STATE BOARD OF EDUCATION

STATE OF GEORGIA

FRANKLIN WHITE,	)	
	)	
Appellant,	)	
v.	)	**CASE NO. 1987-14**
	)	
LAMAR COUNTY BOARD OF EDUCATION,	)	**DECISION**
	)	
	)	
Appellee.	)	

PART I

SUMMARY

This is an appeal by Franklin White (hereinafter "Appellant") from a decision of the Lamar County Board of Education (hereinafter "Local Board") to terminate Appellant's contract as a bus driver. Appellant contends termination of his contract was an excessive punishment and that there were procedural violations in the hearing.

PART II

FACTUAL BACKGROUND

On January 12, 1987, Appellant was notified that the Local Board's Superintendent of the schools intended to have the Local Board terminate Appellant's contract for having his driver's license suspended and for driving a bus without a license. The notice stated that such actions constituted good and sufficient cause to terminate Appellant's contract and provided a date for a hearing regarding the charges. Appellant had been a bus driver with the Local Board for twenty years.

A hearing was held in compliance with the Fair Dismissal Act to determine if there was good and sufficient cause to terminate Appellant's contract. At the hearing, evidence was presented which showed that Appellant's driver's license had been previously suspended for failure to maintain insurance and that Appellant had driven a school bus for the Local Board without a valid driver's license. Appellant

attempted to show that his driver's license should not have been revoked but the evidence clearly showed that his driver's license had, as a matter of fact, been revoked.

Based upon the fact that Appellant did not have a valid driver's license, and that Appellant had previously had his license suspended for failure to maintain his insurance, the Local Board voted to terminate Appellant's contract. The vote occurred at the hearing held on January 29, 1987. On February 4, the Local Board notified Appellant of its decision in writing and provided Appellant with the procedure for appealing to the State Board of Education. Appellant filed this appeal on March 5, 1987.

PART III

DISCUSSION

The Local Board filed a motion to dismiss the appeal for failure to meet the requirement to file an appeal within thirty days of the decision of the Local Board. The Local Board argues that the decision was made on January 29, 1987 and the appeal, therefore, had to be made no later than February 2, 1987, since the 30th day occurred on a Saturday. O.C.G.A. §20-2-1160 reads in pertinent part:

> (a) ... When such local board has made a decision, it shall be binding on the parties; provided, however, that the board shall notify the parties in writing of the decision and of their right to appeal the decision to the State Board of Education and shall clearly describe the procedure and requirements for such an appeal which are provided in subsection (b) of this Code section. ...
> (b) ... The appeal shall be filed with the superintendent within 30 days of the decision of the local board, ...

The Local Board cites the case of Cooper v. Gwinnett County Board of Education, 157 Ga. App. 289 (1981), as authority that the appeal must be made within 30 days of the date of the decision of the Local Board. That case, however, was decided prior to the 1986 amendment to O.C.G.A. §20-2-1160. The 1986 amendment required the Local Board to notify the parties of its decision in writing of their right to appeal, and of the procedures necessary to appeal.

The purpose of the 1986 amendment was to give the parties a written decision and and an explanation of the method by which that decision could be appealed. Under the Local Board's

interpretation, i.e., that the time for appeal begins running with the oral decision of the Local Board, the Local Board could wait until thirty days had passed to give Appellant the written decision and explanation of how to appeal. If Appellant did not appeal until after he received the written decision and explanation, he would have lost his right to appeal. Such a practice would defeat the purpose of the 1986 amendment, which was to give the parties the method by which to appeal so that a timely appeal could be filed.

The timelines for appeal do not begin to run until the Local Board issues its decision in writing and complies with the other requirements of O.C.G.A. §20-2-1160. O.C.G.A. §20-2-1160 requires a written decision and later states that the appeal must be filed within 30 days of the decision of the Local Board. To comply with the intent of the 1986 amendment, the code section should be read to mean an appeal must be filed within 30 days of the date the Local Board notifies the party of its written decision and complies with the requirements of O.C.G.A. §20-2-1160. Thus, this appeal is timely filed because it was filed within 30 days of the date the Local Board issued its written decision.

Appellant cites numerous contentions on appeal which he believes warrant reversal of the decision of the Local Board. First, Appellant contends that the termination of his contract was an excessive punishment for the offense charged. Second, Appellant contends the Local Board erred by failing to make findings of fact and conclusions of law. Third, Appellant contends the Local Board's decision does not state the grounds upon which it is based so that Appellant can determine why he was terminated. Fourth, Appellant contends that two witnesses against him participated in the deliberations of the Local Board over his objections. Fifth, Appellant contends the Local Board's attorney acted in a dual capacity as prosecutor and an advisor to the Local Board. Sixth, Appellant contends the Local Board failed to accept into evidence Appellant's insurance receipts which he presented to the Local Board. Seventh, Appellant contends the action of the Local Board was arbitrary and capricious. Eighth, Appellant contends the hearing was biased.

The State Board of Education is authorized to hear appeals from decisions made by local boards on matters of local controversy involving the construction or administration of the school laws. O.C.G.A.

Board of Education is bound to sustain the decision of the Local Board if there is any evidence to support the Local Board's decision absent an abuse of discretion on the part of the Local Board or a violation of law. See, Ransum v. ChattoocGa Cnty. Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty. Bd. of Ed., Case No. 1976-11.

Under the standards stated above, none of Appellant's contentions warrant a reversal of the decision of the Local Board. First, excessive punishment is not a ground for reversal. Once an employee is determined to have committed an act justifying termination, the decision as to whether to impose a lesser punishment than termination is a decision within the discretion of the Local Board. Second, numerous decisions of the courts of this state and the State Board of Education have held that Local Boards are not required to issue findings of fact and conclusions of law. Third, Appellant's contention that the decision does not state the grounds upon which it was based is repetitive of the claim that local boards are required to make findings of fact and conclusions of law, which are not required. Additionally, the Local Board's reason for termination was clear and was stated by the Local Board in its motion terminating Appellant. Appellant's fourth, fifth, sixth, seventy and eighth contentions do not warrant reversal of the decision of the Local Board because Appellant did not raise the issues at the hearing. Sharpley v. Hall Cnty. Bd. of Ed., 251 Ga. 54 (1983); Owen v. Long Cnty. Bd. of Ed., 245 Ga. 647 (1980); Boney v. Cnty. Bd. of Ed., 203 Ga. 152 (1947). Additionally, Appellant's fourth, fifth, seventh, and eighth contentions simply are not supported by the record or by any authority for Appellant. Thus, none of the issues raised on appeal provide any grounds for reversal of the decision of the Local Board.

PART IV

DECIS ION

Based upon the foregoing discussion, the record presented, and the briefs of counsel, the State Board of Education concludes that the decision of the Local Board was within its authority. The decision of the Local Board is, therefore,

SUSTAINED.

Larry Foster, Sr.
Vice Chairman for Appeals