

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

JOHN DOE, A MINOR, Appellant,

v.

ALLENDALE COUNTY SCHOOL, Respondent.

Appellate Case No. 2018-001567

The Honorable Perry M. Buckner, III  
Allendale County  
Trial Court Case No. 2018-CP-03-00102

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**RECORD ON APPEAL**

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FEB 15 2019

SC Court of Appeals

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**INDEX**

**INDEX**..... i

**ORDER**.....1

    Order Issued by the Honorable Perry Buckner, III on July 25, 2018 .....1

**PLEADINGS** .....5

    Appellant’s Memorandum of Law ..... 6

    Allendale County School’s Answer and Return .....10

    Return submitted at the hearing on the appeal to the Circuit Court.....12

**TRANSCRIPT**.....22

Transcript of Hearing before the Honorable Perry Buckner, III on July 16, 2018 .....22-40

**OTHER DOCUMENTS**.....41

    Letter from Walter Tobin to Mr. and Mrs. Terry Hall dated June 1, 2018.....41

    Letter from Walter Tobin to Mr. and Mrs. Terry Hall dated June 1, 2018.....42

    Letter from Terry and Lynda Hall to Dr. Walter Tobin dated May 17, 2018.....43

    Letter from Dr. Wilda Robinson to Mr. and Mrs. Terry Hall dated May 10, 2018.....45

    Email from Timothy Hall to Lynda Hall dated May 11, 2018 .....46

    Email from Lynda Hall to Walter Tobin dated May 9, 2018.....47

    Allendale County School Board Meeting Agenda dated May 8, 2018.....48

    Allendale School Hearing Agenda dated May 8, 2018.....49

    Expulsion Appeal Hearing Response Form dated May 5, 2019.....50

    Letter from Dr. Robinson to Mr. and Mrs. Terry Hall dated May 4, 2018.....52

    Letter from Dr. Dr. Walter Tobin to Mr. and Mrs. Terry Hall dated May 2, 2018 .....53

    Letter from Terry and Lynda Hall to Dr. Wilda Robinson dated May 1, 2018 .....54

    Letter from Dr. Walter Tobin to Mr. and Mrs. Terry Hall dated April 25, 2018 .....55

    Letter from Mr. and Mrs. Terry Hall to Dr. Tobin dated April 23, 2018 .....56

    Letter from Mr. Patterson Moses to Ms. Hall dated April 19, 2018.....57

    Notice of Disciplinary Action dated March 27, 2018 .....58

    Incident Report dated March 22, 2018 .....59

Proof of Service .....60

Al  
76

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**

**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 Lynda Hall; 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 (Cl. 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.

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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

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**Allendale Common Pleas**

**Case Caption:** [REDACTED] VS Allendale County School District  
**Case Number:** 2018CP0300102  
**Type:** Order/Other

**It is so Ordered**  
**s/ Perry M Buckner III 2122**

Electronically signed on 2018-07-25 12:28:48 page 6 of 6

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STATE OF SOUTH CAROLINA  
 IN THE COURT OF COMMON PLEAS  
 FOR THE FOURTEENTH JUDICIAL CIRCUIT

APPEAL FROM THE ALLENDALE COUNTY SCHOOL BOARD

[REDACTED] .....Appellant

Versus

ALLENDALE COUNTY SCHOOL BOARD.....Respondent

APPELLANT'S MEMORANDUM OF LAW

FACTS

This matter arises from a disciplinary proceeding before the Allendale County School Board, wherein the Appellant was accused of bringing a firearm to school in violation of S.C. Code Section 59-63-235. It is undisputed that two (2) firearms were located in the trunk of Appellant's Father's automobile in the student parking lot during a campus-wide search for firearms, which was justified because of a shooting at or near the school the prior day. The two (2) firearms were properly registered as the property of Appellant's Father. Appellant's Father is a member of the Board of Trustees of Respondent, and a federal law enforcement officer. He did recuse himself from the Board's decision. Dr. Walter Tobin was the Interim Superintendent of the Allendale County Schools. Now, it is Dr. Margaret Gilmore, as of July 1, 2018. No witness statement from the student was admitted to the hearing, nor did the investigating officer even attempt to obtain a statement. There was a confidential consultation between the attorney and the Chairman of the Board during the hearing.

PROCEDURAL HISTORY

Pursuant to Title 63, Chapter 59, the Board provided timely notice, conducted a timely hearing and provided a timely written decision from which this appeal follows.

ARGUMENT

The Board's letter dated May 10, 2018 incorrectly references the applicable statute upon which the suspension was based cites a non-existent statute 63-59-23. In fairness it does correctly recite the statutory language in the heading of 63-59-235. However, it is a "sentencing" document, and the punishment imposed is not allowed under 63-59-23. On this basis, Appellant moves this Honorable

7 7 7

Court to overturn the Board's proposed punishment for lack of a statutory basis. No amendment of the Board's decision has been forthcoming.

Next, and of more moment, the Board hearing failed to establish that [REDACTED] knew the guns were in the car, intended to bring the guns to school or that the guns even bore his fingerprints. In *Byrd v. Irmo High School*, 321 S.C. 426, 468 S.E. 2d 861 (S.C. 1995), the Supreme Court held S.C. Code Section 59-63-240 "...expelled students have at the hearing ... "the right to legal counsel) and to all other regular legal rights.... Moreover, the student has the additional right to appeal the action of the board to "the proper court". *Byrd*, at 433, 865. At issue here first is the sufficiency of the evidence presented at the hearing. Title 59, Chapter 63, Article 3 is entitled "Discipline", and is therefore a penal statute, as it imposes punishment via an abridgement of a student/citizen's right to attend the high school of his home area. This is a significant right protected by the Fifth and Fourteenth Amendments to the United States Constitution and the Equal Protection Clause. No evidence was presented that [REDACTED] even knew his Father's guns were in the trunk of his Father's car when he drove the car to school. No evidence was presented to establish [REDACTED] ever touched his Father's guns, much less that he did so on school property. Appellant believes these evidentiary omissions are fatal to the Board's determination.

A crime requires *mens rea* or criminal intent. Our state's appellate courts have addressed this issue extensively in *State v. King*, 412 S.C. 403, 772 S.E.2d 189 ( S.C. Ct. App. 2015); reh'g denied, cert. granted and *State v. King* (S.C. 2017). Therein, the relevant issue to this matter was the Court of Appeals determination that "charging a jury that a specific intent to kill is not an element of attempted murder" required reversal of King's conviction for attempted murder". *King*, at 405, 190. The Court of Appeals wrestled with what level of intent the Legislature meant to require the State to prove because the word "intent" can mean anything from purpose to negligence". *King*, at 408, 192; see *State v. Jeffries*, 316 S.C. 13, 18, 446 S.E.2d 427, 430 (1994) ("The required [intent] for a particular crime can be classified into a hierarchy of culpable states of mind in descending order of culpability, as purpose, knowledge, recklessness and negligence."). *King*, at 408, 192.

This discussion is particularly instructive in the instant matter, as here the factual basis to support even mere negligence is absent. To hold otherwise is to reach the tortured conclusion that it is "criminally negligent" to drive a family member's car without conducting an inventory of its contents.

Clearly, the scope of review is at least as set forth in *Doe v. Richland County School District Two*, 382 S.C. 656, 677 S.E.2d 610 (S.C. Ct. App. 2009), wherein the circuit on appeal overturned the Board's expulsion decision. "Judicial review of the school board's decision is limited to ascertaining whether the board's decision is supported by substantial evidence." *Doe*, at 656, 611. "Substantial evidence is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the Board reached or must have reached in order to justify its action." *Doe*, at 656, 612; *Kizer v. Dorchester County Vocational Educ. Bd. of Trs.*, 287 S.C. 545, 548, 340 S.E.2d 144, 145 (S.C. 1986).

7 7 7

The record as a whole must include that the Board in dealing with another student at the same high school in the same time frame has allowed that student to be eligible to enroll in school in August 2018, despite having called in bomb threats to the school on four (4) consecutive days. The sheer incongruity of consequences for the alleged offenses is sublime.

The "record as a whole" must also include that [REDACTED] is an "A"/"B" student with no prior disciplinary issues. He is attending year three (3) of a three (3) year summer academic program at Clemson University while this appeal progresses. He wants to spend his senior year in his high school. He needs but one class to graduate.

Next, Appellant contends this "confidential consultation" between the Chairman of the Board and the Board's counsel during the hearing violated S.C. Code Section 59-63-240, as such consultation was a meeting concerning the matter at issue not including the student, his parents or his legal counsel.

This brings us to the final sentence in Section 63-59-235, which reads: "each local board of Trustees is to establish a policy which requires the student to be referred to the local county office of the Department of Juvenile Justice or its representative". Here, no policy has been promulgated by the Board.

Last, Appellant contends that the "protections" allegedly provided in S.C. Code Section 63-59-235 "the one year expulsion is subject to modification by the district superintendent of education on a case by case basis" are illusory in this circumstance. First, there is only an "Interim" superintendent, not an established elected or appointed official who can rely on his public reputation to insulate him from making tough controversial decisions. Next, there is the issue of the Appellant's Father being a Trustee.

