

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**MALACHI BOATWRIGHT,** :  
 :  
 :  
 **Appellant,** :  
 v. :  
 : **CASE NO. 1993-36**  
 :  
 : **DECISION**  
 **SAVANNAH-CHATHAM COUNTY** :  
 **BOARD OF EDUCATION,** :  
 :  
 :  
 **Appellee** :

This is an appeal by Malachi Boatwright (Appellant) from a decision by the Savannah-Chatham County Board of Education (Local Board) to uphold the decision of a grievance tribunal to support Appellant's dismissal as a bus driver. Appellant claims that he was not permitted to present all of his evidence at the grievance tribunal hearing, that improper opinion testimony was permitted, and that the law officer improperly influenced the tribunal. The decision of the Local Board is sustained.

This appeal is before the State Board of Education after a superior court directed the parties to complete the administrative review of a May 1, 1991, decision by the Local Board to terminate Appellant's employment as a bus driver. The Local Board's action followed the decision of a grievance tribunal, made on March 8, 1991, to uphold Appellant's dismissal.

Appellant was employed as a bus driver by the Local Board in August, 1990. In October, 1990, the personnel department learned that Appellant had previously been employed by the Local Board as a bus driver in 1974 and terminated in January, 1975. The Local Board has a policy against rehiring anyone who has previously been terminated. Appellant, therefore, was informed that his employment was terminated. Appellant filed a grievance and claimed that the policy should not be so strictly applied. Appellant's grievance was denied through three grievance levels before coming before a grievance tribunal.

Appellant claims that during the hearing before the grievance tribunal, he was not permitted to present all of his evidence. During the hearing, Appellant argued, for the first time, that he was being terminated because the administration thought he was engaged in union organizing activities. Although the law officer informed Appellant that he thought the evidence about any union activities were irrelevant, the law officer, nevertheless, permitted Appellant to state his claim and make his contentions. Appellant did not offer any evidence that was not admitted. The State Board of Education concludes that the law officer did not improperly restrict Appellant's presentation of his case.

Appellant next claims that a witness was improperly allowed to express an opinion on the ultimate issue of whether his employment should have been ended. This claim arises because the personnel director was asked whether the Local Board properly terminated Appellant according

to Local Board policy. Appellant has not shown that the question resulted in any prejudice in the grievance tribunal's decision-making. Since this was an administrative hearing, where the rules of evidence are not as strictly followed as in a court, if there was any error committed, then the error was harmless.

Appellant next contends that the law officer made a prejudicial remark concerning his attempt to place into evidence the reasons why he was terminated. When Appellant started to raise his union activity as a reason for his dismissal, the school system's attorney objected because the issue had not previously been raised. The law officer agreed that the issue was not relevant because it had not been previously raised, but then proceeded to state:

Now in order to be fair to this man, I'm going to let you proceed, but let's not belabor this beyond a certain point. It's strange that it comes up today for the first time.

Rather than being prejudiced, Appellant was aided by the law officer. The law officer could have excluded the testimony entirely since it was not raised in the previous grievance hearings. The State Board of Education concludes that the law officer's comment did not prejudice Appellant's case and was not an error.

Based upon the foregoing, it is the opinion of the State Board of Education that Appellant has not shown any error in the conduct of the grievance proceedings. Since Appellant was an employee at will, the Local Board did not have to show cause for his dismissal. The Local Board's decision, therefore, is

SUSTAINED.

This 13<sup>th</sup> day of January, 1994.

Mrs. King, Mr. McGlamery and Dr. Thomas were not present. Mr. Lathem's seat is vacant due to his resignation effective December 31, 1993.

Robert M. Brinson  
Vice Chairman for Appeals