STATE BOARD OF EDUCATION

STATE OF GEORGIA

WILLIAM ALDERMAN, JR.,	:	
	:	
Appellant,	:	
V.	:	
	:	**CASE NO. 1992-9**
APPLING COUNTY	:	
	:	**DECISION**
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by William Alderman, Jr. (Appellant"), a vice principal and high school basketball coach, from a decision by the Appling County Board of Education ("Local Board") to terminate his employment on charges that he struck a student in anger, made profane and vulgar remarks to the student, and made threats to the same student. Appellant maintains on appeal that there was no evidence to support the decision of the Local Board. The decision of the Local Board is sustained.

On December 16, 1991, Appellant was placed on administrative leave resulting from charges that on December 10, 1991, he struck a student in anger, made profane and vulgar remarks to the student, and made threats to the same student. On January 21, 1992, the Local Board conducted a hearing on the charges. At the hearing, evidence was presented that while the principal was in his office disciplining participants of a previous fight, the secretary entered and told him that another altercation was taking place. The principal sent Appellant, who was an assistant principal, to stop the fight.

When Appellant arrived at the fight scene, he saw his two sons involved in a fight with another student. Evidence was presented by three students and three teachers that when Appellant entered the area where the student had been fighting with Appellant's sons, Appellant grabbed the student around the front of the neck and threw him against a car. The student pushed Appellant off, and the two continued pushing back and forth. At this time, another teacher grabbed and restrained the student. Further testimony by the teachers and students revealed that while the student was being held, Appellant threw the first punch, hitting the student in the face. The other teacher let the student go, and the student hit Appellant. Three girls then pulled the student back to another part of the school yard to calm him down. Appellant followed him, and made profane and vulgar remarks to the student. The student was then handcuffed and taken to a police car. While the student was in the police car, Appellant was still threatening him.

Several witnesses testified that they did not see Appellant throw the first punch. None of these witnesses, however, saw and heard the whole fight. Appellant testified that he does not recall cursing or making threats.

The Local Board met in an executive meeting later the same day to discuss the evidence presented and to take a vote. The chairman of the Local Board requested two school administrators to find state and local policies on administrators and students having altercations. The Local Board then recessed and met in a continued executive meeting on January 22, 1992. The chairman of the Local Board passed out and reviewed copies of cases dealing with student/administration altercations, and copies of the proper disciplinary procedures. At the conclusion of the hearing, the Local Board voted to terminate Appellant's employment for striking a student, using vulgar language, and making threats. A timely appeal was then made to the State Board of Education under the provisions of O.C..G.A. § 20-2-1160.

On appeal, Appellant maintains that the Local Board was not a fair and impartial body and could not render a just and impartial decision when considering Appellant's case. When the hearing before the Local Board began, Appellant's counsel moved to disqualify two of the Local Board members. In support of his contention, Appellant testified that a board member told him that two of the other members said "that the first opportunity they got, they would fire me." Neither the board member allegedly repeating this to Appellant, nor the two members allegedly making the comment have any recollection as to it being said. The Local Board members at issue testified that they did state that they wanted certain incidents investigated. Appellant also introduced a letter with racial overtones that one of the board members wrote to the local paper. The board member testified that only a portion of the article was presented and that it wouldn't appear racial if the entire letter was read.

There was no showing that the particular Local Board members were incapable of making a fair judgment in the case. A decision maker is not "disqualified simply because he has taken a position, even in public, on a policy issue related to the dispute, in the absence of a showing that he is not capable of judging a particular controversy fairly on the basis of its own circumstances." Hortonville Joint School District v. Hortonville Education Assn., 426 U.S. 482, 493 (1976).

On appeal, Appellant also argues that the Local Board's attorney communicated ex parte after deliberations began, and that this influenced the Local Board. In support of his assertion, Appellant attached affidavits from two Local Board members to his notice of appeal. The affidavits stated that the chairman of the board handed out two cases on student/administrative altercations and a sheet entitled "discipline." The affidavits are outside the record and may not be considered on appeal. Even if these affidavits from Local Board members, and one from the Local Board's attorney that deny this allegation, are considered, they do not establish any improper ex parte communication. Finally, there was no showing that Appellant was prejudiced by the materials in question being made available to the Local Board members.

Appellant also maintains that there was insufficient evidence to sustain the decision of the Local Board. Although the Appellant produced evidence which, had the Local Board believed it, would support Appellant's position in part, it is the sole province of the Local Board

to judge the credibility of the witnesses and to determine the facts from the evidence presented. The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783, 242 S.E.2d 374 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976). In the instant case, the Local Board had consistent testimony from three students and three teachers who saw Appellant strike the student in anger, heard Appellant make profane and vulgar remarks to the student, and heard Appellant make threats to the same student. The State Board of Education, therefore, concludes that there was some evidence before the Local Board.

Based upon the foregoing, the State Board of Education concludes that the Local Board was a fair and impartial body, and that there was evidence to support the decision of the Local Board to terminate Appellant's employment. The decision of the Local Board is, therefore, SUSTAINED.

This 9th day of July, 1992.

Mr. Brinson and Mr. Williams were not present.

James H. Blanchard
Vice Chairman for Appeals