This creates a political conundrum, as the Interim superintendent is caught in the box of: (a) if I go easy on the student, it appears the fix is in for a Trustee's child or (b) if I go more harsh, I am unduly punishing the student for being related to a Trustee. This inherent conflict cannot be remedied without the Court substituting its judgment for the superintendent or having some other reasonable method of appeal. Thus, the statute may well be unconstitutional on due process and/or equal protection grounds.

**CONCLUSION**

Based on the foregoing, this Honorable Court is compelled to reverse the Board's decision for lack of evidence, which authority this Honorable Court has. Alternatively, the Board's written notice fails to denote a statutory basis for its decision. The Board hearing was interrupted by a "confidential consultation" between the Chairman and the Board's counsel. Last, but not least, the statute as written may be quite appropriate in a more populous county setting, but denies due process and/or equal protection in a rural county like Allendale without a superintendent.

Respectfully submitted,

Swope Law Firm, P.A.

*s/ William K. Swope*

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July 13, 2018

STATE OF SOUTH CAROLINA  
COUNTY OF ALLENDALE



Plaintiff,

vs.

Allendale County Schools,

Defendant.

IN THE COURT OF COMMON PLEAS  
OF THE FOURTEENTH JUDICIAL  
CIRCUIT

C.A. No. 2018-CP-03019-02

ANSWER AND RETURN

ELAINE SABB  
CLERK OF COURT  
ALLENDALE COUNTY, S.C.

2018 JUN 28 AM 10:32

FILED FOR RECORD

Respondent, Allendale County Schools, responding to the appeal of the Appellant, will respectfully show unto this Court:

1. This Court has no jurisdiction to hear this case as the student has not been barred from receiving educational services.
2. Respondent's decision in this matter is supported by substantial evidence.
3. Respondent's decision in this matter was made in accordance with the requirements of S.C. Code Ann. § 59-63-235.

WHEREFORE, Respondent, having fully answered the appeal of the Appellant, prays that this action be dismissed with costs.

Respectfully submitted:

BOYKIN & DAVIS, LLC

By: Kierra Brown

Charles J. Boykin  
Kierra N. Brown

P.O. Box 11844  
Columbia, South Carolina 29211  
Telephone: 803-254-0707  
Facsimile: 803-254-5609

Attorneys for Allendale County Schools  
Board of Trustees

June 26, 2018  
Columbia, SC

STATE OF SOUTH CAROLINA

COUNTY OF ALLENDALE



Plaintiffs,

vs.

Allendale County Schools,

Defendants.

IN THE COURT OF COMMON PLEAS OF  
THE FOURTEENTH JUDICIAL CIRCUIT

C.A. No.: 2018-CP-030-0102

CERTIFICATE OF SERVICE

The undersigned of Boykin & Davis, LLC, hereby certifies that she has served the following counsels of record with the foregoing ANSWER AND RETURN, by mailing a copy of same, postage prepaid and return address clearly indicated, to the following on this 26th day of June 2018:

Mr. W. Tracy Brown, Esq.  
The Brown Law Firm  
110 N. Main Street  
Summerville, SC 29483

Kiara L. Lewis, Paralegal

ELAINE SABB  
CLERK OF COURT  
ALLENDALE COUNTY, S.C.

2018 JUN 28 AM 10:32

FILED FOR RECORD

# Allendale County Schools

P.O. Box 458

Allendale, South Carolina

Call 2L  
28 MAR 18  
11:22  
Lift msg.

9:00 Am  
Hearing

## Hearing Procedure and Information form

Please fill out and check off the procedures that you have completed then sign and date. Send this form along with all other information to the Superintendent or the District Hearing officer no later than 72 hours before the hearing.

School name: Allendale Fairfax High School

5-4-2018

### 1. Complete the following information:

- a) Student's name \_\_\_\_\_
- b) Student's mailing address 405 Darlington Ave  
Fairfax, SC 29827
- c) Student's telephone number 803-671-0461
- d) Student's D.O.B. 3/6/01
- e) Student's School AFHS
- f) Student's Offense Having a Handgun
- g) Has this student: (yes or no)

Hand Delivered  
by Ms. Prayle

- Ever been expelled \_\_\_\_\_
- Ever appeared before the hearing officer \_\_\_\_\_
- Ever appeared before the School Board \_\_\_\_\_
- Ever been placed on District probation \_\_\_\_\_

### 2. Parent information:

- a) Parent/Guardian's name Lynda Hall
- b) Parent/Guardian's address 405 Darlington Ave  
Fairfax, SC 29827
- c) Date of conference with parent/guardian concerning your recommendation \_\_\_\_\_

3. Crime Charges filed \_\_\_\_\_ If so what \_\_\_\_\_

4. Is this student a special needs student? \_\_\_\_\_

5. Folder prepared and sent to the Superintendent or Hearing Officer at least 72 hours before the scheduled hearing with the following items:

- a) Copy of the letter sent to the parents
- b) Discipline Printout
- c) Attendance Printout
- d) Grade Printout
- e) Evidence (gun, knife, and etc.) \_\_\_\_\_
- f) Signed statement from witness not able to testify \_\_\_\_\_
- g) Law enforcement report \_\_\_\_\_

Principal name: \_\_\_\_\_

Principal Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Administrator unofficial recommendations: \_\_\_\_\_

Please ensure that the parent/guardian's mailing address is accurate

August 2015

Allendale-Fairfax High School  
3581 Allendale-Fairfax Hwy.  
Fairfax, SC 29827  
803-584-2311

Received 3/1/2018  
5-4-2018

Hall, Lynda  
405 Darlington Avenue  
Fairfax, SC 29827  
(803) 671-0461

Because of [REDACTED] behavior, he/she is being referred to the Hearing Officer. The reason(s) for the recommendation are as follows: [REDACTED] has been charged with having a handgun.

A hearing will be scheduled for [REDACTED] before the Hearing Officer of the Allendale County School District which is located at the Allendale County Learning Center. You will be notified of the date and time of the hearing. At the hearing you will have the right to legal counsel and to all other legal including the right to question witnesses. You will be notified of the decisions of the Hearing Officer within the ten (10) days of the hearing.

If you have any questions regarding the hearing you may call the school at (803) 584-2311.

Educationally yours,

Darlene Hall  
Principal

Pc: Superintendent  
Hearing Office  
Student File

3/27/2018

Incidents

received [Signature] 6-11-2018

Incidents

Handguns

Mar 22, 2018

Kalu Kalu: The student was caught on campus with two hand guns. The guns were loaded and in his vehicle. The police department took over the matter and apprehended the student.

10-Day Referral-Hearing Officer: Parent was called on 3/27 to notify them of the incidents and evidence from the situation on Thursday. The parent stated that they have already been contacted and notified of the 10-day suspension. I spoke to the mother and notified them that the paperwork was available at the front desk.

Drug Possession

Feb 22, 2018

Kalu Kalu: The student was caught on campus with an illegal substance. The narcotics were found in his vehicle. The police department took over the matter and apprehended the student.

Susp-Concurrent

Skipping

Dec 11, 2017

Kalu Kalu: Students left campus without permission.

1-Day Susp-Out of Sch(No Serv Provided): The student was seen leaving school during the school day. The student stated he was leaving to pick up his mac book. The student also stayed home on Tuesday without being suspended or speaking to an administrator. Parent was called and was not able to reach a parent. The student was reminded that he cannot return without a parent conference.

Never informed

Parking Violations

Dec 1, 2017

Coby Brandyburg: Student was reported by Sgt. Tyler to be doing doughnuts in his car in the student parking lot.

Conf-Student: Spoke with student about the incident that was witnessed. Student was allowed to explain what occurred. Student was informed that he would have suspended driving privileges if there were any future infractions.

Parents never informed. no video proof.

**REPORT CARD  
2017-2018**

**Allendale-Palmetto High School  
3521 Allendale-Palmetto Hwy.  
Palmetto, SC 29827**

**Homeroom Teacher: Sahu, Branka Nanda**

Course	Teacher	Q1	Q2	EX1	S1	Q3	Q4	EX2	S2	YR	Comments	ABS
Chemistry 2	Sahu, Branka Nanda					85	84		85	85		0
Spanish 2	Thomas, Sophia					81	100		82	81		0
English 4	Fries, Lisa					82	82		83	83		0
Personal Finance	Furmer, Rhonda					83	80		82	82		0

Parent Signature \_\_\_\_\_

Allendale Forward!

