

STATE BOARD OF EDUCATION

STATE OF GEORGIA

M. F.,	:	
	:	
Appellant,	:	CASE NO. 2009-47
	:	
vs.	:	
	:	
BARROW COUNTY	:	
BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by M. F. (Student) from a decision by the Barrow County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel her for the remainder of the 2008-2009 school year and to assign her to an alternative school for the 2009-2010 school year after finding her guilty of making terroristic threats and disrupting a public school as a result of calling in a bomb threat. The Student claims that there was no evidence to support the Local Board’s decision. The Local Board’s decision is sustained.

On January 13, 2009, a student called the 911 operator on a cellular telephone and handed the telephone to the Student. When the 911 operator answered the telephone, the Student said there was a bomb in her high school. The police notified the school administration, who caused the immediate evacuation of the high school. The school was closed for approximately 1.5 hours while the police conducted a search of the school for a bomb.

The principal and other administrators recognized the Student’s voice on the recording of the 911 telephone call. The Student was charged with making a terroristic threat and with disrupting a public school. A student disciplinary tribunal hearing was held on February 2, 2009.

The student who dialed the telephone testified that the Student made the threat. The principal testified about recognizing the Student’s distinctive voice upon listening to the recording of the 911 call. The Student did not testify but denied her involvement in the incident.

The tribunal found the Student guilty of the charges and expelled her for the remainder of the 2008-2009 school year and assigned her to an alternative school for the 2009-2010 school year. The Local Board upheld the tribunal’s decision and the Student then filed an appeal with the State Board of Education.

Upon appeal to the State Board of Education, the Student claims that there was no evidence to support the tribunal's decision. "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). In the instant case, there was direct testimony from another student, who identified the Student as the one who made the threat, and the testimony of the principal, who recognized the Student's voice in a recording of the 911 telephone call. There was, therefore, evidence that the Student was the one who made the threat.

The Student claims that her denial of any involvement and the testimony of another student, who said he did not see or hear the Student make the call, establishes her innocence of the charges. "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).

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that there was evidence to support both the tribunal's decision and the Local Board's decision. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of July 2009.

William Bradley Bryant
Vice Chairman for Appeals