THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Sharon Brown, Appellant,

v.

Cherokee County School District, Respondent.

Appellate Case No. 2017-001466

Appeal From Cherokee County
J. Mark Hayes, II, Circuit Court Judge

Unpublished Opinion No. 2020-UP-013
Submitted December 2, 2019 – Filed January 15, 2020

AFFIRMED

Fletcher N. Smith, Jr., of Law Firm of Fletcher N. Smith, Jr., LLC, of Greenville, for Appellant.

Andrea Eaton White, of White & Story, LLC, of Columbia, for Respondent.

PER CURIAM: Sharon Brown appeals the circuit court's orders affirming the Cherokee County School District Board of Trustees' (the Board's) decision to terminate her employment with the Cherokee County School District (the District) because she manifested an unfitness for teaching. On appeal, Brown raises

numerous issues, including whether (1) substantial evidence supported the Board's finding she was unfit to teach; (2) the Board was fair and impartial; (3) her due process rights were violated; (4) the charges brought by the District were moot because the alleged victim stated Brown did not touch him; (5) the Board and circuit court erred in not ruling that Brown, as a contract teacher, was not under contract during the summer months and, therefore, had no duties or obligations to the District during the summer months; and (6) the circuit court erred in ruling on her appeal to it when the Board never filed the transcript of the teacher dismissal hearing with the circuit court. We affirm.

I. FACTS

During the 2014-15 school year, the District employed Brown as a second grade teacher at Luther Vaughn Elementary School (LVES). Beth Owens, another second grade teacher at LVES, alleged that on Thursday, May 28, 2015, she and her husband were walking down a hallway at LVES at 1:20 p.m. when she saw Brown standing with a student pressed against the wall. Owens further alleged when the student turned to look at her, Brown used her fingers to turn his head back towards her. Owens reported this incident to Nanette Ruppe, the principal of LVES at the time of the incident.[1] Justin Kelly, the art teacher at LVES, alleged that on May 28, 2015, he saw Brown put her hands on the chin of Student J, the alleged victim; push Student J against the wall; and talk in an angry tone to Student J. Kelly explained this incident happened while Brown was bringing her class to his classroom for art around 1:10 or 1:15 p.m, and he saw the incident through a crack in his doorway. The next day, May 29, 2015, Kelly reported this incident to Ruppe and wrote a statement detailing the incident.

After receiving these two reports, Ruppe called Dr. Carpenter, the Director of Human Resources for the District, to report the situation. Dr. Carpenter informed the District Superintendent, Dr. Quincie Moore, about the incident, but they did not report the incident to law enforcement. On the following Monday, June 1, 2015, Dr. Carpenter met with Ruppe and Kelly. On the same day, Dr. Carpenter and Ruppe met with Brown, who denied touching Student J. Dr. Carpenter told Brown she was being placed on paid administrative leave and to not discuss the case or have contact with students or other employees of the District.[2] At the meeting,

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[1] On June 1, 2015, Owens wrote a statement detailing the incident.

[2] Although Ruppe stated Dr. Carpenter told Brown not to discuss the case with anyone and Dr. Carpenter stated he told Brown not to talk to other District

Brown provided the names of Owens, Owens's husband, and Tracie Wilson, the behavior assistant at LVES, as potential witnesses in the case. Brown also provided a statement at this meeting. In her statement, Brown stated she heard Student J use the phrase "I hate" as he walked to the art room, and after returning to her classroom, she decided she needed to deal with the "I hate" statement, so she went to the art room, asked to speak with Student J, and spoke to Student J outside of the art room about the issue. Brown later wrote a second statement, responding to Kelly's statement and denying forcibly touching Student J, shoving him against a wall, and verbally assaulting him. Following the meeting with Brown, Dr. Carpenter sent Brown a letter dated June 1, 2015, that was taken to the post office on June 2, 2015. The letter stated, "you should not have any contact with school district employees or students in any manner while you are on administrative leave." Ruppe also met with Student J, who told her Brown did not touch him, and Student J's mother reported that Student J told her Brown did not touch him.