Grade Scale

- 90-100 A - Outstanding
- 80-89 B - Above Average
- 70-79 C - Average
- 60-69 D - Lower Acceptable
- 0-59 F - Failing

**Allendale County Schools**  
**P.O. Box 458, Allendale, S.C. 29810**  
 Student Report Card

3/27/2018

Received  
5-4-2018  
*[Signature]*

Dates of Attendance

School: Allendale-Fairfax High School Term: 17-18 Semester 2

### Dates of Attendance

AFHS

Dates of all absences for S2:

**Chemistry 2** - Exp. 1B(A) (323200CW.1)

- 1. 02/02/2018 - SC-UNEX = UN-Excused
- 2. 03/20/2018 - SC-UNEX
- 3. 03/23/2018 - SC-OSS = - Out of School Suspension
- 4. 03/26/2018 - SC-OSS
- 5. 03/27/2018 - SC-OSS
- 6. 03/28/2018 - SC-OSS
- 7. 03/29/2018 - SC-OSS
- 8. 03/30/2018 - SC-OSS

**Spanish 2** - Exp. 2B(A) (365200CW.11)

- 1. 03/23/2018 - SC-OSS
- 2. 03/26/2018 - SC-OSS
- 3. 03/27/2018 - SC-OSS
- 4. 03/28/2018 - SC-OSS
- 5. 03/29/2018 - SC-OSS
- 6. 03/30/2018 - SC-OSS

**English 4** - Exp. 3B(A) (302700CW.10)

- 1. 02/02/2018 - SC-UNEX
- 2. 03/22/2018 - SC-UNEX
- 3. 03/23/2018 - SC-OSS
- 4. 03/26/2018 - SC-OSS
- 5. 03/27/2018 - SC-OSS
- 6. 03/28/2018 - SC-OSS
- 7. 03/29/2018 - SC-OSS
- 8. 03/30/2018 - SC-OSS

**Personal Finance** - Exp. 4B(A) (513100CW.8)

- 1. 03/23/2018 - SC-OSS
- 2. 03/26/2018 - SC-OSS
- 3. 03/27/2018 - SC-OSS
- 4. 03/28/2018 - SC-OSS
- 5. 03/29/2018 - SC-OSS
- 6. 03/30/2018 - SC-OSS

**ACS**  
**Policy JICI Weapons in School**

Issued 11/07

**Purpose:** To establish the basic structure for the board's prohibition of student possession of weapons.

It is the policy of the board of education to ensure the safety and welfare of its students and employees. The presence of firearms, knives with a blade length of over two inches, dirk, razor, metal knuckles, slingshot, bludgeon or any other deadly instrument used for the infliction of bodily harm or death on school district property poses a severe threat of serious harm or injury to students and staff.

While on school grounds, in school buildings, on buses or at school-related functions, students will not possess any item capable of inflicting injury or harm (hereinafter referred to as a weapon) to persons or property when that item is not used in relation to a normal school activity at a scheduled time for the student. No vehicles parked on school property may contain firearms, knives, blackjacks or other items which are generally considered to be weapons.

**Level of offense**

It is a felony offense, punishable by a fine of \$1,000 or imprisonment for five years, or both, to carry a weapon as referenced above on school property.

It is a misdemeanor offense, punishable by a fine of up to \$500 or imprisonment for up to 90 days, to carry a concealed dirk, slingshot, metal knuckles, razor or other deadly weapon.

**Weapons (firearms)**

**NOTE:** The following is directed specifically by the Gun-Free Schools Act 20 U.S.C. 7151.

The board will expel any student who brings a weapon to school. For purposes of this policy, weapon means a firearm. The term firearm is defined extensively in the U. S. Code, but generally means a weapon (gun) or destructive device (explosive, incendiary).

The period of expulsion will be no less than one year.

The board directs the superintendent to bring recommendations for expulsion consistent with this policy except that the superintendent, on a case-by-case basis, may modify this expulsion requirement.

The district will not provide educational services in an alternative setting to students expelled under this policy.

The district will refer each expelled student to the local county office of the Department of Juvenile Justice.

Adopted 7/1/01; Revised 11/26/07

**Legal references:**

**United States Code:**

20 U.S.C. 7151 - Gun-Free Schools.

**U.S. Supreme Court Cases:**

New Jersey v. T.L.O., 469 U.S. 325 (1985.)

**S.C. Code, 1976, as amended:**

Section 59-63-235 - Expulsion of student determined to have brought firearm to school.

Section 59-19-90(3), (5) - General powers and duties of trustees.

Section 59-63-370 - Definition of a weapon.

Section 16-23-430 - Carrying weapons on school property

## Allendale County Schools

ALLENDALE COUNTY SCHOOLS \ J - STUDENTS \

### Policy JKE Expulsion of Students

Issued 7/01

**Purpose:** To establish the board's vision for the expulsion of students.

According to state law, the board may suspend a student from school for commission of any crime, gross immorality, gross misbehavior, persistent disobedience or for violation of written rules and regulations established by the district board of trustees, a county board or the state board of education. The board may also suspend a student when the presence of the student is detrimental to the best interest of the school.

**The board has conferred to the individual school principal, or his/her designee, and the superintendent, or his/her designee, authority to impose student discipline up to and including student expulsion; However, in all cases when a student is recommended for expulsion, for permanent expulsion or for suspension which would result in the loss of credit for the school year, the board or its designee will decide these matters.**

During suspension or expulsion, a student will not come on to the school grounds of any of the district's schools, not attend school activities, functions or events on or off school grounds unless the off grounds event is open to the public or not board school buses without prior written approval from the principal or his/her designee. If this student enters any school ground, rides through a school ground, enters a school building or attempts to ride on a school bus of this district during the period of suspension, except for a prearranged conference with an administrator, this student will be subject to further disciplinary action.

The format of the correspondence regarding suspension information must conform to the sample(s) herein attached.

#### Student expulsion

The following procedures will apply to the expulsion of students.

- Before a student who is classified as disabled for purposes of IDEA may be expelled, a multi-disciplinary team will confer before initiating expulsion procedures to assure compliance with all state and federal requirements. Students with disabilities who are served under IDEA and who are expelled will continue to receive a free and appropriate public education as set forth in their Individualized Education Program (IEP).
- The superintendent or his/her designee will notify the parent of the student of the time and place of a hearing before the board or its designee.
- At the hearing, the parent will have the right to legal counsel and to all other regular legal rights, including the right to question all witnesses.

- The hearing will take place within 15 days of the written notification of the time and place of the hearing. A decision will be rendered within 10 days of the hearing.
- The student will be suspended from school and all school activities during the time of expulsion procedures, except for scheduled conferences.
- If the recommendation for expulsion is upheld, the student is expelled from school for the balance of the school year.
- Appropriate faculty and administrator(s) are informed of the board's decision.

Should the board reject an administrative recommendation for suspension or expulsion or should a court of final disposition reverse the suspension or expulsion action, the board will excuse all student absences resulting from said action and the student will be allowed to make up all missed work.

Students who are expelled for the remainder of the entire school year may submit a written request to the superintendent for readmission. The request must specify the reasons why the student should be allowed to return and must be submitted at least 30 days prior to the start of the school year. On a case by case basis, the administration may condition re-enrollment on the student's attendance or participation in a behavior program approved by the district.

#### Permanent expulsion

Students who are incorrigible, including those who commit a single serious crime, or who are expelled during two successive school years, may be recommended for permanent expulsion. Only the board or its designee will have the authority to permanently expel a student. In all cases of permanent expulsion, the student may make a written request to the board for readmission. If the request is denied by the board, the student may submit another written request at least 30 days prior to the following school year.

#### Weapons

See policy JIC1 for expulsion relating specifically to weapons (firearms)..

Adopted 7/1/01

#### Legal references:

United States Code:

20 U.S.C. 7151 - Gun-Free Schools.

S.C. Code, 1976, as amended:

Section 59-19-90(3) - Gives district trustees authority to prescribe rules of student conduct, including provisions for suspension or dismissal of those failing to comply with such rules.

Section 59-63-210 - Grounds for suspension, expulsion or transfer

Section 59-63-235 - District must expel student.

Section 59-63-240 - Expulsion hearings - times, procedures, legal rights appeals. Allendale County Schools

Received  
5-4-2018  
J. Johnson

Allendale COUNTY SCHOOLS

P. O. BOX 458, ALLENDALE, SOUTH CAROLINA 29810

# Hearing Outcome

Date: April 13 2018

STUDENT NAME	AGE	GRADE	SCHOOL
[REDACTED]	<u>17</u>	<u>11</u>	<u>AFTS</u>

### CHARGES

possession of firearms at AFTS

### OUTCOME

Guilty

### DISPOSITION

Expelled from school for 365 calendar days

### PANEL MEMBERS: (If Applicable)

<u>Dr. McClough</u>	<u>-</u>	<u>FEs</u>
<u>MR. Grant</u>	<u>-</u>	<u>AFTS</u>
<u>MR. Hayes</u>	<u>-</u>	<u>Behaviorist</u>

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
 COUNTY OF ALLENDALE ) CASE NO.: 2018-CP-03-00102

JOHN DOE, )  
 )  
 APPELLANT, )  
 )  
 v. ) TRANSCRIPT OF RECORD  
 )  
 ALLENDALE COUNTY SCHOOL DISTRICT, )  
 )  
 DEFENDANT. )

JULY 16, 2018  
 COMMENCING AT  
 ALLENDALE COUNTY COURTHOUSE  
 ALLENDALE, SOUTH CAROLINA  
 BEFORE THE HONORABLE PERRY M. BUCKNER

APPEARANCES:

MR. WILLIAM SWOPE, ESQUIRE  
 1525 SAM RITTENBERG BLVD., SUITE 208  
 CHARLESTON, SOUTH CAROLINA 29407  
 Attorney for the Appellant

MS. KIERRA BROWN, ESQUIRE  
 BOYKIN AND DAVIS, LLC  
 220 STONERIDGE DRIVE  
 COLUMBIA, SOUTH CAROLINA 29210  
 Attorney for the Respondent

Rebecca H. Hill  
 Official Court Reporter

INDEX

HEARING . . . . . 3

CERTIFICATE OF REPORTER . . . . . 19

EXHIBITS

NONE.

