

STATE BOARD OF EDUCATION

STATE OF GEORGIA

R. S.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 1999-40
	:	
PEACH COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by R. S. (Student) from a decision by the Peach County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him through the end of the 1999-2000 school year, with an opportunity to attend alternative school during the expulsion, after finding him guilty of making bomb threats and belonging to a gang. The Student claims that there was no evidence to support the charges and that the punishment is too harsh. The Local Board's decision is reversed.

On April 22, 1999, the day after the Columbine High School massacre,¹ the Student, an eighth-grader, stood in the lunch room line and asked a friend whether he knew how to get information about bomb making off the Internet. Later, after school and at home, the Student, his sister, and a friend were discussing what had happened in Colorado. A friend of the Student's sister arrived and overheard the Student wonder what it would be like if the same thing happened at their school. The sister's friend reported the conversation to the school authorities and the principal began conducting an investigation.

The principal called the police and the Student was interrogated for three hours. The police searched the Student's home and confiscated a notebook that contained the name of Marilyn Manson and some bands, plus lists of guns and ammunition. Based upon these findings, the principal charged the Student with making a bomb threat. Additionally, the Student was charged with participating in a gang based upon the principal's finding that the Student and two of his friends had agreed to read the same books, listen to the same music, and wear the same clothes.

¹ As widely reported in the news media, two students shot and killed twelve of their classmates and a teacher before killing themselves on April 21, 1999 at Columbine High School in Littleton, Colorado. The two students also rigged several bombs and had them in the high school building. They allegedly obtained information about making bombs off the Internet and had a web site.

A student disciplinary tribunal held a hearing on May 5, 1999. The case was prosecuted by the Local Superintendent, who called the principal as the only witness for the school system.² The principal testified that the Student confessed on three occasions that he had asked about bomb information on the Internet, that he belonged to a gang, and that "Peach County High School seems like it would be a place to take it to another level." The Student admitted that he had asked another student whether there was bomb information available on the Internet, but denied that he belonged to a gang or that he said anything about making bombs. At the end of the hearing, the tribunal found the Student guilty of making a bomb threat and belonging to a gang. The tribunal expelled the Student until the end of the 1999-2000 school year, with the opportunity to attend an alternative school during the 1999-2000 school year. The Local Board upheld the tribunal's decision when the Student appealed. The Student then filed a timely appeal to the State Board of Education.

The Student's first claim is that the evidence did not support the charges and that the tribunal and Local Board were caught up in the post-Columbine hysteria when they found him guilty. We agree with the Student. Assuming the Student made all of the statements, some of which he denied in the hearing, we fail to see how his statements can be construed as a threat. The Student did not say he wanted to make a bomb, or that he was going to make a bomb. He also did not state that he was going to blow up anything with a bomb. The State Board of Education concludes that there was no evidence that the Student made a bomb threat.

The second charge against the Student was that he belonged to a gang. The evidence showed that the Student and two of his friends agreed to listen to the same music, read the same books, and wear the same clothes. There was no evidence that any of these activities occurred, or that the students engaged in any other gang-related activities.³ The State Board of Education, therefore, concludes that the Student did not engage in any gang-related activities.

Based upon the foregoing, it is the opinion of the State Board of Education that there was no evidence to support the charges that the Student made a bomb threat or that he engaged in gang activities. Accordingly, the Local Board's decision is hereby REVERSED.

This _____ day of November 1999.

Bruce Jackson
Vice Chairman for Appeals

² The Student, acting pro se in presenting this appeal, did not raise the issue, but the fact that the Local Superintendent acted as the prosecutor taints the entire proceeding since all of the tribunal members worked for the Local Superintendent.

³ The Local Board's definition of a gang is so broad that it covers Boys Scouts, Girl Scouts, FFA, Big Brother, and Brownie Scouts, and doubtlessly would be deemed unconstitutional if properly challenged.