

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JERRY L. ROBINSON,)	
Appellant,)	
v.)	CASE NO. 1983-25
HART 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 Hart County Board of Education herein appealed from is hereby sustained.

All members were present.

This 10th day of November, 1983.



LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JERRY L. ROBINSON, SR.,)	
)	
Appellant,)	
)	CASE NO. 1983-25
v.)	
)	
HART COUNTY BOARD OF EDUCATION,)	
)	REPORT OF
Appellee.)	HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by Jerry L. Robinson, Sr. (hereinafter "Appellant") from a decision by the Hart County Board of Education (hereinafter "Local Board") not to renew his contract as a high school principal after receiving the findings and recommendations by a tribunal composed of members of the Professional Practices Commission (hereinafter "PPC"). The appeal to the State Board of Education was made on the basis Appellant did not receive a fair and impartial hearing or decision, that the recommendation of the PPC tribunal was contrary to and against the evidence, and various other procedural errors set forth below. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

Appellant had been principal of the Hart County High School for five years. On March 7, 1983, he received written notice

from the Local Superintendent that he would not be recommended for renewal of his contract. Appellant made a timely request for a hearing and notice of the charges and reasons for his nonrenewal. On March 22, 1983, the Local Board voted to have the PPC constitute a tribunal to hear the matter. A written notice of the charges was sent to Appellant on April 4, 1983.

A hearing was conducted on June 6, 7 and 8, 1983, before a three-member PPC tribunal. The PPC tribunal found that the charges had been proven that Appellant was insubordinate, failed to follow policies of the Local Board and directives of the Local Superintendent, and was rude and antagonistic to an interested citizen. The PPC tribunal recommended that Appellant's contract not be renewed. On July 12, 1983, the Local Board adopted the findings and recommendation made by the PPC tribunal and voted not to renew Appellant's contract. An appeal to the State Board of Education was filed on July 28, 1983.

The PPC tribunal found that the Local Superintendent had assumed office on January 1, 1981. From the beginning, Appellant and the Local Superintendent were unable to effectively work together. Appellant informed the Local Superintendent that he had assumed office with such a narrow margin of votes that the Local Superintendent would be unable to make any changes in the Hart County School System, and that Appellant would use his wealth and political influence to resist any attempted changes in the high school situation.

The PPC tribunal also found that Appellant failed to conduct monthly faculty meetings as required by the policies of the Local Board. When the Local Superintendent called the deficiency to Appellant's attention, Appellant responded by calling a faculty meeting at 3:30 p.m. in the afternoon of the same day, and another at 7:15 a.m. the next morning. Appellant told the faculty members that the meetings were being held because he had been told by the Local Superintendent that monthly meetings were required. Following these two faculty meetings, Appellant did not hold any further monthly faculty meetings.

Appellant was also found to have failed to follow a directive of the Local Superintendent to prepare a list of the teachers he would recommend for renewal of contracts for the 1983-1984 school year. Appellant also attended a meeting of the Local Board for the purpose of requesting a change in the punishment of a student without giving advance notice to the Local Superintendent. The PPC tribunal found that Appellant's appearance before the Local Board was an attempt to embarrass the Local Superintendent and cause him difficulty with the Local Board.

The PPC tribunal found that Appellant used loud and profane language directed towards a case service worker with the State Department of Human Resources when the worker was investigating an incident which involved two Hart County High School students.

Based upon its findings, the PPC tribunal concluded that Appellant was insubordinate to the Local Superintendent, he acted unprofessionally towards his faculty when he called a 7:15 a.m. faculty meeting in response to a notice that he was required to hold monthly faculty meetings, he acted unprofessionally in his contacts with the Department of Human Resources case service worker, and it was unprofessional for him to require his teachers to remain after school with their students who were to be disciplined. The PPC tribunal found that the charges of insubordination, of failure to follow Local Board policies, and of being rude, antagonistic, and insulting to interested citizens had been proven.

PART III

CONCLUSIONS OF LAW

Appellant claims that the findings of the PPC tribunal were contrary to law and the weight of the evidence. A review of the transcript, however, shows direct evidence to support the findings of the PPC tribunal recited above. The Hearing Officer, therefore, concludes that there is no failure of the evidence and Appellant's claims respecting the evidence are without merit.