Brown received a card in her mailbox notifying her of the certified letter from Dr. Carpenter on June 10, 2015, and she picked it up from the post office on June 11, 2015. However, before Brown received the letter, she ran into Wilson at a Ross clothing store on June 5, 2015. Wilson initiated a conversation with Brown by saying "hello," and they had a conversation, including discussing the incident with Student J. In particular, Wilson stated Brown told Wilson she provided Dr. Carpenter Wilson's name as a witness to an incident between her and Student J; Dr. Carpenter was going to call Wilson to talk about what happened between Brown and Student J; and Brown described the incident, telling Wilson what she "was supposed" to have seen. Wilson stated she did not know Dr. Carpenter was going to call her, and she did not know about the incident with Student J until Brown told her about it.[3] She also did not know Brown was on administrative leave. Wilson

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employees or students, Brown asserts she was not given either of these directives at the meeting.

[3] On June 1, 2015, Ruppe asked Wilson to give a statement about what happened on May 28, 2015. In the statement, Wilson explained she went to Kelly's last period art class that day, she arrived after Brown had already dropped off her students and the class had already started, and Brown came to the classroom and asked to see a student, whose name Wilson did not remember. Wilson stated Kelly "said ok" and let the student leave the room, but she did not remember if the student returned to class that day. She did not provide any information about the incidents with Student J allegedly seen by Kelly and Owens.

stated Brown told her Brown was "not supposed to be talking to [her]" or "discussing" the case with her. Brown, however, asserts when she spoke to Wilson, she had not been told or at least did not recall having been told to not discuss the case or not to talk to other District employees. On June 22, 2015, Wilson told Ruppe about her conversation with Brown at Ross, and Ruppe told Wilson to write a statement about the conversation with Brown to bring when she met with Dr. Carpenter and Dr. Moore. Dr. Carpenter contacted Wilson on June 16, 2015, and Wilson met with Dr. Carpenter and Dr. Moore on June 29 or 30, 2015.

On July 31, 2015, Brown met with Dr. Carpenter and Dr. Moore. At the meeting Brown again denied touching Student J, and Dr. Moore reported Brown gave her a "completely different" version of the interaction with Wilson at Ross than the one given by Wilson. In particular, Dr. Moore noted while Brown admitted she spoke with Wilson at the store, she did not recall being told not to talk to District employees by Dr. Carpenter at the June 1, 2015 meeting with him and Ruppe, and she did not recall discussing this directive with Wilson. After meeting with Brown, Dr. Moore concluded Kelly and Owens witnessed two separate interactions between Student J and Brown: (1) Kelly witnessed Brown put her hands on Student J before Kelly's art class began, and (2) Owens witnessed Brown's interaction with Student J when she went back to speak with Student J to "rectify the situation" after the art class had already started. Dr. Moore also concluded Brown admitted she spoke with Wilson after being given the directive from Dr. Carpenter. Dr. Moore decided (1) Brown went against the directive given to her by Dr. Carpenter to not speak to other District employees when she spoke to Wilson; (2) Brown was dishonest because she denied touching a student, despite Kelly's and Owen's testimony otherwise; and (3) by speaking to Wilson, Brown intervened in the investigation of the incidents with Student J. Accordingly, Dr. Moore recommended the District terminate Brown's contract.

On August 11, 2015, Dr. Moore notified Brown she was going to recommend the Board terminate Brown's teaching contract pursuant to the South Carolina Teacher Employment and Dismissal Act (the Act),[4] particularly section 59-25-430 of the South Carolina Code (2019).[5] In the letter, Dr. Moore specified she was

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[4] S.C. Code Ann. §§ 59-25-410 to -530 (2019).

[5] Section 59-25-430 provides:

> Any teacher may be dismissed at any time who shall fail, or who may be incompetent, to give instruction in

recommending Brown be terminated because (1) Brown "willfully violate[d] a school directive," given to her on June 1, 2015, by Dr. Carpenter; (2) Brown was dishonest in her answers to Dr. Moore's questions regarding the May 28, 2015 incidents and the June 5, 2015 interaction with Wilson, and (3) "if [Brown] did grab the student in a forceful or violent manner, that would serve as an additional ground for [Brown's] immediate termination." In the letter, Dr. Moore specifically mentioned Brown's conversation with Wilson at Ross, noting Brown admitted she spoke to Wilson and asked if Wilson had spoken with Dr. Carpenter. The letter also informed Wilson she could request an evidentiary hearing regarding her termination within fifteen days of her receipt of the letter.