THE COURT: Mr. Swope, you handed my court reporter, Becky Hill, 11 pages of documents, which begin with the hearing procedure and information form for Allendale County Schools, along with a letter to Linda Hall and Darlene Hall, notes that are dated 3-27-2018 referring to incidence, the report card of [REDACTED], dates of attendance for [REDACTED] [REDACTED] Allendale County School's policy on weapons in school, which apparently is 2 pages in length, Allendale County's Expulsion of Students Policy, which is 2 pages in length, Allendale County's hearing outcome dated April 13th, 2018, and identifying which panel members were present and disposition. Finally, an incident report of the Allendale Sheriff's Department prepared by Samuel Holmes concerning this incident.

Now, I ask first of all, counsel, Becky has all 11 pages, do you agree on behalf of the Appellant, Mr. Swope, that that constitutes the entire record?

MR. SWOPE: That constitutes the record of the hearing.

THE COURT: Do you agree, Ms. Brown, that what I've just stated that constitutes the entire record for me hearing this appeal?

MS. BROWN: Yes, Your Honor.

THE COURT: Very well. Mr. Swope, you're the Appellant, how long do you need to argue?

MR. SWOPE: Ten minutes, Your Honor.

THE COURT: Come to the microphone, bring your file, speak up. Happy to hear from you. I've read your appeal. I've read Section 59-63-235, although you argue as if it's a criminal case, you and I both know that possession of contraband requires a knowing of possession. Here, Section 59-63-235 simply says the District Court must expel for no less than one year a student who is determined to have brought a firearm to a school or any session or setting under the jurisdiction of a local board of trustees.

Your appeal dealt with matters -- and I agree with you, one of the letters -- I don't even know if you made it a part of the record -- you didn't. There was a letter that you stipulated to by Wilma Robinson, chairperson, dated May 10th, 2018, to Mr. and Mrs. Terry and Linda Hall, and it cites that Section 59-63-23 -- there is no such section in the South Carolina Code. The appropriate section is 59-63-235 and that was one of your grounds in your appeal.

You also argued as if it were a criminal violation since you argued they didn't fingerprint [REDACTED], and you argued criminal cases, State v. King, which was a criminal case, which you said our courts have addressed this issue, but it had nothing to do with an expulsion of a student who brought a weapon to school. It has everything to do with whether or not the student was charged. I believe you stipulated that the defendant was not charged with

possession of contraband, because I would certainly feel that it were a different situation if I had that before me.

In other words, your whole argument for this appeal was based on the fact that [REDACTED] didn't know the guns were in the car, but knowledge is not a requirement under Section 59-63-235. You can dispense with the argument of knowledge. I certainly understand it. I'm sympathetic to it, but it has nothing to do with what our legislature put in the statute. You know that, Mr. Swope, even though you tried to equate it to criminal. I understand the father was not charged criminally either, was he?

MR. SWOPE: No, Your Honor.

THE COURT: All right. So there was no criminal action brought against dad. The only action taken in this case was against the son who drove dad's car to school and it had two weapons in the trunk when he was required to open the trunk; is that correct?

MR. SWOPE: That is correct, Your Honor.

THE COURT: All right. Mr. Swope, I'm happy to hear from you.

MR. SWOPE: All right. Your Honor, under Section 240, which is the subsequent section ---

THE COURT: All right. I don't have that in front of me.

MR. SWOPE: I handed you my copy, Your Honor. It's

right behind what I handed you.

THE COURT: All right. You did hand it to the Court. Give me a minute to look at it.

(Brief pause.)

THE COURT: All right. I've read it. Happy to hear from you, Mr. Swope.

MR. SWOPE: Your Honor, I cited in my brief, or my memorandum that I handed up, the --- 59-63-240 sets forth at the hearing, the parents or legal guardian, shall have the right to legal counsel and to all other regular legal rights, including the right to question all of the witnesses. "All the other legal rights", Your Honor, is what I believe makes the jump from the Statute 235 over to 240, using a criminal law standard. That's the basis for why I argue that, Your Honor.

THE COURT: I don't know that there are any cases that says "All legal rights" acquaint this to a criminal violation, Mr. Swope.

MR. SWOPE: Well, it's a penal statute because it does impair a substantial likeness to the citizen.

THE COURT: It doesn't impair his liberty, but of course, here, I'm being told that [REDACTED] was offered an educational opportunity in an alternative form and not complete expulsion from any educational opportunity during his expulsion, at least that is what your appeal says and

the record reflects.

MR. SWOPE: No, we would concede that, Your Honor; that's true. He was offered, and he declined, to go to USC Salkehatchie.

THE COURT: I understand that argument, but there is no case law to support that.

MR. SWOPE: And I agree, Your Honor. I'm not sure that there is case law in South Carolina. Coming from the expulsion statute, I'm not sure this isn't something that may go up. I don't know if this is the case, but Mr. Brown who initially filed the appeal has one very similar to this in Charleston County, which is how we wound up with this case. This seems to be an issue that is coming up more and more, Your Honor.

THE COURT: Would you agree that the State Legislature passed a statute in 1995, 235? I don't know about 240 -- 240 pre-dates and deals with the expulsion procedure and it's been around -- it appears it's been around -- it was previously in the old 1962 code.

MR. SWOPE: That is correct, Your Honor, but I don't think the statute -- even though they were passed the way they were passed, the Court has to take the statutes the way they were written, and quite honestly, the Article III, Title 59, Chapter 63, Article 3, which these statutes are under are entitled "Discipline." That's what the article is

entitled, and so, Your Honor, I think we're drawing fine hairs of distinction between whether it's a penal statute or whether it's a civil statute, and the effect on my client, and I'm trying to look at those cases, Your Honor. When you put in expulsion, you really don't come up with anything that is on point. It's just dirt case law, Your Honor. You have the ability to determine if the school board lacked substantial evidence to find what they found.

THE COURT: So you believe my standard is substantial evidence?

MR. SWOPE: I do, Your Honor. If you look at the case of Kizer v. Dorchester County Vocational ---

THE COURT: Becky, he is referring to 340 SE 2d, 144, Kizer v. Dorchester County Vocational and Educational Board of Trustees. What does it say, Mr. Swope?

MR. SWOPE: It's part of this, too, Doe v. Richland County School District II, 677 SE 2d, 610. It's a 2009 Court of Appeals decision, and it says, "The scope of review set forth in Doe v. Richland County School District II where it's talking about the Court of Appeals overturned the Board's expulsion decision. Judicial review of the School Board's decision was limited to ascertain whether the evidence," -- I'm sorry, "whether the Board's decision was supported by substantial evidence." That's Doe at 656, and 611, and substantial evidence is evidence when considering

the record as a whole would allow reasonable minds to reach the conclusion that the Board reached or must have reached in order to justify this action."

THE COURT: Becky, he has cited the Doe v. Richland County School District II, that's at 677, SE 2d, 610.

That's a Court of Appeals case from 2009. He cites it for the fact that Judicial Review of the School Board's decision is limited to ascertaining whether the court's decision is supported by substantial evidence. So you believe in light of the Doe case and the Kizer case that my review is substantial evidence?

MR. SWOPE: Correct, Your Honor.

THE COURT: All right. Anything else you want to tell me, Mr. Swope, or does that cover it?

MR. SWOPE: That covers it, Your Honor. That and 240.

THE COURT: Thank you very much. All right, Ms. Brown, you are up. He asked for 10 minutes so I'm going to give you equal amount of time.

MS. BROWN: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, ma'am. Speak up for me.

MS. BROWN: Yes, Your Honor. This Court should grant Allendale County School District's motion to dismiss because this Court does not have subject matter jurisdiction sufficient to hear ---

THE COURT: Why do I not have jurisdiction to hear this, Ms. Brown? Slow down, now. I want you to talk to me; don't read it to me.

MS. BROWN: Yes, sir. The Appellant continues to be enrolled in Allendale County Schools. Even though he was determined to have brought a firearm to the school campus, as explained, [REDACTED] had also been afforded the minimum due process rights to submit ---

THE COURT: You argued in your Return, or your Answer, that the reason I don't have jurisdiction, and that's my question, is because the defendant has not been barred from receiving educational services. What authority do you have in support of the position that that takes jurisdiction away from our Circuit Court on appeal because he is still receiving educational services?

MS. BROWN: Yes, Your Honor. Well, we believe that because he is still receiving educational ---

THE COURT: Do you have any case law?

MS. BROWN: Yes, Your Honor.

THE COURT: What is it? You didn't cite it in your Return.

MS. BROWN: No, Your Honor. The case law is going to be Byrd v. Irmo High School where the Court found that it did not have ---

THE COURT: What's the site on the case?

MS. BROWN: 321, SC 426.

THE COURT: Do you have a copy for the Court?

MS. BROWN: Yes, Your Honor.

