

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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DEC 15 2016

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

SC Court of Appeals

Marvin H. Dukes III, Master in Equity and Special Circuit Court Judge

Case No. 2015-CP-07-1343
Appellate Case No. 2016-000955

John Alden Bauer, III

Appellant

v

Beaufort County
School District

Respondent

MOTION FOR EXPEDITED RULING

Why not common sense?

We can save tens of thousands of pages of paper, many hours of labor, and avoid a needless waste of money.

A myriad of contentious subjects blur this case with thousands of irrelevant documents obscuring facts. Rather than detailing more than two (2) dozen violations of law by Respondent, accusing Respondent of presenting false evidence, accusing Respondent of withholding exculpatory evidence, and accusing Respondent of removing accepted exhibits, Appellant proposes that the Court of Appeals rule on this appeal based on one issue, only.

THE ISSUE

Appellant was terminated eleven (11) months prior to a hearing.

Board Hearing page 351, line 15, Ms. Alice Walton, Human Resources Officer, was asked if she had sworn in her deposition that Appellant had been terminated on June 5, 2014, without a hearing. *“That is correct”*. (Exhibits 3 and 4)

LAW AND RATIONALE

LAW (The Teacher Employment and Dismissal Act)
SECTION 59-25-460. *Notice of dismissal; conduct of hearing.*

No teacher shall be dismissed unless written notice specifying the cause of dismissal is first given the teacher by the District Board of Trustees and an opportunity for a hearing has been afforded the teacher.

CASE LAW (Brown v. James, 697 S.E. 2d 604, 389 S.C. 41 (2010))

“The minutes of the April 24, 2007, Board meeting show a final decision regarding the termination of Brown's contract was made even before her fifteen-day period to request a hearing had expired.

“Yet, there is no language in the Employment and Dismissal Act that states a final decision of the Board is subject to a teacher's right to a hearing after the fact.

“The observance of the procedural requirements of the Employment and Dismissal Act is mandatory and not a matter of discretion.

RATIONALE WITH EXHIBITS

The Beaufort County Board of Education voted on June 5, 2014, without condition, to terminate John Alden Bauer III, a violation of **SECTION 59-25-460**. (Exhibit 1, on page 6) (also a violation of Section 59-25-410)

The Beaufort County School District finalized the termination, effective July 1, 2014, as shown in Respondent's document. (Exhibit 2, on page 7)

There is no argument that can refute the truth of those two documents.

While Appellant has dozens of other documented violations, all quite apparent in the filed pleadings, it should only require this one issue to reverse this case.

The irony is that the administration at the school all said that they were willing to work with Appellant again and praised his teaching. Example: Donald O. Clendaniel,

Assistant Principal, "...he was a good teacher. He seemed to love what he did, love children." (Board Hearing page 126, line 17)

"I pledge to seek justice, and justice alone"

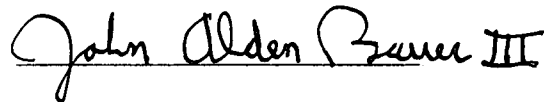
Judge's Oath. Rule 502.1

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Respectfully Submitted,



John Alden Bauer, III, pro se
109 Ashton Hill Drive
Columbia, SC 29229
aldenbauer706@gmail.com

(843) 384-1506

December 15, 2016

CERTIFICATE OF SERVICE VIA ELECTRONIC MAIL AND VIA US MAIL

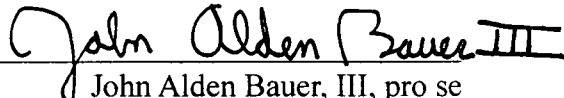
The undersigned, John Alden Bauer, III, pro se, certifies that he has served the following Counsel of Record with the foregoing MOTION FOR EXPEDITED RULING by making a copy of same, via electronic mail, and via US Mail, postage prepaid, and return address clearly indicated to the following on the 15th day of December, 2016.

David Duff, Esq.
Duff, White and Turner
3700 Forest Dr.
Suite 404
Columbia, SC 29204

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John Alden Bauer, III, pro se
109 Ashton Hill Drive
Columbia, SC 29229
aldenbauer706@gmail.com

(843) 384-1506

Exhibit 1

Superintendent's summary, Board of Education special called meeting - June 5, 2014

Vice Chair Mary Cordray called the meeting to order at 4:20 p.m.

Pledge of Allegiance

Board members agreed to discuss the proposed 2014-15 budget first, then go into executive session to discuss a personnel issue.

Superintendent Moss and Chief Operations Officer Phyllis White presented an overview of proposed increases to the 2014-15 budget. The need for the budget as proposed was due to increases in benefits for employees, state-mandated step increases for staff, an increase in student enrollment and instructional initiatives. The initial budget sent to County Council was \$192.8 million.

Dr. Moss and Ms. White presented several budgetary options for Board members to discuss as they worked to develop a reduced proposal to present to County Council. After Board members discussed various options, Ms. Bush moved to direct the superintendent to propose \$1.5 million in 2014-15 budget reductions. The reductions would be achieved by utilizing new, recently approved state funding for literacy coaches, greater efficiencies in school bus transportation, ending the Teacher Advancement Program and delaying the expansion of some CATE programs. The reductions would lower the district's budget proposal to \$191,398,015. The motion passed 7-4.

