

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J. S.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2006-37
	:	
GWINNETT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	DECISION
Appellee.	:	

This is an appeal by J. S. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to give him a five day in-school suspension after finding that he supplied fireworks that were set off at a football game and lied about his involvement in the incident. The Student claims that the evidence against him was not credible. The suspension period has already passed and there is no relief that the State Board of Education can grant to the Student, thus making the issues raised moot. Since the State Board of Education cannot provide the Student with any relief, the appeal is dismissed as moot.

This is a companion appeal to *G. H. v. Gwinnett County Bd. of Educ.*, Case No. 2006-34 (Ga. SBE, 2006) and the facts regarding the incident can be found there. The Student's only involvement was in providing a firework that was later exploded during a football game by some other students. The Student was not involved when the other students later fired fireworks at a principal's home, but he became aware of their actions shortly thereafter. When the Student was questioned by school administrators, he was not completely forthright in answering their questions. A student disciplinary tribunal found him guilty of supplying fireworks and of lying and gave him a five-day in-school suspension. The Local Board upheld the tribunal's decision and the Student served his suspension. The Student then filed an appeal with the State Board of Education.

The Student claims that the testimony of the other students was not credible. He also claims that he did not lie to the administrators but only failed to tell them the entire story. "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 tribunal sits as the trier of fact and, if there is conflicting evidence, must decide which version to accept. When that judgment has been

made, the State Board of Education will not disturb the finding unless there is a complete absence of evidence." *F. W. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1998-25 (Ga. SBE, Aug. 13, 1998). In this case, two other students testified that the Student supplied at least one firework that was exploded during the football game. Although the tribunal found the testimony of the students unreliable regarding some issues, the tribunal could believe their testimony about the Student's involvement. There was also testimony that the Student failed to tell the complete story about his involvement when questioned by the administrators. There was, therefore, evidence to support the tribunal's findings.

Based upon the foregoing, it is the opinion of the State Board of Education that the issues raised are moot and the State Board of Education cannot provide the Student with any relief. Accordingly, the appeal is hereby
DISMISSED.

This _____ day of March 2006.

William Bradley Bryant
Vice Chairman for Appeals