

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

C.A. No. 2015-CP-11-0828

Sharon Brown,

Appellant,

RECEIVED

ORDER

v.

JUL 03 2017

Cherokee County School District, SC Court of Appeals

Respondent.

FILED IN THE OFFICE
CLERK OF COURT
2017 JUN 15 A 11:15
EMILY W. TORRE
CHEROKEE COUNTY, SC

This matter came before the Court pursuant to Appellant's Motion for Reconsideration of an Order entered by the Court on August 1, 2016. In that Order, the Court dismissed Appellant's appeal of the decision of the Cherokee County School District Board of Trustees to terminate Appellant as a teacher in the District.

In her Motion for Reconsideration, Appellant makes several arguments, including that the Board of Trustees was biased against her; that her due process rights were violated; that she was not dishonest; and that the punishment of termination imposed on her by the Board of Trustees was excessive. In a subsequently filed Memorandum in Support of Motion to Reconsider, Appellant also argues that the Respondent's assertions in support of the Board's decision terminating her are barred by the doctrines of collateral, issue preclusion and res judicata.

As noted in its August 1, 2016, Order, the Court's jurisdiction in this matter is governed by the provision of the South Carolina Teacher Employment and Dismissal Act, S.C. Code Ann. § 59-25-410, *et seq.* The Act, and the cases interpreting the Act, provide that, in ruling on an appeal from an order of a school district board of trustees terminating a teacher, the Court is limited to determining whether the school board's decision is supported by substantial evidence on the record

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and that the Court cannot conduct a *de novo* review and substitute its discretion for that of the board. *Felder v. Charleston County School Dist.*, 327 S.C. 21, 489 S.E. 2d 191 (1997); *Hall v. Board of Trustee of Sumter County School District No. 2*, 330 S.C. 402, 499 S.E.2d 216 (Ct. App. 1998); *Young v. Charleston County. Sch. Dist.*, 397 S.C. 303, 306, 725 S.E.2d 107, 108 (2012).

This Court finds no evidence in the record to support Appellant's assertion that her due process rights were violated. Likewise, nothing in the record indicates that the Board of Trustees acted with a preconceived bias towards Appellant. There is substantial evidence in the record to support the Board's conclusion that Appellant was dishonest during the District's investigation into Appellant's alleged assault of a student; therefore, Appellant's assertion that she had not previously demonstrated a proclivity for dishonesty is of no consequence.

The record reflects that Appellant's dishonesty resulted in the District Superintendent losing confidence in her, supporting the Board's determination that Appellant manifested an evident unfitness for teaching. Appellant's reliance on *In re Geiger, et al* is misapplied, as affirmative remedial actions are not required by S.C. Code Ann. § 59-25-440 where inappropriate behavior with a student was not the sole basis for Appellant's dismissal.

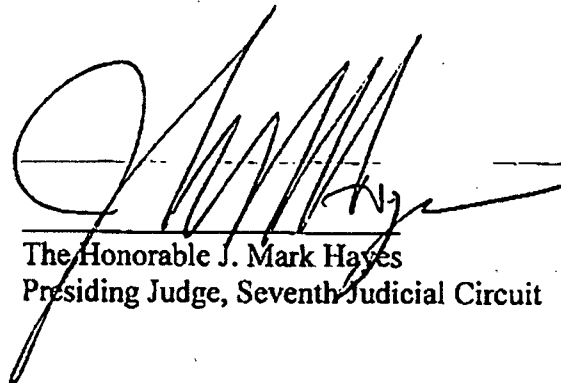
Regarding Appellant's assertion that decisions made by the South Carolina Department of Employment and Workforce are preclusive as to whether the Board had sufficient grounds to terminate her, our courts have long held that findings of fact made in connection with an employment security commission hearing are not given preclusive effect in any other litigation between the employer and employee. *Shelton v. Oscar Mayer Foods Corp.*, 325 S.C. 248, 254, 481 S.E.2d 706, 709 (1997). It follows that the decision of the South Carolina Department of Employment and Workforce regarding whether Appellant was entitled to unemployment benefits

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has no effect on this Court's determination whether the Board's decision to terminate Appellant is supported by substantial evidence.

Based on the reasons set forth above, the Order issued on August 1, 2016, continues to reflect the Court's opinion in this matter and Appellant's Motion for Reconsideration is thus DENIED and DISMISSED.

AND IT IS SO ORDERED.



The Honorable J. Mark Hayes
Presiding Judge, Seventh Judicial Circuit

June 17, 2017
Spartanburg, South Carolina