THE COURT: All right. She has handed me two copies and I want to make sure you have them, Mr. Swope. She's handed me Davis v. School District of Greenville County. That's at 647 SE 2d, 219. She also handed me Byrd v. Irmo High School. That's found at 468 S.E. 2d, 861. Let me have a moment to look at them. (Brief pause.)

THE COURT: Ms. Brown, in the Davis case, it says although the expulsion provision which Mr. Swope argued to me, 240, expressly granted the right to appeal to a proper court, no such language existed in the provision that provided for the transfer in lieu of the suspension or expulsion. That case does not involve a student's initial temporary suspension; and are you telling me that Mr. Hall was transferred to another school?

MS. BROWN: We believe that the tactical effect of the disposition of his expulsion ended up being a suspension or a transfer in school in lieu of expulsion because he continues to be educated by ---

THE COURT: Hold on a second, Ms. Brown, the record you gave me says that the hearing outcome is expelled from school for 365 calendar days.

MS. BROWN: Yes, Your Honor.

THE COURT: There is no mention, though, in the record that you stipulated to that this was a transfer.

MS. BROWN: Yes, Your Honor. Honestly, I feel the language being used is an argument of semantics, because at the end of the day, [REDACTED] is still receiving educational services, just on a home based -- on a home based system. So he hasn't been denied and he can graduate on time and participate in dual credit courses at the local USC campus.

Therefore, it's not really expulsionary. If you look at statute 59-63-235, it does allow for the board to provide educational services in an alternative environment. The board felt in this matter that the best case scenario considering his accomplishments, considering the circumstances of his grades and his prior discipline, what it may do to his being offered alternative school, due to the statute of requirement but to maintain his education, so we do not feel like he was denied an education, and therefore, we don't think the Circuit Court has jurisdiction.

THE COURT: Because you offered him alternative school, you think this constitutes a transfer within the means of the Davis case? Is that what you're telling me?

MS. BROWN: Yes, Your Honor.

THE COURT: All right. Go ahead. I think I understand that argument. I'm not sure I agree with that, Ms. Brown,

but I understand the argument. You want to try and convince me this is a criminal case. You're both pretty creative, but so far we are bound by Section 235. But go ahead.

MS. BROWN: To the extent that ---

THE COURT: The first part you argue I don't have the power to hear this case because the student has not been barred from receiving educational services, because he has been offered alternative school, even though the decision was expulsion for one year.

MS. BROWN: Yes, Your Honor

THE COURT: All right. Go ahead. Anything else as to why I should affirm this decision?

MS. BROWN: To the extent that this Court does find jurisdiction, we believe that the Board's decision to expel [REDACTED] was based on substantial evidence as you can see from the incident report which shows that ---

THE COURT: You agree then with Mr. Swope that this Court should review for purposes -- assuming without conceding that I have jurisdiction to hear this matter, you agree that this Court's scope of review is substantial evidence, do you not?

MR. BROWN: Yes, Your Honor.

THE COURT: So that's the only thing that you and Mr. Swope seem to agree on for purposes of this appeal?

MS. BROWN: Yes, Your Honor

THE COURT: And you believe that the Allendale County School Board's decision is supported by substantial evidence? Tell me in light of this record that you've given me why I can find substantial evidence in that record.

MS. BROWN: Yes, Your Honor. The first thing is that there is an incident report from the police on site that they found two guns ---

THE COURT: You are referring to the last page of the record, which I cited, which is Samuel Holmes of the Allendale County Sheriff's Department incident report, which is dated March 22nd, 2018?

MS. BROWN: Yes, Your Honor.

THE COURT: And what about that incident report?

MS. BROWN: That incident report clearly states that two guns were found in the trunk of the car that [REDACTED] drove to school that morning. Also, the Appellant has never denied that the guns were in his car when he drove it to school. He never made that argument that he did not bring those guns to school. Therefore, he also never presented any evidence to the Board to the contrary that he did not bring those guns to the school because that fact is clear and established that [REDACTED] brought two guns to school on March 22nd, 2018, and therefore, the Board's decision is supported by substantial evidence.

THE COURT: What this document says is -- and I'll use

the term, because if we say [REDACTED], that could be confusing. As I understand, that could refer to the father as well as the son. But it says on March 22nd, 2018, the Allendale County Sheriff's Department conducted a search at Fairfax Middle High School inside the high school searching for contraband.

The reason the deputies were outside in the student parking lot is they had asked the administrator to make an announcement on the P.A. system asking that all students who were driving a vehicle, to step outside and unlock the vehicle that they were driving so that they could be searched for contraband. That [REDACTED] was driving a black Ford Mustang and it gives the tag number, NDF120, that had in a Paul George shoebox it was located in the trunk along with two weapons, a 9mm black in color with serial number and a 22 pistol along with serial number and a bag of green leafy substance that appeared to be marijuana. Now, is that the document you are referring to that provides substantial evidence?

MS. BROWN: Yes, Your Honor.

THE COURT: And the reason you think it provides substantial evidence is because 235 says a student who is determined to have brought a firearm to school. It doesn't say knowingly ---

MS. BROWN: Yes, Your Honor.

THE COURT: --- as the criminal statute does. It just says a student who is determined to have brought a firearm to school. Is that your argument on substantial evidence?

MS. BROWN: Yes, Your Honor.

THE COURT: All right. Anything else you want to tell me?

MS. BROWN: I want to also say that that's also my third argument that the Board's decision did enter in accordance with Section 59-63-235 that the statute is clear on its face and as the appellant's counsel said, you must keep the statute as written. It does not address knowledge or other circumstances. It doesn't transfer any damages which the appellant does not deny that.

THE COURT: Thank you very much. Well, I'm going to ask you both to submit proposed orders to me. I want the parties to know the Court cannot substitute its judgment for a school board. Mr. Swope knows that. He learned that in basic administrative law. On the other side of that fence, Courts want to ensure that the people who appear before school boards are given adequate legal protection. Our state legislature passed a statute that Mr. Swope wants me to equate it to as criminal violation in light of the fact that you're given legal rights. And I certainly think that if you've crossed this, Mr. Swope is correct that you should have the right of notice of a hearing, the right to appear

at a hearing, the right to confront the evidence against you, and the right to examine the witnesses. Whether or not that changes the language with exception to 235, as Mr. Swope would have this Court hold, is a matter that I don't believe there's any case law to support.

Conversely, Mr. Swope, just as I told you how the Court feels about that argument, Ms. Brown wants you to believe that I don't have jurisdiction to hear this matter because they offered additional educational services to [REDACTED], and I'm referring to [REDACTED] the student, and not his father, and therefore, the Court can't even hear this case because of what they did.

She cites to me two cases, neither of which involve expulsion for a weapon for one year, which I don't think necessarily applies to this matter. But I do think, and I will have you both know before you write your proposed Orders to me that I'm bound by the language of 235. And I think the Board is bound by the language in 235. I think you are both correct that the standard is this Court has to determine whether there was substantial evidence to support the school board's finding or not, and I would expect you to address that in your proposed orders to me.

Please send me your proposed orders to me within seven days of today. Submit them to me by e-mail at pbucknerj@sccourts.org and copy my law clerk at

pbucknerlc@sccourts.org. I will expect your orders within seven days of today. I am taking with me the complete record that you've stipulated to today, consisting of 11 pages. I am taking a copy of Section 59-63-235 and 59-63-240. I am taking the case of Davis v. Greenville County, that's at 647 S.E. 2d, 219, and I am also taking with me Byrd v. Irmo High School, 468 S.E. 2d, 861.

I will expect your Orders to address what I've asked you to address for purposes of this appeal. I want to thank you both for being prepared and I look forward to getting your orders and I will try to decide this as quickly as I can. Thank you very much.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF COLLETON )

CERTIFICATE

I, REBECCA H. HILL, Official Court Reporter for the  
 Judicial Department of the State of South Carolina, do  
 hereby certify that the foregoing is a true, accurate and  
 complete Transcript of Record of the proceedings had in the  
 hearing of the captioned case, in the Court of Common Pleas  
 Non-Jury for Allendale County, South Carolina, on the 16th  
 day of July 2018.

I do further certify that I am neither of kin, counsel,  
 nor interest to any party hereto.

September 30, 2018

**Rebecca H. Hill**

Rebecca H. Hill,  
 Official Court Reporter

P. O. BOX 458, ALLENDALE, SOUTH CAROLINA 29810

June 1, 2018

Mr. and Mrs. Terry Hall  
405 Darlington Ave.  
Fairfax, SC 29827

Re: [REDACTED]

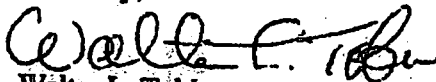
Dear Mr. and Mrs. Hall:

Allendale County Schools ("District") has received notice of [REDACTED] appeal to the Circuit Court of his expulsion dated May 21, 2018. As you know, the District's Board of Trustees upheld [REDACTED] expulsion for one calendar year.

Pursuant to South Carolina Appellate Court Rule 241(b) (11), this appeal does not change [REDACTED] expelled status. Accordingly, the initiation of this appeal does not permit him to return to school.

Should you have any questions, please do not hesitate to contact my office.