Appellant also claims he was denied a fair and impartial hearing because: (1) the attorney who represented the Hart County School System frequently served as a hearing officer for the PPC; (2) Appellant did not have an opportunity to participate in the process of selecting the three members of the PPC tribunal,

and (3) the PPC tribunal had the notice of charges in advance of the hearing. He also claims that the decision of the Local Board was not fair and impartial because one of the Local Board members was not legally qualified to serve, and because members of the Local Board were biased and prejudiced against him. He claims it was error not to allow him to examine the Local Board members in an attempt to establish bias and prejudice.

An attorney who serves as a hearing officer for the PPC can also act as an attorney representing a school system before the PPC. See, Sharpley v. Hall County Bd. of Ed., Case No. 1982-21 (decision of Superior Court, affirming decision of State Board of Education, affirmed in Sharpley v. Hall County Bd. of Ed., 251 Ga. 54 (1983).)

There is no authority for Appellant to participate in the selection of the members of the hearing tribunal. The statute, O.C.G.A. § 20-2-940, provides that the "local board may designate a tribunal" to hear the charges. In the instant case, the members of the hearing tribunal were initially selected by the PPC and then approved by the Local Board. The Hearing Officer concludes that the procedures followed for the selection of the hearing tribunal were statutorily correct.

O.C.G.A. § 20-2-940 also provides that "the same rules governing nonjury trials in the superior court shall prevail" in the conduct of hearings. The pleadings in any action before a judge sitting without a jury are available to the judge before the hearing. The Hearing Officer, therefore, concludes that

Appellant's contention that he did not receive a fair and impartial hearing because the charges were available to the tribunal members before the hearing is without merit.

It has previously been held by the State Board of Education that there is no right to conduct a cross examination of members of a local board of education. Appellant did not proffer any other evidence to indicate or show any bias or prejudice on the part of the members of the Local Board. The Hearing Officer, therefore, concludes that it was not error to deny Appellant the opportunity to cross examine the members of the Local Board, and there was no evidence that Appellant did not receive a fair and impartial decision from the Local Board.

Appellant's claim that the Local Board was improperly constituted is not a question for the State Board of Education to decide. If there is a challenge to the election procedures in a county, the issue should be decided in another forum. The State Board of Education has authority only in questions arising from the interpretation of school law. The Hearing Officer, therefore, concludes that Appellant's claim that he did not receive a fair and impartial hearing because of the alleged illegality of one of the members of the Local Board sitting during the decision process is not a basis for the State Board of Education to reverse the Local Board's decision.

Appellant also claims he had a statutory right to a hearing before the full seventeen-member PPC, and that a hearing held before a three-member panel denied him his statutory rights.

This same issue was raised in the case of Sharpley v. Hall County Bd. of Ed., Case No. 1982-21, and was decided adversely to Appellant's claim.

Appellant claims that the PPC tribunal hearing officer erred in not dismissing the case because Appellant was improperly given notice of the charges against him. Appellant claimed the notice was not sent to his "last known address" and, therefore, was defective. As the PPC hearing officer held, O.C.G.A. § 20-2-940 merely provides that the Local Board "furnish" the teacher with the charges, and there is no requirement to serve the teacher. Additionally, the PPC hearing officer pointed out that in the case of Andrews v. Howard, 249 Ga. 539 (1982), the Supreme Court decided that where notice was received by the complainant, even though it was not sent to the last known address, the beneficial purpose of the statute was served. In the instant case, there is no dispute that Appellant received the notice of charges, and that he was able to prepare for the case. The Hearing Officer concludes that Appellant's claim of error on the part of the PPC hearing officer is also without merit.

Prior to the hearing before the State Hearing Officer, Appellant filed an objection to proceeding before the State Hearing Officer and a demand to be heard by the entire State Board of Education. Under the provisions of O.C.G.A § 20-2-1160, the State Board of Education has the authority to govern the conduct of the hearing of appeals made to it. The use of hearing

officers in administrative proceedings to review the facts and make reports to the deciding body is an accepted practice in the administrative law field.

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 Appellant was not denied a fair and impartial hearing, that the evidence supports the findings of the PPC tribunal and the decision of the Local Board, and that the use of a hearing officer by the State Board of Education is permissible and proper. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained, and that Appellant's motion to be heard by the entire State Board of Education be denied.



L. O. BUCKLAND
Hearing Officer

[Appearances: For Appellant - Sartain & Carey; W. Allan Myers; For Local Board - Harben & Hartley; Sam S. Harben, Jr.; Phillip L. Hartley.]