STATE BOARD OF EDUCATION

STATE OF GEORGIA

EDDIE DEAN DIXON, JR.,	:	
	:	
Appellant,	:	
	:	
	:	**CASE NO. 1997-45**
vs.	:	
	:	**DECISION**
	:	
EMANUEL COUNTY	:	
BOARD OF EDUCATION,	:	
Appellee.	:	

This is an appeal by Eddie Dean Dixon (Appellant) from a decision by the Emanuel County Board of Education to dismiss him from his position as a teacher and coach based upon its finding that he committed immoral acts under O.C.G.A. § 20-2-940 and other good and sufficient cause when he shot his daughter while undergoing a psychotic episode at home. Appellant claims on appeal that the Local Board failed to establish immorality. The Local Board's decision is sustained.

During the early morning of February 18, 1997, Appellant awoke from a nightmare and asked his wife, a nurse, to take him to the emergency room. His wife told him that the person he needed to talk to was unavailable at that hour, but she would call their family doctor when she arrived at work. Later, Appellant's wife left for work, leaving Appellant at home with the couple's three children. Shortly thereafter, Appellant called 911 and reported that someone was trying to break into his house.

The 911 operator kept Appellant on the telephone for approximately one hour. Appellant repeatedly asked the operator, "Please, help me." Appellant also kept saying people were tying to break in and that if the operator shot him in the head, the bullet would also hit the operator because they were on the same telephone line. Appellant told the operator that he had a sixteen-gauge shotgun and a pistol.

When the sheriff's deputies arrived at the house, Appellant began chanting, "Please Lord," while the dispatcher tried to convince him to put his guns down and take his children to the door and let the deputies into the house. Appellant became increasingly more incoherent and the operator was unable to talk with him as Appellant began chanting, "Help us, Lord."

Approximately fifty minutes into the conversation, Appellant dropped the telephone. During the next few minutes, Appellant shot one of his daughters in the leg with the shotgun. He then forced his son and other daughter to rub their hands in the blood of the daughter who was shot. Appellant's son and other daughter then ran out the door after pleading with Appellant that

they needed to take the girl to the hospital. Appellant chased them into the yard and the deputies apprehended him. Appellant was hospitalized and diagnosed as having had a Brief Psychotic Episode.

In the spring of 1997, the Local Board renewed Appellant's teaching contract for the 1997-1998 school year.[1] On September 12, 1997, Appellant pleaded not guilty by reason of insanity to the criminal charges filed against him as the result of the incident. The court accepted the plea and Appellant was released. On September 26, 1997, the Local Superintendent wrote to Appellant that she would seek termination of his employment because of the incident on the grounds of immorality and other good and sufficient cause. The Local Board held a hearing on October 8, 1997, and voted to terminate Appellant's teaching contract. Appellant then filed an appeal with the State Board of Education.

On appeal, Appellant claims that the Local Board failed to establish immorality, or submit any evidence to show that he is currently unfit to teach or otherwise perform his duties. Additionally, there was no evidence presented that the February 18 incident would ever be repeated.

The Local Board argues that it has the authority to determine that Appellant acted immorally because he shot his daughter and Appellant's argument that he was legally insane when the incident occurred is mere technical posturing. The Local Board also argues that it could reasonably infer immorality from Appellant's admission that he shot his daughter.

The Local Board also argues that there was substantial evidence that the incident occurred because of the stress of Appellant's teaching and coaching duties. From this evidence, the Local Board could infer that there was other good and sufficient cause not to employ Appellant because of the possible harm to students and co-workers if the pressure again became intolerable.

The burden of proof is on the local board of education in an employee dismissal case under O.C.G.A. § 20-2-940. O.C.G.A. § 20-2-940(e)(4). "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)." *Roderick J. v. Hart Cnty. Bd. of Educ.,* Case No. 1991-14 (Ga. SBE, Aug. 8, 1991).

The only evidence presented by the Local Board was that the shooting incident occurred. Appellant presented evidence that he experienced a psychotic episode during which he lost touch with reality and was unable to control himself He also presented evidence that he had undergone psychological counseling and there was no indication that he was predisposed to suffer another breakdown or posed a threat to anyone.

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[1] Appellant attempted to have the proceeding dismissed because of the contract renewal, but his motion was overruled. Appellant did not raise any issue about this ruling on appeal.

In Dominy v. Mays, 150 Ga. App. 187, 257 S.E.2d 317 (1979), the Court stated, "The possession of these drugs being proven, it is for the board of education as fact finders to determine whether the authorized inference of 'immorality' is to be drawn from the proven facts." *Id* at 187.

Although immorality is not a defined term in Title 20, the actions covered by the term should, at a mininum, be actions that a teacher or employee knowingly takes. In the instant case, the only evidence presented regarding Appellant's mental condition was that he did not have any control over his actions. "[B]ecause the fact-finder must weigh the evidence and may not arbitrarily ignore it, overwhelming opinion evidence of a medical condition may not be summarily rejected by the fact-finder." *Nagel v. State,* 262 Ga. 888, 890, 427 S.E.2d 490, (1993). Nevertheless, "'It is well-settled that a jury is always free to reject expert opinion testimony and substitute their own knowledge and experience.'" *Hathcock v. State,* 214 Ga. App. 188, 190, 447 S.E.2d 104, *(1994)(citing Prejean v. State,* 209 Ga. App. 411,412(2), 433 S.Ed.2d 628 (1993).

In the instant case, there was evidence that Appellant shot his daughter in the leg with a shotgun. Appellant's evidence was presented as a defense, and the Local Board, as the fact finder, was free to accept or reject Appellant's evidence of whether he was in control of his actions. The fact that the criminal court found Appellant insane at the time of the shooting was not binding upon the Local Board. There was, therefore, some evidence to support the Local Board's decision, and the State Board of Education is required to affirm the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that there was some evidence to support the Local Board's decision that Appellant committed an immoral act and the Local Board's decision was not arbitrary or capacious. Accordingly, the Local Board's decision is
SUSTAINED.

This 9th day of April 1998.
Dr. Bill Grow, Mr. J.T. Williams, Jr., Mrs. Barbara Archibald and Ms. Willou Smith were absent.

Larry Thompson
Vice Chairman for Appeals