

STATE OF SOUTH CAROLINA  
COUNTY OF ALLENDALE

██████████

Appellant,

vs.

Allendale County School District;

Respondent.

IN THE COURT OF COMMON PLEAS  
OF THE FOURTEENTH JUDICIAL  
CIRCUIT

C.A. No. 2018-CP-03-00102

ORDER  
**RECEIVED**

AUG 27 2018

SC Court of Appeals

INTRODUCTION

This is an appeal came before this Court from an Order of the Allendale County Schools Board of Trustees' (hereinafter "Board") decision to expel Appellant, ██████████ for 365 days.<sup>1</sup> Present at the Appeal was Attorney Kierra N. Brown on behalf of the Allendale County School District. Present on behalf of ██████████ was Attorney William K. Swope. This Court having reviewed the memorandums, pleadings, and all other arguments made by the parties, respectfully **AFFIRMS** the Allendale County School Board of Trustees' decision.

FACTUAL BACKGROUND

Appellant was enrolled at Allendale-Fairfax High School (hereinafter "High School") in Allendale County. On March 22, 2018, during a search of Appellant's car, which both parties concede was justified, school officials found two firearms. Appellant was immediately suspended from school as Respondent initiated its expulsion procedures. On April 13, 2018, the panel recommended to the Board that Appellant be expelled for 365 days. Appellant appealed this decision and requested a hearing before the County School Board. Appellant and his parents

<sup>1</sup> This appeal was argued on July 16, 2018. Present on behalf of the Appellant was William K. Swope, Esq. Kierra N. Brown, Esq. appeared on behalf of the Respondent.

appeared at both hearings *pro se*. After hearing the appeal, the Board voted to uphold the 365-day expulsion so long as Appellant was provided home-based educational services simultaneously.<sup>2</sup>

Appellant filed this appeal on May 21, 2018 and Respondent moved to dismiss this appeal for lack of subject matter jurisdiction. Respondent further argues that the Board's decision to expel Appellant was supported by substantial evidence. The parties agreed on the record of the Board's decision below consists of a Hearing Procedures and Information Form; Letter to [REDACTED]; Appellant's Disciplinary History, Grade Report, and Dates of Attendance; District Policy JICI; District Policy JKE; Hearing Outcome Form; and Officer Holmes' Incident Report.

#### STANDARD OF REVIEW

In deciding an appeal of a student's expulsion, a court must limit its decision to ascertaining whether the board's decision is supported by substantial evidence. Doe v. Richland County School District Two, 382 S.C. 656, 659 (Ct. App. 2009). Substantial evidence is evidence which, "considering the record as a whole, would allow reasonable minds to reach the conclusion that the [b]oard reached or must have reached to justify its action." Id. at 660 (quoting Kizer v. Dorchester County Vocational Education Board of Trustees, 287 S.C. 545, 548 (1986)). A court cannot substitute its judgment for the board's judgment. Doe, 382 S.C. at 659.

#### DISCUSSION

**I. This Court has subject matter jurisdiction to hear this appeal.**

Respondent asserts that this Court lacks subject matter jurisdiction to hear this matter.

Whether this Court has subject matter jurisdiction over a matter is a question of law. S.C. Code Ann. § 59-63-235 requires a student being expelled under its provisions be afforded the procedures delineated in S.C. Code Ann. § 59-63-240. "A school board's decision to expel a

---

<sup>2</sup> Appellant concedes that the Board provided timely notice, conducted a timely hearing, and provided a timely written decision of his appeal.

student from school 'may be appealed to the proper court.'" S.C. Code Ann. § 59-63-240; Doe v. Richland County School District Two, 382 S.C. 656, 659 (Ct. App. 2009).

Because Appellant has been expelled for 365 days, this Court finds that it has jurisdiction to hear this appeal and therefore, respectfully **DENIES** Respondent's motion to dismiss for lack of subject matter jurisdiction.

**II. The Board's decision to expel Appellant is supported by substantial evidence.**

Pursuant to S.C. Code Ann. § 59-63-235, a school district's governing board **must** expel a student determined to have brought a firearm to school or any setting under the jurisdiction of the board. S.C. Code Ann. § 59-63-235. (emphasis added). Accordingly, to affirm the Board's action, there must be substantial evidence in the record to support a finding that Appellant brought a firearm to school. Doe, 382 S.C. at 659.

Respondent cites Officer Holmes' incident report and Appellant's failure to deny the presence of the firearms in the car to support its position that the Board's decision was based on substantial evidence. Although Appellant concedes the location of the firearms, Appellant argues that because the Board failed to establish that he knew the firearms were in the car, intended to bring the firearms to school, or that the firearms bore his fingerprints, the Board's lacked substantial evidence to determine that he had brought a firearm to campus.<sup>3</sup>

The record below includes an incident report from Officer Holmes which the Board considered and reflects that Appellant has never disputed the location of the firearms in his car. The record also indicates that Appellant has never disputed driving the car to school. S.C. Code Ann. § 59-63-235 does not require that the Appellant had actual knowledge of the firearm in his

<sup>3</sup> Appellant also argues that because the "sentencing" letter from Dr. Wilda Robinson (not in the official record) incorrectly cited the statute number, this Board's decision should be overturned. As Appellant has failed to state that this typographical error prejudiced him, this Court finds that the error does not warrant overturning the decision.

car. This Court finds that substantial evidence exists in the record to determine that Appellant brought a firearm to the school.

Considering the record as a whole, this Court finds that the Board's determination that Appellant brought two firearms to school was supported by substantial evidence.

**IT IS SO ORDERED.**

---

The Honorable Perry J. Buckner, III  
Chief Administrative Judge, Fourteenth Judicial Circuit

July \_\_, 2018  
Walterboro, South Carolina