

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

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SC Court of Appeals

APPEAL FROM LEE COUNTY
Court of Common Pleas

Maité Murphy, Circuit Court Judge

Case No. 2014-CP-31-0227

Laura Toney Respondent

vs.

Lee County School District Appellant.

REPLY BRIEF OF APPELLANT

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Deidre D. Laws (Bar No. 76986)

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I. THE LOCAL BOARD'S DECISION IS SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD RELATING TO TONEY'S NUMEROUS INCIDENTS OF UNPROFESSIONAL CONDUCT.

In her response, Toney focuses on two admitted acts of insubordination to the exclusion of several other incidents of unprofessional conduct. Further, her unprofessional conduct occurred after having been put on notice and included an overly aggressive challenge to an observation of her instruction. This focus is misplaced, as it improperly suggests that those two acts of "insubordination" outweigh all the other misconduct found by the Board.

Contrary to Toney's assertions, she received multiple notices regarding her unprofessionalism in dealing with the Principal's administration. Toney was reminded by two (2) separate assistant principals that she was not to send students to pick up instructional materials during class. (R. pp. 1006-07, 1011). Principal Webb also testified that he spoke with Toney regarding this type of behavior. (R. p. 232, lines 19-25--1-4; p. 236, lines 8-20). In addition, Principal Webb had to remind Toney to always conduct herself in a professional manner, when she became so irate with a parent that she was asked to leave a parent-teacher conference. (R. p. 234, lines 17-25; pp. 235, 1010). These three instances are in addition to Toney's failure to timely enter student grades. (R. pp. 233, 1009). She also missed mandatory meetings without providing prior notice of her absence. (R. p. 1002).

Of particular note, and as evidence of Toney's difficulty in responding to persons charged with providing supervisory instructions to her, Toney demonstrated highly unprofessional behavior in responding to an observation conducted by Ms. Kara Fowler

on September 13, 2013, approximately one (1) month before the incident which triggered the termination action. Ms. Fowler's feedback to Toney about the observation included a note that the essential question for the lesson was not posted. (R. pp. 1005, 1012). Toney responded, among other things:

Again I would like to know whether it is mandatory to write the Standards and Essential questions each day on the white board since you teach in you[sic] office daily with no white board. How do you address these issues in your office? Again I feel that your interpretation of my classroom instruction was dishonest and libelous since you have placed this in writing. I will be addressing these issues further.

(R. p. 228, lines 8-16; pp. 229, 1012). This response is indicative of Toney's disrespect and disregard for supervisors' concerns about her teaching. In fact, Toney admitted that she turned the focus of the observation from her to Ms. Fowler. (R. p. 272, lines 16-23; p. 292, lines 2-7). A District cannot improve the quality of education when teachers conduct themselves in this manner, particularly when methods to improve are attempted in good faith.

This pattern of unprofessional conduct was revealed to Dr. Andrews prior to her notifying Toney of the recommendation for termination, and was always a basis for the recommendation. Both the October 29, 2013, and December 18, 2013, letters to Toney reference her prior incidents of unprofessional conduct. (R. pp. 1014-15, 1019-20). Thus, Toney's assertion that it became a ground for termination only after the District allegedly could not prove any disruption is misplaced and contrary to the record in this case. Not only did Dr. Andrews consistently point to Toney's unprofessional conduct, but Toney never denied her unprofessional behavior. Moreover, teachers who testified on Toney's behalf stated they had never become so irate that they had to be asked to leave a parent conference, and they never responded to an instructional observation in the

manner in which Toney responded to Ms. Fowler. In fact, from the witnesses presented to the Board, Toney was the only one who engaged in such behavior. (R. pp. 8-10, 277, 380; p. 567, lines 22-25; p. 568, lines 1-20; p. 569, lines 6-7; p. 577, lines 17-25; p. 578, line 1; p. 591; p. 593, lines 17-21). Therefore, the decision of the lower court should be reversed, as there is substantial evidence in the record to support the Board's Decision.

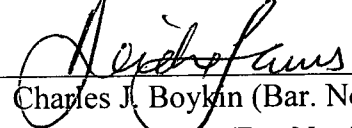
CONCLUSION

For the aforementioned reasons and for the reasons set forth in the Brief of Appellant, the Board respectfully requests that this Court reverse the decision of the lower court, and uphold the termination of Toney's employment.

Respectfully submitted,

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November 6, 2015

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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that Reply Brief of Appellant complies with the requirements of Rule 211(b), SCACR.

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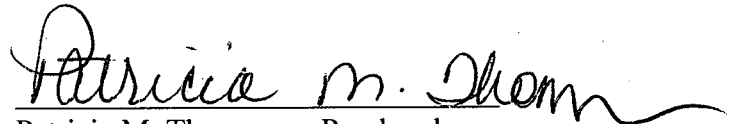
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PROOF OF SERVICE

I certify that I have served the **REPLY BRIEF OF APPELLANT** in the above-referenced matter on all counsels of record, by mail a copy of same, postage prepaid and return address clearly indicated, to the following on this 6th day of November 2015:

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