Sincerely,



Walter L. Tobin  
Interim Superintendent

Pc Mr. Patterson Moses, Hearing Officer  
Ms. Darlene Hall, AFHS Principal  
File

June 1, 2018

Mr. and Mrs. Terry Hall  
405 Darlington Ave.  
Fairfax, SC 29827

Re: [REDACTED]

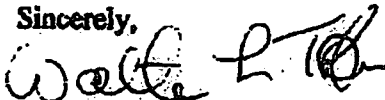
Dear Mr. & Mrs. Hall:

This letter is in response to your letter dated May 17, 2018, wherein you requested that I consider modifying [REDACTED] expulsion to permit him to return to school in August of the upcoming year.

Although the Board affirmed [REDACTED] 365-day expulsion (March 22, 2018-March 25, 2019), so long as he received home-based educational services, I am prepared to modify the term of his expulsion as stated hereafter. [REDACTED] will remain expelled for the remainder of the 2017-2018 school-year and continue to receive home-based educational services during that time. In addition, [REDACTED] will be eligible to enroll in Dual Credit Courses at USC-Salkehatchie beginning in August 2018. Please contact Ms. Darlene Hall, Principal of Allendale-Fairfax High School for details regarding the Dual Credit arrangements with USC-Salkehatchie.

Should you have any questions, please do not hesitate to contact my office.

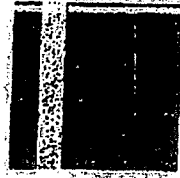
Sincerely,



Walter L. Tobin  
Interim Superintendent

Pc Mr. Patterson Moses, Hearing Officer  
Ms. Darlene Hall, AFHS Principal  
File

Terry and Lynda Hall  
405 Darlington Ave, Fairfax SC 29827  
803-671-0461 [lmthompson@bop.gov](mailto:lmthompson@bop.gov)  
803-259-6771 [Prince.hall53@gmail.com](mailto:Prince.hall53@gmail.com)



05/17/2018

Dr. Walter Tobin  
Interim Superintendent  
P.O. Box 458, Allendale SC 29810  
Dear Dr. Walter Tobin,

This is being sent to you as a letter of reconsideration, as advised by legal council. In accordance to SC Code 59-63-235 (enclosed), the district board has expelled [REDACTED] for 365 days, however the one year expulsion is subject to modification by the district superintendent of education on a case by case basis.

Although our son has been allowed to continue to receive school work using home base studies, we are asking that your reconsider [REDACTED] expulsion and allow him to attend Allendale-Fairfax High School for school year 2018-2019. We do realize you have proceeded with an abundance of caution however, we have followed all rules and have proceeded using the proper steps throughout this process.

I previously sent you an e-mail asking if you were the person who could decide on a lesser punishment or allow [REDACTED] to return to school. I did not receive a reply from you. Please consider the facts that [REDACTED] has not been in any type of major trouble throughout his school career. He was unaware of the weapons inside of the car and his father has taken responsibility for leaving them there. There was never any ill intent of plans to hurt anyone. He is on track to graduate with honors and attend college upon completion of high school.

Once again, we are asking that you reconsider the expulsion and allow [REDACTED] to return to Allendale- Fairfax High School during the 2018-2019 school year so he can get back on track and move forward to graduating and proceeding to college.

Thank you for taking the time to read this and for your consideration in this matter.



Sincerely,

Terry and Lynda Hall



P. O. BOX 458, ALLENDALE, SOUTH CAROLINA 29810

May 10, 2018

E-Mailed and USPS Mailed

Mr. & Mrs. Terry and Lynda Hall  
405 Darlington Avenue  
Fairfax, SC 29827

Re: Board decision from the Expulsion Appeal Hearing of [REDACTED]

Dear Mr. and Mrs. Hall:

This letter is to provide formal notice of the decision of the Allendale County Schools Board of Trustees to affirm the expulsion of your son, [REDACTED] for 365 days. [REDACTED] appeal was held on May 8, 2018 at the District office where he was accompanied by both parents.

During [REDACTED] appeal, the Board heard testimony from Interim Superintendent, Dr. Tobin as well as [REDACTED] and his parents. The Board had the opportunity to review all the relevant documents and subsequently, the Board deliberated on this matter in Executive Session.

Upon returning to Open Session, the Board voted to affirm [REDACTED] expulsion in accordance with Allendale County Schools Board Policy JICI-Weapons in Schools and S.C. Code Ann. § 59-63-23-Expulsion of student determined to have brought firearm to school.

The Board further directed Interim Superintendent, Dr. Tobin to resume the provision of home-based educational services to [REDACTED] for the duration of the expulsion period. As the Board understands that the District only recently terminated [REDACTED] home-based educational services, please contact Dr. Tobin immediately to resume these services.

If you have any questions or concerns, please feel free to contact me.

Sincerely,

  
Wilda J. Robinson, Chairperson

Cc: Members, Board of Trustees, Allendale County Schools  
Dr. Walter Tobin, Interim Superintendent, Allendale County Schools  
Attorney Charles Boykin, Boykin and Davis, LLC, Legal Counsel, ACS Board/District

**Lynda T. Hall** - [REDACTED]

---

**From:** Timothy T. Hall  
**To:** tobinw@acs.k12.sc.us  
**Date:** 5/11/2018 12:47 PM  
**Subject:** [REDACTED]  
**CC:** Catherine Russell; Hall, Lynda T.; Patricia Jenkins; jenn1759@bellsou...

---

In accordance with Wilda J. Robinson letter dated May 10, 2018, I'm requesting [REDACTED] home-based educational services to resume immediately.

**Lynda T. Hall - Re: Letter**

**From:** Lynda T. Hall  
**To:** Tobin, Walter  
**Date:** 5/9/2018 10:49 AM  
**Subject:** Re: Letter

Good morning Dr. Tobin,  
 I am sending this to you to ask the following question for my understanding

Is/was it within your or the School Boards Authority/Power to make a decision to impose a lesser punishment for [REDACTED] Could you have decided to have him expelled for any number of months instead of 12 months (a full year)?  
 Could you or the board have made a decision to send him back to school this school year?  
 Could you or the board have made a decision to approve him to attend the next school year?

I'm not as aware of the school policies and the strengths of the Superintendent or School Board as every other person sitting in the appeal last night.

Thank you for taking the time to read this.

Lynda

>>> Walter Tobin <tobinw@acs.k12.sc.us> 4/25/2018 8:15 PM >>>  
 Yes. That is correct.

Get Outlook for iOS

**From:** Lynda T. Hall <lmthompson@bop.gov>  
**Sent:** Wednesday, April 25, 2018 4:00 PM  
**Subject:** Re: Letter  
**To:** Walter Tobin <tobinw@acs.k12.sc.us>

Is this one page all there is?

>>> Walter Tobin <tobinw@acs.k12.sc.us> 4/25/2018 3:52 PM >>>  
 Dear Mrs. Hall,

For your review, attached is a copy of the certified letter that will be delivered to your home address.

Walter Tobin  
 Interim Superintendent

*Allendale* COUNTY SCHOOLS


P. O. BOX 458, ALLENDALE, SOUTH CAROLINA 29810

**ALLENDALE COUNTY SCHOOLS  
BOARD OF TRUSTEES – SPECIAL CALLED EXPULSION APPEAL**

**TUESDAY – MAY 8, 2018 – 6:30 P.M.  
BOARD ROOM – DISTRICT OFFICE**


**AGENDA**

- 1. CALL TO ORDER**
- 2. MOMENT OF SILENCE**
- 3. ROLL CALL**
- 4. APPROVAL OF AGENDA**
- 5. EXECUTIVE SESSION**
  - **Student Expulsion Appeal**
- 6. OPEN SESSION**
- 7. RESULT FROM EXECUTIVE SESSION**
- 8. ANNOUNCEMENT**
  - **Wednesday – May 23, 2018 – 2018-2019 Budget Workshop #2 – 5:00 P.M.**
- 9. ADJOURNMENT**

<p><b>STATE OF SOUTH CAROLINA</b>  <b>COUNTY OF ALLENDALE</b></p> <p><b>Dr. Walter Tobin,</b>    <b>Petitioner,</b></p> <p><b>Vs.</b></p> <p></p> <p><b>Respondent.</b></p>
--

**BEFORE THE**  
**BOARD OF SCHOOL TRUSTEES OF**  
**ALLENDALE COUNTY SCHOOLS**  
**Tuesday, May 8, 2018**  
**6:30 p.m.**  
**Allendale County Schools District Office**

### **AGENDA**

- I. Call to order**
- II. Hearing**
  - A. Introduction of Petitioner, Interim Superintendent, Dr. Walt Tobin**
  - B. Introduction of Respondent,  and Parents**
  - C. Preliminary statement and nature of proceedings: Professor Wilda Robinson**
- III. Opening Statements**
  - A. Petitioner**
  - B. Respondent**
- IV. Petitioner's case in chief**
  - A. Direct testimony**
  - B. Cross-examination by Respondent**
- V. Respondent's case in chief**
  - A. Direct testimony**
  - B. Cross-examination by Petitioner**
- VI. Petitioner's rebuttal case (if necessary)**
- VII. Closing statements**
  - A. Petitioner's (may be waived)**
  - B. Respondent**
  - C. Petitioner**
- VIII. Board adjourns hearing and takes case under advisement for consideration in executive session.**
- IX. Board reconvenes in open session to vote.**

