

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

J. Mark Hayes Jr., Circuit Court Judge

Docket Case No.: 2015-CP-11-0828
Appellate Case No. 2017-001466

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SC Court of Appeals

Sharon Brown,

Appellant,

vs.

Cherokee County School District,

Respondent.

APPELLANT'S FINAL REPLY BRIEF

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TABLE OF AUTHORITIES

S.C. Code Ann. § 1-23-380

Brown disagrees with the Respondent's statement, "Brown's Unfitness for Teaching was Manifested by her Inappropriate Interactions with Student J on May 28, 2015 and that she Tried to Undermine and/or Adversely Affected an Investigation"

There is substantial evidence in the record that Student J was not touched by Brown and that Student J entered the art classroom room with other students on May 28, 2015 . (R. p. 462, line 6; R. p. 450, lines 4-5). Nan Ruppe interviewed Student J and he told her, "he was at end of line because he was tying his shoe. He walked into class with other students and went to seat. Mr. Kelly was in classroom when he arrived. Miss Brown came to class, and asked Mr. Kelly to see the student. He went outside room to speak to Miss Brown. Nothing unusual happened when he spoke to Miss Brown. He didn't remember what it was about. When asked if Miss Brown ever put her hand on him, and Student J said no." Student J was asked by Nanette Ruppe (principal) what he thought of Miss Brown as a teacher, and he said, "She's nice."

Further, Student J's mom told Mrs. Torres that her son said teacher did not touch him (R. p. 451, lines 11- 12)).

Further, Brown's statement matches up with Student J's in all respects. (R. p. 462). Brown statements indicate that she did not speak with Student J at all before he entered the art room as Justin Kelly has fabricated. Additionally, Brown statements state that she did not assault a student as alleged by Justin Kelly. Further, Brown testified during the trial that the student was not touch by her (R. p. pg. 140, lines 19-23). Brown and the alleged victim's testimony match almost verbatim. The fact that Justin Kelly and Beth Owens claimed that the student was touched or assaulted is of no value when the student has confirmed that no such thing happened.

This circus that the respondent district has going against Brown is analogous to a bank teller calling the police and stating that the bank was robbed for \$10,000. However, when the money is counted no money is missing from the bank. The courts of this state cannot allow Districts to start ruining teachers lives by framing up charges (assaulting children,etc...) against them with no

investigation by the police department. The alleged assaulted victim confirmed that he was not touched.

Further, the district investigation into the bogus allegation by Justin Kelly was completed before Ms. Brown saw Tracie Wilson at Ross Department Store in Spartanburg, S.C. Ms. Brown was not trying to influence a witness that lives in Gaffney that Brown saw by chance in a store in Spartanburg, S.C. on June 5, 2015. This contention does not make sense and appears to be illogical reasoning. If Ms. Brown wanted to influence Tracie Wilson she could have called Tracie Wilson by phone when she was placed on administrative leave on June 1, 2015. Further, Brown would have needed to contact Ms. Wilson immediately before police arrived to investigate Ms. Brown if she was going to attempt to undermine the investigation. I'm sure Ms. Brown expected that the police was going to be called when she was placed on administrative leave for allegedly choking a student.

Justin Kelly and all the other dishonest employees are still employed with Cherokee County School District. The respondent district has animosity toward Ms. Brown for having been reinstated by court order to their district in November 2011 and for filing several Whistleblower charges against them since her reinstatement to the district. Justin Kelly and the other dishonest employees of this district were used by this school district.

Further, the respondent district cannot maintain that a student was assaulted/touched without having the victim to confirm that he was touched/assaulted. The courts of this state must not start allowing this sort of ridiculous conduct as exhibited by this school district. If this sort of thing is allowed to go on, a teacher would be able to assert that he/she saw another teacher raping a kid with no investigation by DSS and the police department.

The respondent Board's actions in going along with all this crazy stuff from their employees prove to be arbitrary, capricious, and characterized by abuse of discretion and clearly an unwarranted exercise of discretion. Further, the respondent Board's action in this case prove to be erroneous in view

of the reliable (the victim himself said Brown did not touch him), probative, and substantial evidence on the whole record.

S.C. Code Section 1-23-380 provides that "the court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are :

- (a.) in violation of constitutional or statutory provisions;
- (b.) in excess of statutory authority of the agency;
- (c.) made upon unlawful procedure
- (d.) affected by error or law;
- (e.) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or
- (f.) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Impartiality of the Board

There were many instances of bias toward Appellant during her teacher dismissal hearing. As stated in Appellant's brief, Ms. Robin Harper imputed, conveyed, and insinuated that the alleged victim was not capable of knowing whether he was assaulted by Brown. Board Member Robin Harper revealed when she made the statement "And I want to know. Can you talk to a seven year old" that she was going to disregard Ms. Brown and Ms. Brown's witness (the alleged victim himself) on the fact that the child was not touched by Ms. Brown." Robin Harper exhibited prejudgment of the factual question to be determined at the hearing. See *Kizer v. Dorchester County Edu. Bd. of Trustees*, 287 S.C. 545, 550, 340 S.E. 2d 144, 147 (1986). Additionally, Robin Harper interjected when Attorney Smith was questioning Ms. Tracie Wilson. (R. p. pg. 371, lines 19-25). Robin Harper stated, "I think she still said she didn't know who the child was, right? (R. p. 371, lines 19-21). Next, Robin Harper said, "Yeah until they were in Ross and then she said his name in their conversation. (R. p. pg. 371, lines 23-25.). Robin Harper was biased and impartial towards Appellant. Board member Harper repeatedly interfered while appellant's counsel asked questions of witnesses. Ms. Brown was denied the opportunity to have a meaningful hearing. Bias was demonstrated by Robin Harper in words and in her actions throughout the

school board hearing. Further, preconceived bias was also shown by the Board actions. By the board failing to take the alleged victim's word and his mother's word that Brown had not touch him. This indicates that the board was bias toward Ms. Brown. Brown's constitutional rights were violated. Brown was denied the opportunity to have a meaningful and impartial hearing before the school board. Further, the district failed to have Student J at the Board Hearing because the board was not going to listen to anyone that was going to confirm the events that Ms. Brown said happened on May 28, 2015. The school Board already had preconceived notions that they were not going to believe Student J or Ms. Brown concerning what transpired on May 28, 2015.

S.C. Code Section 1-23-380 provides that "the court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are :

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- (f.) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

CONCLUSION

An order reinstating Appellant to her teaching position with Cherokee County School District should be entered by this Court. The respondent violated S.C. Code Section 1-23-380 and the Board's decision must be reversed. If reinstatement is not feasible because of the outrageous conduct exhibited by Cherokee County School District toward Appellant, Appellant requests front pay with benefits.

Further, judgment should be entered against Respondent for actual damages, including back pay, lost employment benefits, and contributions to the South Carolina Retirement System, Attorney Fees, Cost of this Action, and such other relief as the Court may deem just and proper.

February 1, 2018

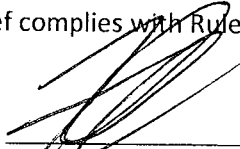
Respectfully Submitted,



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CERTIFICATE OF COUNSEL

This is to certify that Appellant's Final Reply Brief complies with Rule 211(b), SCACR.



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