

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>I. C.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2004-46</b>
	:	
<b>BIBB COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>
	:	

This is an appeal by I. C. (Student) from a decision by the Bibb County Board of Education (Local Board) to assign him to alternative school for 18 weeks after finding him guilty of participating in a rock throwing incident where the window of a bus was broken and two students on the bus were injured. The Student claims that there was no evidence to establish that he was one of the group of boys who threw rocks at the bus. The Local Board's decision is sustained.

On February 12, 2004, the Student exited his bus before his regular stop. Shortly afterwards, the bus driver saw the Student with a group of other students as rocks began hitting the bus.<sup>1</sup> One rock broke a window of the bus and two students who were riding the bus received minor injuries from the flying debris. The bus driver saw the Student make a throwing motion after observing the Student attempting to conceal himself behind a tree. The bus driver reported the incident and the names of the students involved. The Student was charged with vandalism, disrespect of school personnel, and engaging in conduct containing the elements of the offense of terroristic threats.

During a hearing before a student disciplinary tribunal, the bus driver testified about her observation. The bus driver testified that another student was the one who threw the rock that broke the bus window. The Student testified that he had not thrown any rocks and was not involved. He claimed he had gotten off the bus early to visit with a friend, but the friend was not home. He then decided to go to a gymnasium and was on his way there when the incident occurred.

The tribunal found the Student guilty of the charges and assigned him to an alternative school for 18 weeks, which the Local Board upheld on appeal. The Student

---

<sup>1</sup> The record does not disclose how long it was between the time the Student left the bus and the rock-throwing incident began, nor does it disclose how close to the Student's departure point the incident occurred.

then appealed to the State Board of Education with the claim that the evidence did not support the charges.

The Student claims that the bus driver's testimony that another student threw the rock that broke the window establishes that he did not break the window and, therefore, was not guilty of any of the charges.

"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). Contrary to the Student's claims, there was evidence in the form of the bus driver's testimony that she saw the Student make a throwing motion when the rocks began hitting the bus. The Student participated in an attack on the bus that resulted in a window being broken, even though the Student was not the one who threw the rock that broke the window. The essential point is that he was a participant.

Of the charges made against the Student, however, the evidence only supports the charge of vandalism. Vandalism is the willful or malicious destruction of property. *Pennsylvania Threshermen & Farmers Mut. Cas. Ins. Co. v. Hill*, 113 Ga. App. 283, 148 S.E.2d 83 (1966). The evidence supports a finding that the Student participated in damaging the bus.

The evidence, however, does not support the charges that the Student showed disrespect of school personnel or engaged in conduct containing the elements of the offense of terroristic threats. The school system did not present any evidence that showed that the Student showed any disrespect towards anyone. Disrespect connotes rudeness or a lack of courtesy, which requires some interaction between two or more people. There was no evidence concerning the Student's interaction with anyone during or following the incident.

O.C.G.A. § 16-11-37 provides that a terroristic threat requires the communication of a threat to commit a crime. There was no evidence that the Student communicated a threat to anyone else before the rock-throwing incident took place. The Local School System, therefore, failed to establish that the Student was guilty of making terroristic threats.

Notwithstanding the lack of evidence to support two of the three charges against the Student, the Local Board's decision to expel the Student for 18 weeks for engaging in vandalism is not disproportionate to the offense. The single charge, therefore, is sufficient to support the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support a finding that the Student engaged in vandalism. The Local Board's decision to expel the Student for 18 weeks, therefore, is SUSTAINED.

This \_\_\_\_\_ day of August 2004.

---

William Bradley Bryant  
Vice Chairman for Appeals