Brown requested a hearing on her termination, and on October 7, 2015, a hearing was held. Prior to opening statements, the Board Chairwoman stated how the hearing would proceed, including that "Board Members may examine all witnesses and documents presented" by both the District and Brown. Kelly, Ruppe, Carpenter, Owens, Wilson, and Dr. Moore all testified at the hearing on behalf of the District, and Brown testified for herself.[6] During the hearing, one of the Board members, Robin Harper, interjected into Brown's cross-examination of the District's witnesses on multiple occasions. In particular, Harper interjected into the cross-examination of Wilson when Brown asked Wilson if she knew the name of the child Brown asked to see during Kelly's art class on May 28, 2015. Wilson replied she did not, but when asked if she remembered now, she stated she did. At this point, Harper interjected, stating Wilson had testified she did not know who the child was until she ran into Brown at Ross, and Brown told Wilson it was Student J. Harper then asked Wilson, "Isn't that what you said," and Wilson replied, "Right." Harper also interjected during Brown's cross-examination of Dr. Moore when Brown questioned whether Dr. Moore had done a thorough investigation of the case despite the fact that she had not interviewed Student J. Harper stated, "And I want to know. Can you talk to a seven-year old?" Harper

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> accordance with the directions of the superintendent, or who shall otherwise manifest an evident unfitness for teaching; provided, however, that notice and an opportunity shall be afforded for a hearing prior to any dismissal.

[6] Each of the witnesses provided testimony similar or identical to that found in their original allegations and statements discussed above.

continued, clarifying she was not aware of whether a psychologist or an advocate would need to be present when questioning a child.

Ultimately, on October 15, 2015, the Board unanimously voted to accept Dr. Moore's recommendation that Brown's contract be terminated because Brown manifested an unfitness for teaching by (1) having inappropriate interactions with a student, (2) acting in insubordination to the directive given to her by the District to not talk to other District employees during the investigation, and (3) being dishonest when answering Dr. Moore's questions. On November 5, 2015, Brown filed a notice of intent to appeal the Board's decision and an appeal brief.[7]

On June 20, 2016, the circuit court held a hearing on Brown's appeal, and on August 1, 2016, the circuit court filed an order upholding the Board's decision to terminate Brown's teaching contract, finding:

> While there is very little evidence [Brown] "violently" grabbed the student or that she verbally "assaulted" the student . . . [t]here is substantial evidence . . . [she] was told not to have discussions about her suspension with school personnel . . . . There is also substantial evidence . . . that after [she] was told not to discuss the investigation, [she] tried to influence another school employee who was a potential witness in the investigation. There was also substantial evidence that [she] was dishonest in her responses about the conversation with this witness.

The circuit court also noted substantial evidence supported the Board's decision that the inappropriate interaction with Student J occurred, but it stated if this had been the only reason to terminate Brown, then it may have found section 59-25-440 of the South Carolina Code (2019)[8] required the District to take

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[7] Brown later filed two amended briefs, a memorandum in support of her second amended brief, and another brief. Brown's arguments in each of these documents are substantially the same.

[8] Section 59-25-440 provides:

> Whenever a superior . . . finds it necessary to admonish a teacher for a reason he believes may lead to . . . dismissal . . . he shall: (1) bring the matter in writing to the attention of the teacher involved and make a reasonable

reasonable efforts to correct Brown's actions prior to dismissing her. Brown filed a motion to reconsider, and the circuit court denied the motion. This appeal followed.

II. STANDARD OF REVIEW

"Judicial review of a school board decision terminating a teacher is limited to a determination whether it is supported by substantial evidence. The court cannot substitute its judgment for that of the school board." *Felder v. Charleston Cty. Sch. Dist.*, 327 S.C. 21, 25, 489 S.E.2d 191, 193 (1997); *see also Laws v. Richland Cty. Sch. Dist. No. 1*, 270 S.C. 492, 495, 243 S.E.2d 192, 193 (1978) ("[T]he standard by which the Board's decision is to be gauged [is] whether the grounds given for termination of the respondent's employment are supported by 'substantial evidence.'"). "'Substantial evidence' is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but 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." *Laws*, 270 S.C. at 495–96, 243 S.E.2d at 193. "Courts will not interfere with the exercise of discretion by school boards in matters committed by law to their judgment unless there is clear evidence that the board has acted corruptly, in bad faith, or in clear abuse of its powers." *Singleton v. Horry Cty. Sch. Dist.*, 289 S.C. 223, 227–28, 345 S.E.2d 751, 753 (Ct. App. 1986). "An appellate court will not substitute its judgment for that of school boards in view of the powers, functions[,] and discretion which must necessarily be vested in such boards if they are to execute the duties imposed upon them." *Id.* at 228, 345 S.E.2d at 754. "[I]f any of the charges against a teacher are supported by substantial evidence, the school board's decision to dismiss must be sustained." *McWhirter v. Cherokee Cty. Sch. Dist. No. 1*, 274 S.C. 66, 68, 261 S.E.2d 157, 158 (1979).

