STATE BOARD OF EDUCATION
STATE OF GEORGIA

KATHLEEN J. WILLIAMS,	:	
	:	
Appellant,	:	
	:	**CASE NO 1992-14**
vs.	:	
	:	**DECISION**
GWINNETT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY

This is an appeal by Kathleen J. Williams ("Appellant") from a decision by the Gwinnett County Board of Education ("Local Board") to terminate her teaching contract based upon its finding that Appellant committed an act of theft, which constituted an act of immorality. The decision of the Local Board is sustained.

PART II

FACTUAL BACKGROUND

Appellant has been a teacher for 21 years; she was employed by the Local Board in 1976. Appellant holds a Ph.D. degree.

On September 20, 1991, Appellant was arrested for disorderly conduct and theft by taking on allegations that she stole a dress from another patron at the Norcross Women's Fitness Spa. In October, 1991, the Local Board began its own investigation into the matter. On December 20, 1991, the Local Superintendent wrote to Appellant and informed her that he would recommend termination of her teaching contract under the provisions of O.C.G.A. § 20-2-940, "other good and sufficient causes", because of immorality and unprofessional conduct as a result of the September 20, 1991, incident.

Appellant requested a hearing before the Local Board. The hearing was held on February 4, 1992. At the conclusion of the hearing, the Local Board voted to terminate Appellant's teaching contract. Appellant then filed an appeal to the State Board of Education.

PART III

DISCUSSION

On appeal, Appellant claims that (1) there was no evidence that she committed an act of immorality; (2) no nexus was established between stealing and her job responsibilities; (3) there was no showing of any impairment of her job performance, and (4) contract termination is too harsh a penalty under the circumstances. Appellant claims that there has to be some nexus between the theft and her ability to teach before the Local Board can terminate her contract.

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).

Immorality is one of the grounds for terminating the contract of a teacher. O.C.G.A. § 20-2-940. The Local Board must determine if immorality is present based upon the facts presented. See, *Dominy v. Mays,* 150 Ga. App. 187, 257 S.E.2d 317 (1979). Immorality has been found when a teacher was involved in shoplifting, *Brannen v. Board of Education of the City of Savannah,* Case No. 1978-19 (Ga. SBE, Sep. 14, 1978), and when a teacher was convicted of tax fraud. *Cook v. Logan,* Case No. 1982-10 (Ga. SBE, Nov. 11, 1982).

In the instant case, there was evidence from which the Local Board could conclude that Appellant stole a dress from another patron at the Fitness Spa. Witnesses testified that Appellant entered the spa, left, and then re-entered. No other patron left the spa before the owner of the dress discovered that the dress was missing. A policeman discovered the dress in the trunk of Appellant's car when Appellant asked him to get some heart medicine for her. Although Appellant denied any knowledge of the dress or how it was found in her car, there was no evidence that anyone else had access to her car. The Local Board, as the finder of fact, could choose to believe that Appellant picked up the dress, took it to her car, and then re-entered the spa. We, therefore, conclude that there was evidence that Appellant stole the dress and that the Local Board could infer that the act of theft constituted immorality.

Appellant claims that the Local Board failed to show any nexus between stealing and her job responsibilities or any impairment of her job performance. O.C.G.A. § 20-2-940 does not require any showing of a nexus between the conduct and the ability of a teacher to perform. Notwithstanding, there was evidence of a nexus between stealing and a middle school teacher's ability to be effective. As a teacher, she serves as a role model for impressionable young people; thievery is not an attribute that should be emulated. Thus, even though Appellant could teach the technical aspects of her subject, her role as a teacher encompasses more than mere technical competence.

Appellant's final claim on appeal is that the punishment of termination is too harsh. The extent of the punishment, however, is not within the province of review by the State Board of Education in the absence of any showing that the decision amounts to an abuse of discretion or is arbitrary and capricious. *Ransum, supra.*

PART III

DECISION

Based upon the foregoing, the State Board of Education concludes that there was evidence that Appellant stole a dress while she was a patron at a fitness spa and that the Local Board could conclude that such an act constituted immorality, which could serve as the basis for terminating Appellant's teaching contract. The Local Board's decision, therefore, is

SUSTAINED.

This 10th day of September, 1992.

Mr. Abrams, Mr. Brinson, Mr. Sears and Mr. Sessoms were not present.

James H. Blanchard
Vice Chairman for Appeals