**-EXPULSION APPEAL HEARING RESPONSE FORM \* FILE: JKE-E (2)**

**NAME OF PARENT/GUARDIAN: Mr. & Mrs. Terry and Lynda Hall**

**NAME OF STUDENT: [REDACTED]**

**Hearing Schedule:**

**Date: Tuesday, May 8, 2018, Time: 6:30 p.m. Place: Allendale Co. Schools District Office**

**Please check the appropriate statement below, sign and return this form (*via e-mail*) to the Board Chairperson within 48 hours of the scheduled date of the hearing.**

**Your failure to do so may result in the hearing going forward as scheduled even if the student, the parents or guardian, or the student's representative is not present; or being postponed if the student and parents or guardian appear with legal representation.**

       **I plan to participate in the hearing, scheduled for the time and place noted above, and do not intend to bring a legal representative.**

       **I plan to participate in the hearing, scheduled for the time and place noted above, and legal counsel (Name of counsel \_\_\_\_\_), will participate in the hearing.**

       **I do not wish to participate in the hearing, scheduled for the time and place noted above, and hereby waive my right to a hearing before the board.**

Signature of parent/guardian \_\_\_\_\_ Date \_\_\_\_\_

Signature of parent/guardian \_\_\_\_\_ Date \_\_\_\_\_

Signature of student (*student must also sign if the student is 18 years old or older*)  
\_\_\_\_\_ Date \_\_\_\_\_

**Please return completed form via e-mail to:**

**Professor Wilda J. Robinson, Chairperson, Allendale County Schools Board of Trustees**

**wildajrobinson@aol.com**

**EXPULSION APPEAL HEARING RESPONSE FORM \* FILE: JKE-E (2)**

**NAME OF PARENT/GUARDIAN: Mr. & Mrs. Terry and Lynda Hall**

**NAME OF STUDENT:** [REDACTED]

**Hearing Schedule:**

**Date: Tuesday, May 8, 2018 Time: 6:30 p.m. Place: Allendale Co. Schools District Office**

Please check the appropriate statement below, sign and return this form (*via e-mail*) to the Board Chairperson within 48 hours of the scheduled date of the hearing.

Your failure to do so may result in the hearing going forward as scheduled even if the student, the parents or guardian, or the student's representative is not present; or being postponed if the student and parents or guardian appear with legal representation.

I plan to participate in the hearing, scheduled for the time and place noted above, and do not intend to bring a legal representative.

I plan to participate in the hearing, scheduled for the time and place noted above, and legal counsel (Name of counsel \_\_\_\_\_), will participate in the hearing.

I do not wish to participate in the hearing, scheduled for the time and place noted above, and hereby waive my right to a hearing before the board.

Signature of parent/guardian *Lynda T. Hall* Date 5-5-18

Signature of parent/guardian *ly hall* Date 5-5-18

Signature of student (*student must also sign if the student is 18 years old or older*) \_\_\_\_\_  
Date \_\_\_\_\_

Please return completed form via e-mail to:

Professor Wilda J. Robinson, Chairperson, Allendale County Schools Board of Trustees

wildajrobinson@aol.com

# Allendale COUNTY SCHOOLS

P.O. BOX 45B, ALLENDALE, SOUTH CAROLINA 29810  
 Wilda J. Robinson, Chairperson  
 Allendale County Schools Board of Trustees  
 P.O. Box 786, Allendale, SC 29810

**E-Mailed and USPS Mailed**

May 4, 2018

**Re: [REDACTED] NOTICE OF EXPULSION APPEAL HEARING**

Mr. & Mrs. Terry and Lynda Hall  
 405 Darlington Avenue  
 Fairfax, SC 29827

Dear Mr. and Mrs. Hall,


I am in receipt of your letter requesting an Appeal Hearing before the Allendale County Schools Board of Trustees in regards to the recent expulsion decision rendered by the Interim Superintendent, Dr. Walter Tobin, regarding your son, [REDACTED]. The Expulsion decision was based on [REDACTED] infraction of Board Policy JICI Weapons (specifically firearms) in Schools on March 22, 2018.

The Allendale County Schools Board of Trustees will conduct an Appeal Hearing on Tuesday, May 8 at 6:30 p.m. at the Allendale County Schools District Office.

At this Appeal Hearing, you will have the right to question all witnesses who appear and to present your own witnesses or other evidence. You may, if you choose, be represented by legal counsel retained at your own expense. If you will be represented by counsel, we ask that you submit counsel's name to the Board Chairperson at least 48 hours prior to the hearing. Your son, [REDACTED] must be present at the hearing.

Please complete the attached response form and return it to me (via e-mail) no later than 48 hours before the scheduled hearing date. Your failure to do so could result in the hearing taking place whether or not you are in attendance, or in the hearing being postponed.

Sincerely,



Wilda J. Robinson, Chairperson,  
 Allendale County Schools Board of Trustees

Cc: Board Members  
 Dr. Walter Tobin, Interim Superintendent  
 Attorney Charles Boykin, Boykin & Davis, LLC

# Allendale COUNTY SCHOOLS

P. O. BOX 458, ALLENDALE, SOUTH CAROLINA 29810

**E-mailed and US Mail**

May 2, 2018

Mr. and Mrs. Terry Hall  
405 Darlington Ave.  
Fairfax, SC 29827


Re: [REDACTED]

Dear Mr. and Mrs. Hall:

This letter is a follow up to our meeting on Tuesday, May 1, 2018, during which we discussed modifying your son's [REDACTED] expulsion as is within my authority as Interim Superintendent as requested in your letter to me dated April 23, 2018. During this meeting, I presented my proposal for modification which you did not accept. Thereafter, you requested an appeal before the Allendale County Schools Board of Trustees.

If you wish to move forward with your appeal, please notify the Board Chair, Dr. Wilda Robinson, of your request in writing, at which time the Board will schedule a hearing. If you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



Walter L. Tobin  
Interim Superintendent

Pc ACS Board of Trustees  
File

TELEPHONE (803) 584-4603  
FAX (803) 584-5303

May 1, 2018

Wilda J. Robinson, Chairperson

P.O. Box 786

Allendale, SC 29810

We are writing to officially appeal the decision of Interim Superintendent Dr. Walter Tobin regarding [REDACTED]. On April 13, 2018 at the Allendale County Learning Center, [REDACTED] met with the hearing officer. The hearing panel recommended expulsion for 365 days and continue educational services in an alternative settings for school year 2017-2018.

On May 1, 2018, we met with Interim Superintendent Dr. Walter Tobin to appeal this decision in accordance with policy JICI. According to policy JICI the superintendent on a case by case basis may modify the expulsion requirement. Interim Superintendent Dr. Walter Tobin modify the expulsion to expel Xavier for the remainder of 2017-2018 school year and have Xavier met before the incoming Superintendent and Board of Education for permission to attend Allendale-Fairfax High School for the 2018-2019 school year.

I would like to officially appeal Interim Superintendent Dr. Walter Tobin decision. I would like for [REDACTED] to continue receiving alternative educational services for school year 2017 -2018. In addition I would like for [REDACTED] to be allow to attend Allendale-Fairfax High School in a regular settings for school year 2018-2019. We, as parents and community leaders, feels no child benefits from being out of a school setting. Allowing [REDACTED] to continue is education journey will be align with the Mission, Vision, and Belief of the Allendale County School District.

[REDACTED] is currently in the eleventh grade and has been a role model student during his tenure at Allendale County School District. [REDACTED] has always been an honor roll student, participated in athletics and community projects. [REDACTED] is a Beta Club member and was on track to be inducted into the National Honor Society. [REDACTED] would have been a Junior Marshall for the graduating class of Allendale-Fairfax High School. [REDACTED] is also involved in the Emerging Scholars program thru Clemson University.

---

Terry Hall

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Lynda Hall

# Allendale COUNTY SCHOOLS

P. O. BOX 458, ALLENDALE, SOUTH CAROLINA 29810

April 25, 2018

Mr. Terry Hall and Mrs. Lynda T. Hall  
405 Darlington Avenue  
Fairfax, SC 29827

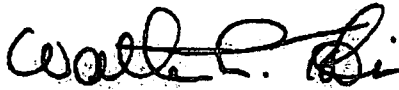
RE: [REDACTED]

Dear Mr. Terry Hall and Mrs. Lynda T. Hall:

This letter is in response to your hand delivered letter, wherein you expressed your desire to modify Hearing Officer Patterson Moses' decision to expel your son, [REDACTED] from Allendale-Fairfax High School for one year (i.e. 365 days). I am available on Tuesday, May 1, 2018, at 5:00 p.m. to meet with you regarding this request. Please confirm your availability with my office.

If you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



Walter Tobin  
Interim Superintendent

April 23, 2018

Dr. Tobin,

I'm writing to appeal the decision regarding [REDACTED] expulsion. [REDACTED] hearing was held April 13, 2018 at the Allendale County Learning Center. [REDACTED] was recommended for a period of expulsion for 365 days and continue educational services in an alternative settings. According to policy JICI the superintendent on a case by case basis may modify the expulsion requirement.

