

STATE BOARD OF EDUCATION

STATE OF GEORGIA

T. B. and N. B.,	:	
	:	
Appellants,	:	
	:	
vs.	:	CASE NO. 2007-31
	:	CASE NO. 2007-32
GWINNETT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is the combined appeal by brothers T. B. and N. B. (Students) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decisions of a student disciplinary tribunal to expel T. B. until August 1, 2007, and to assign N. B. to an alternative school until August 1, 2007, after finding them guilty of smoking and being under the influence of marijuana. The Students claim that the evidence was insufficient to support the charges. The Local Board's decisions are sustained.

On October 20, 2006, the Students rode to school with two other students. While enroute to school, the four students smoked a marijuana cigarette. A teacher noticed the smell of marijuana on one of the students as they entered the school. All of the students were questioned and they all admitted to smoking the marijuana cigarette and signed written statements admitting their involvement. The administration searched the automobile the students rode in and discovered the remains of a marijuana cigarette. The Students were charged with smoking and being under the influence of marijuana.

At a student disciplinary tribunal hearing, only one of the students admitted he had been smoking the cigarette; the Students claimed they did not smoke the cigarette. The Students claimed that they signed their statements because they were scared and were trying to protect the other students. The tribunal, nevertheless, found the Students guilty and expelled them from regular school until August 1, 2007. Student N. B. was given the option of attending an alternative school during his period of expulsion. The Local Board sustained the tribunal's decisions and the Students appealed to the State Board of Education.

On appeal, the Students claim that the evidence was inconclusive that they smoked marijuana. "It is the duty of the hearing tribunal to determine the veracity of the witnesses and the State Board of Education will not go behind such determination if there is any evidence to support the decision." *David L. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1996-1 (Ga. SBE, Apr. 11, 1996). In the instant case, the Students admitted, orally and in

writing, that they had smoked the cigarette. It was not until the tribunal hearing that they claimed that they did not smoke the cigarette. There was, therefore, evidence to support the tribunal's decisions.

The Students claimed they were denied an opportunity to present evidence of drug tests they claim established that they did not smoke marijuana. The Students, however, testified about the drug tests and the tribunal had an opportunity to consider such evidence. The Students, therefore, were not denied an opportunity to present the results of the drug test evidence.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision regarding both Students. Accordingly, the decisions are hereby SUSTAINED.

This _____ day of April 2006.

William Bradley Bryant
Vice Chairman for Appeals