> effort to assist the teacher to correct whatever appears to be the cause of potential dismissal . . . and, (2) . . . allow reasonable time for improvement.

III. BROWN'S APPEAL

A. Brown's Unfitness to Teach

Brown argues substantial evidence did not support a finding she was unfit to teach. We disagree.

We find the circuit court did not err in affirming the Board's finding that Brown was unfit to teach pursuant to section 59-25-430 on the ground that she was dishonest to Dr. Moore. § 59-25-430 ("Any teacher may be dismissed at any time . . . who shall otherwise manifest an evident unfitness for teaching . . . . Evident unfitness for teaching is manifested by conduct such as, but not limited to . . . dishonesty. . . ."). Dr. Moore testified she concluded Brown was dishonest to her because she denied touching a student despite Kelly's and Owen's assertions otherwise, and she was dishonest when she stated she did not remember being given a directive not to speak to other employees by Dr. Carpenter and denied discussing this directive with Wilson. Although it is questionable whether substantial evidence existed that Brown actually engaged in inappropriate interactions with Student J—particularly given Student J's statement that nothing happened—substantial evidence supports that Brown was given the directive at the meeting on June 1, 2015, and was aware of the directive during her conversation with Wilson on June 5, 2015, given Ruppe's and Carpenter's testimony that Brown was told to either not discuss the case with anyone or to not talk to other District employees and Wilson's testimony that when she spoke to Brown about the incident, Brown repeatedly told Wilson she was not supposed to be talking about the case with Wilson. Thus, substantial evidence supports a finding that Brown lied to Dr. Moore about her conversation with Wilson, and specifically, substantial evidence supports that Brown lied when she stated she did not remember the directive given to her by Dr. Carpenter on June 1, 2015, at the time of her conversation with Wilson. Therefore, we believe the circuit court did not err in affirming the Board on this ground for Brown's dismissal.

Because at least one ground for Brown's termination—Brown's dishonesty—was supported by substantial evidence, the circuit court did not err in affirming the Board's finding that Brown was unfit to teach pursuant to section 59-25-430, and we need not discuss the remaining grounds for Brown's dismissal. *See McWhirter*, 274 S.C. at 68, 261 S.E.2d at 158 ("[I]f any of the charges against a teacher are supported by substantial evidence, the school board's decision to dismiss must be sustained."); *see also Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (ruling an appellate court need not review remaining issues when its determination of a prior issue is dispositive of the

appeal). Accordingly, we affirm the Board's determination that Brown was unfit to teach pursuant to section 59-25-430.

B. Fair and Impartial Tribunal and Substantive Due Process

Brown argues the Board was not an impartial tribunal because (1) it had an inherent bias against her due to a prior case between the Board and Brown that ended with her reinstatement in late 2011; (2) Board member Harper's interjections into Brown's cross-examinations of Dr. Moore and Wilson denied Brown the opportunity for meaningful cross-examination; (3) another Board member closed her eyes for part of the hearing; (4) it showed bias by failing to take Student J and his mother at its word when they stated Brown did not touch Student J; (5) it exceeded the scope of the reasons given by Dr. Moore for Brown's termination by using Brown's conversation with Wilson, which was not included in the letter from Dr. Moore to Brown as a reason for her termination, as grounds for the termination[9]; and (6) it used information received outside of the hearing in making its decision. We disagree.

We find Brown did not provide sufficient evidence the Board was actually biased against her. *Felder*, 327 S.C. at 26, 489 S.E.2d at 194 ("In order to disqualify a hearing tribunal, actual bias rather than a mere potential for bias must be shown."); *Green v. Clarendon Cty. Sch. Dist. Three*, 923 F. Supp. 829, 846 (D.S.C. 1996) ("It is Plaintiff's burden to show the existence of bias, rather than its mere possibility, and Plaintiff 'must overcome a presumption of honesty and integrity in those serving as adjudicators.'" (quoting *Withrow v. Larkin*, 421 U.S. 35, 47 (1975))). First, Brown failed to provide a sufficient record for this court to rule on the issues of whether the Board had a bias against her based on her prior case against the District in 2011 and whether a Board member demonstrated bias by closing her eyes for part of the board hearing. *See Harkins v. Greenville County*, 340 S.C. 606, 616, 533 S.E.2d 886, 891 (2000) (stating the appellants have the burden of providing this court an adequate record).