I would like for you to consider modifying this expulsion. I would like for [REDACTED] to continue receiving alternative educational services for school year 2017-2018. In addition I would like for [REDACTED] to be allow to attend Allendale-Fairfax High School in a regular settings for school year 2018-2019. I believe as a parent and community leader no child benefits from being out of a school setting.

[REDACTED] is currently in the eleventh grade and has been a role model student during his tenure at Allendale County School District. [REDACTED] has always been an honor roll student, participated in athletics and community projects.

Terry and Lynda Hall

# Allendale COUNTY SCHOOLS

P. O. BOX 458, Allendale, South Carolina 29810

April 19, 2018

Lynda Hall  
405 Darlington Ave  
Fairfax, Sc 29827

RE: Hearing Decision for [REDACTED]

Dear Ms Hall

The expulsion hearing of [REDACTED] was conducted before the hearing officer on April 13 at 9:15Am, pursuant to the state law and district policy JKE. After careful review of the evidence and testimony presented, the hearing panel has concluded that [REDACTED] did commit the following offenses: Possession of firearms at AFMHS.

and that the administration's recommendation of expulsion will be upheld.

Accordingly, [REDACTED] is expelled from the Allendale County School system for 365 calendar days. The panel also said that according to State Policy [REDACTED] may enrolled in an Alternative Educational Program; however that program can not be housed at the facility he was expelled from.

The determination of expulsion may be appealed within 10 days in writing to Dr. Walter Tobin, Interim Superintendent, Allendale County Schools, P.O. Box 458, Allendale, South Carolina 29810.

Sincerely,

Mr. Patterson Moses, District Hearing Officer

Cc: Dr. Tobin; Superintendent, Allendale County Schools

### Notice of Disciplinary Action

March 27, 2018

Allendale-Fairfax High School  
3581 Allendale-Fairfax Hwy  
Fairfax, SC 29827

Dear Parent/Guardian,

Your son, [REDACTED] has received his 3rd discipline referral for his behavior at school.

- **Date/Time:** March 27, 2018 at 2:30 PM
- **Location:** Parking Lot
- **Offense:** Handguns - The student was caught on campus with two hand guns. The guns were loaded and in his vehicle. The police department took over the matter and apprehended the student.
- **Action:** Referral - Hearing Officer
- **Duration:** 10 days (3/23/18 2:30 PM-3:30 PM, 3/26/18 Full Day, 3/27/18 Full Day, 3/28/18 Full Day, 3/29/18 Full Day, 3/30/18 Full Day, 4/1/18 Full Day, 4/3/18 Full Day, 4/4/18 Full Day, 4/5/18 Full Day, 4/6/18 7:30 AM-2:30 PM)

Please discuss this behavior with [REDACTED] and follow through with any consequences you feel are appropriate.

If you have any questions, please contact the school at (803) 584-2311.

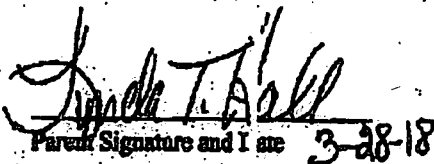
Please sign below and return this letter to the school with your son tomorrow.

\*\*\*PLEASE NOTE: Students who have received Out of School Suspension (OSS) are not allowed on Allendale County Schools premises and are not allowed to participate in school-sponsored activities.\*\*\*

Thank you for your help and cooperation.



Kalu Kalu, Assistant Principal  
Allendale-Fairfax High School

  
Parent Signature and Date 3-28-18

AGENCY I.D.  
SC0030000

INCIDENT REPORT

Received *Al Polinski*  
5-4-2018

CASE NUMBER

1, 8, - 0, 1, 3, 2

ICD9  
DUC: N  
EKTA: N

EVENT

VICTIM NO. 1

SUBJECT NO. 1

NARRATIVE

PROPERTY EST.

ADMINISTRATIVE

INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VEHICLE
1. CONCEALED WEAPONS (620)				<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	School-Elementary		<input type="checkbox"/> Industrial <input type="checkbox"/> Business <input type="checkbox"/> Private Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Organ. <input type="checkbox"/> Non-Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Car
2. SIMPLE POSSESSION OF MARIJUANA (35A)				<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	School-Elementary		

INCIDENT LOCATION (BUILDING, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE		WEAPON TYPE	
3581 ALLENDALE FAIRFAX HWY				29827		12, 12	
INCIDENT DATE	START CLOCK	TO	DATE	END CLOCK	DEPT. NAME	DEPT. NUMBER	DEPT. TYPE
03/22/2018	10:30		03/22/2018	12:30			

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	HTL	DATE OF BIRTH	WEIGHT	HAIR	EYES
ACSO HOLMES						<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	B	M	45	N	03/06/01	511	180	BLK BRO
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.						
168 LAW ENFORCEMENT CT				FAIRFAX		SC	29827							

VICTIM NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	HTL	DATE OF BIRTH	WEIGHT	HAIR	EYES
ACSO HOLMES						<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	B	M	45	N	03/06/01	511	180	BLK BRO
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.						
168 LAW ENFORCEMENT CT				FAIRFAX		SC	29827							

VICTIM NUMBER (PAGE 1) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				EXPLAIN		COMPLAINT OF ANY NON-PROBABLE CAUSE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
VICTIM NO. 1							
TWO-WHEELER <input type="checkbox"/>				COURT CASE NO. <input type="checkbox"/>		DEFENSE/PLAINT <input type="checkbox"/>	
OTHER <input type="checkbox"/>				ALONE <input type="checkbox"/>		ASSISTED <input type="checkbox"/>	

SUSPECT				RACE		SEX	AGE	HTL	DATE OF BIRTH	WEIGHT	HAIR	EYES
[REDACTED]				B		M	17	N	03/06/01	511	180	BLK BRO
FACIAL HAIR (SCARF, TATTOO, GLASSES, CLOTHING, PHYSICAL PECuliarITIES, ETC.)												
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.				
539 DARLINGTON AVE				FAIRFAX		SC	29827					
SUSPECT NO. 1				ARRESTED NEAR OFFENSE SCENE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST				
[REDACTED]												

ON THE ABOVE DATE AND TIME AT THE LOCATION ABOVE THE ALLENDALE COUNTY SHERIFF DEPARTMENT WAS CONDUCTING A SEARCH AT THE ALLENDALE FAIRFAX MIDDLE HIGH SCHOOL INSIDE THE HIGH SCHOOL SEARCHING FOR CONTRABAND IN THE COUNTY OF ALLENDALE. THE ALLENDALE COUNTY SHERIFF DEPUTIES WAS OUTSIDE IN THE STUDENT PARKING LOT WHEN THE ADMINISTRATOR MADE AN ANNOUNCEMENT ON THE (PA SYSTEM) ASKING THAT ALL STUDENT WHO WAS DRIVING A VEHICLE TO STEP OUTSIDE AND UNLOCK THE VEHICLE THAT THEY WERE DRIVING SO THEY COULD BE SEARCH FOR CONTRABAND. [REDACTED] WAS DRIVING A BLACK IN COLOR FORD MUSTANG TAG NO# NDF 120 THAT HAD IN A PAUL GEORGE SHOE BOX THAT WAS LOCATED IN THE TRUNK ALONG WITH TWO WEAPONS A 9MM BLACK IN COLOR SERIAL NO TCX83021 A 22 PISTOL SERIAL WA138466 ALONG WITH SEVERAL 9MM BULLETS, AND A BAG OF A GREEN LEAFY SUBSTANCE THAT APPEAR TO BE MARIJUANA.

JURISDICTION OF VIOLATION				JURISDICTION OF AGENCY			
TYPE (GROUP)							TOTAL VALUE
BROKEN							
DAMAGED							
REMOVED							
RECOVERED							
SEIZED							

SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		ACTIVE <input type="checkbox"/> ADJ. CLOSED <input type="checkbox"/> CHARGE/INVEST.		ARRESTED UNDER 16 <input type="checkbox"/> ARRESTED 18 AND OVER <input type="checkbox"/> NO CLEAR UNDER 16 <input type="checkbox"/> NO CLEAR 18 AND OVER <input type="checkbox"/>	
REPORTED OFFICER		DATE		UNIT NUMBER		APPROVING OFFICER	
HOLMES, SAMUEL		03/22/18		7/12			
FOLLOWUP INVESTIGATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				OFFICER			

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

February 13, 2019



Mallery L. Scheer  
49 Elizabeth Street  
Charleston, SC 29403  
Telephone: (843) 608-8331  
mallery@mscheerlaw.com

Susan K. Dunn  
ACLU of South Carolina Foundation  
P.O. Box 20998  
Charleston, SC 29413  
Telephone: (843) 720-1425  
sdunn@aclusouthcarolina.org

William K. Swope  
The Swope Law Firm  
1525 Sam Rittenberg Blvd, Suite 208  
Charleston, SC 29407  
Telephone: (843) 852-4925  
swopelawfirm@comcast.net

*Attorneys for the Appellant*

**RECEIVED**

FEB 15 2019

SC Court of Appeals