") and her children, Julie and Mark Albright (hereinafter "children") from a decision of the Cobb County Board of Education (hereinafter "Local Board") that Akin was not domiciled in Cobb County and her children, therefore, were not eligible to attend the Cobb County Public Schools.

This is the second case involving these parties and the same issues of law to appear before the State Board of Education. In the first case, Akin et al. v. Cobb County Bd. of Ed., Case No. 1983-6, it was decided that there was evidence in the record to support the Local Board's finding that Akin was not domiciled in Cobb County. Akin owned a house in Bartow County and rented an apartment in Cobb County. An investigation by the Local Board disclosed that Akin and her children spent most of their time at the Bartow County house. Although the record is not clear, it appears that while Case No. 1983-6 was on appeal to the State Board of Education, the Local Board permitted Appellant's children

to return to the Cobb County Public Schools. There was evidence in the record of an understanding between Akin and the Local Board that if she remained at the rented apartment four days per week, the Local Board would deem her to be domiciled in Cobb County and her children could attend school in Cobb County.

After Case No. 1983-6 was appealed, two investigators working for the Local Board observed Akin, her children, the rented apartment and the house in Bartow County. Based upon these observations, Akin was notified that she was not deemed to be domiciled in Cobb County because she was not living in the rented apartment and her children would be removed from the Cobb County Public Schools. Appellant requested a hearing before the Local Board. The hearing was held on April 28 and 29, 1983. The Local Board decided on April 29, 1983, that Appellant was not domiciled in Cobb County and her children were to be removed from the Cobb County Public Schools. An appeal to the State Board of Education was filed immediately.

The appeal was made on the same grounds as the appeal in Akin et al. v. Cobb County Bd. of Ed., Case No. 1983-6, i.e., the decision of the Local Board was erroneous as a matter of law and fact in that O.C.G.A. § 19-2-2 permits a person to elect a place of domicile when two residences are maintained and Akin had elected the rented apartment as her domicile. As was pointed out in Case No. 1983-6, the question of election is a question of fact, and the Local Board was charged with determining the facts. There are facts contained in the record

which would support a determination of domicile in either Cobb County or Bartow County. Where there is any evidence to support the decision of a local board of education, that decision will not be disturbed upon review by the State Board of Education. Ransum v. Chattooga County Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Ed., Case No. 1976-11.

Based upon the foregoing, the Hearing Officer is of the opinion that the record contains some evidence which would support the decision of the Local Board. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.

L. O. Buckland

L. O. BUCKLAND
Hearing Officer