The Board then went into executive session to discuss a personnel matter. Out of executive session, the board made a motion to approve the superintendent's recommendation to terminate the employment of Employee A. Approved.

The meeting was adjourned at 6:15 p.m.

Exhibit 2

Personnel Action Form

Beaufort County School District

Personnel Action Form

Employee Information

Today's Date: 07/14/2014 (MM/DD/YYYY)

PID: 13241 [Find by PID] Social Security Number: 251230961 [Find by SSN] (#####)

If neither lookup automatically populated the employee's name, please enter it below:

Name: BAUER, JOHN

Category: Certified

School/Location: Hilton Head IB Elementary

Action

Resigned (Send Resignation Letter to HR)

Transfer

Retired (Send Retirement Letter to HR)

Position change: (Indicate Below)

Terminated

Change Number of Days

TERI Date:

Change Number of Hours

Funding Change (Provide account in comments section below)

Step Upgrade

Leave of Absence (FMLA, ADMIN, etc.)

Other Employee Action (Please explain in comments section)

Details / Comments

Effective Date: 07/01/2014 (MM/DD/YYYY)

Provide detailed information regarding the action and the reason for the action:

Terminated per Alice Walton.

Employee #: 109775

Task Notes

Font family - Font size - B I U A - 2 - [Rich Text Editor Icons]

<https://winocular.beaufort.k12.sc.us/winocular/portel/wFormIO.exe?Session=86jPJWCtQ...> 7/14/2014

1 A I don't remember if I were or not.

2 Q Does policy trump law?

3 A No.

4 Q Does the law say that a teacher cannot be
5 terminated without a hearing?

6 MR. WILLIAMS: Again, to the extent you're
7 asking for a legal conclusion, I'd have the same
8 objection I previously made.

9 BY MR. BAUER:

10 Q You can answer.

11 A And your question was?

12 Q Does the law say that a teacher cannot be
13 terminated without a hearing?

14 A I specifically can't answer yes or no to that.

15 Q Okay. You were asked on February 5th, 2015, if
16 Mr. Bauer was terminated by the Board without a hearing,
17 and your answer is -- was, "That is correct." Now, please
18 see file 59. That's --

19 MR. WILLIAMS: Is this the exhibit?

20 MR. BAUER: Yes, 59 -- oh, yeah. I'm sorry.
21 This is a different exhibit coming up.

22 MR. WILLIAMS: Are you offering it as an
23 exhibit?

24 MR. BAUER: Yes. Here we go. It's --
25 sorry. I keep handing it over here. Okay.

Witness: Walton
Cross by Bauer

Betty Anderson & Associates
Beaufort, South Carolina
(843)525-0791 (800)543-5506

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WALTON TESTIMONY

EXHIBIT 4

19 or a copy of the check that was written for the
20 first legal fees in this case?

21 A I don't know if I can or not.

22 THE WITNESS: Can I?

23 MR. WILLIAMS: You can't.

24 You can submit a request to us and
25 we will respond to it.

0074

1 MARTEL - WALTON (DIRECT EXAMINATION)

2 MS. MARTEL: Off the record.

3 (Whereupon, an off-the-record
4 discussion was held.)

5 BY MS. MARTEL:

6 Q Did you or Dr. Moss ever say in an
7 E-mail we will make Mr. Bauer's life miserable?

8 A No, we never said that.

9 Q So what I have gathered from the
10 testimony today is that Mr. Bauer was terminated
11 without a hearing by the board on June 5,
12 correct?

13 A That is correct.

14 Q And so then did you consider that vote
15 to be an initial decision subject to the results
16 of a hearing?

17 A What vote?

18 Q The vote on June 5?

19 A Yes.

20 Q And then again additionally the vote on
21 August?

22 A Correct. Yes.

23 Q So you have testified that you are not
24 aware of the Brown Versus James case?

25 A That is correct.

0075

1 MARTEL - WALTON (DIRECT EXAMINATION)

2 (Whereupon, Defendant's Exhibit
3 Number 6 was marked for
4 identification.)

5 BY MS. MARTEL:

6 Q Are you aware that when a board has
7 used the word terminate before a hearing, that
8 in that case the teacher was ordered to be
9 reinstated?

10 MR. WILLIAMS: Object to the form.

11 You can answer if you know.

12 THE WITNESS: I am not aware.

13 BY MS. MARTEL:

14 Q On the bottom of page 6 in this case it
15 indicates that: "Further, when the board voted
16 to accept James' recommendation for the

John Alden Bauer III
109 Ashton Hill Drive
Columbia, South Carolina 29229

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Jenny Abbott Kitchings
Clerk of Court
PO Box 11629
Columbia, SC 29211

Re: John Alden Bauer, III v. Beaufort Co. Sch. Dist.
Appellate Case No. 2016-000955

Dear Ms. Kitchings,

My MOTION FOR EXPEDITED RULING may be unconventional, but I think compelling.

"The observance of the procedural requirements of the Employment and Dismissal Act is mandatory and not a matter of discretion. Brown v. James--see page 3 of my motion.

The ruling in Brown should mean that if the District violated law the district should lose. The district violated law repeatedly and all top administrators in this case testified to being ignorant of the Teacher Employment and Dismissal Act. (TEDA)

A fundamental and key violation of TEDA 460 is imperative and should be decisive, therefore my motion should have weight.

Very truly yours,



John Alden Bauer III

cc: David T. Duff, esquire