Next, Brown did not prove the Board was actually biased against her based on Harper's interjections during Brown's cross-examination of Dr. Moore and Wilson or that she suffered any prejudice due to the interjections because (1) as stated at the beginning of the hearing, Board members were permitted to "examine all

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[9] Although Brown raises the issue of notice here, she also raises it in her procedural due process arguments, and we discuss the notice issue with the issue of whether Brown was afforded procedural due process in Section III.C.

witnesses"; (2) Harper's interjection into Wilson's testimony only elicited information about which Wilson had already testified—i.e. that she did not remember which student Brown asked to speak to during Kelly's art class on May 28, 2015, until Brown told her it was Student J during their conversation at Ross—and, thus, did not prejudice Brown; and (3) Harper's interjection during Brown's cross-examination of Dr. Moore to ask if you can "talk to a seven-year old child," appeared to be a genuine question regarding whether a psychologist or advocate would have also needed to be present when one questioned a child, not a comment on whether Student J's statements would have been believable. *See Felder*, 327 S.C. at 26, 489 S.E.2d at 193 ("Substantial prejudice is required to establish a violation of due process."); *id.* at 26, 489 S.E.2d at 193–94 ("Further, school board members are clothed with a presumption of honesty and integrity in the discharge of their decision-making responsibilities."); *id.* at 26, 489 S.E.2d at 194 ("In order to disqualify a hearing tribunal, actual bias rather than a mere potential for bias must be shown.").

Additionally, Brown's argument the Board was biased because Student J did not testify at the hearing is without merit because the Board does not call witnesses, the parties do, and as such, Brown should have called Student J if she wished for him to testify. *See State v. Curtis*, 356 S.C. 622, 632, 591 S.E.2d 600, 605 (2004) ("A party cannot complain of an error which his own conduct created."). Further, as to Brown's argument the Board was biased because it did not believe Student J's and his mother's statements that Brown did not touch him, we note the Board never stated it did not believe Student J and his mother. Moreover, even if the Board did not believe Student J and his mother, this is a credibility determination the Board was allowed to make, and without more evidence, this credibility determination does not demonstrate the Board was actually biased against Brown. *See Felder*, 327 S.C. at 26, 498 S.E.2d at 194 ("In order to disqualify a hearing tribunal, actual bias rather than a mere potential for bias must be shown.").

Finally, as to Brown's arguments regarding the Board using *ex parte* communications to reach its decision, this argument is without merit. While the Board used slightly different wording than that used by the witnesses at the hearing and may have attributed information to the wrong witness or witness statement, all of the information contained within the Board's decision was testified to by witnesses at the hearing or provided to the Board in the witnesses' statements. Thus, as this evidence was provided at the hearing, it does not constitute *ex parte* communications, and it does not indicate any actual bias against Brown on the part of the Board. *See Brown v. Bi–Lo, Inc.*, 354 S.C. 436, 440 n.3, 581 S.E.2d 836, 838 n.3 (2003) ("*[E]x parte* communication is defined as 'prohibited

communication between counsel and the court when opposing counsel is not present.'" (quoting *Black's Law Dictionary* 597 (7th ed. 1999))).

Therefore, we find Brown failed to provide sufficient evidence the Board violated her substantive due process rights by acting with actual bias against her. *See Withrow*, 421 U.S. at 46 ("[A] 'fair trial in a fair tribunal is a basic requirement of due process.'" (quoting *In re Murchison*, 349 U.S. 133, 136 (1955))); *Felder*, 327 S.C. at 26, 498 S.E.2d at 194 ("In order to disqualify a hearing tribunal, actual bias rather than a mere potential for bias must be shown."); *Green*, 923 F. Supp. at 846 ("It is Plaintiff's burden to show the existence of bias, rather than its mere possibility, and Plaintiff 'must overcome a presumption of honesty and integrity in those serving as adjudicators.'" (quoting *Withrow*, 421 U.S. at 47)). Accordingly, we affirm as to this issue.

C. Procedural Due Process And Notice

Brown argues her due process rights were violated because the District did not inform her of all of the reasons for the proposed cancellation of her teaching contract—specifically, her conversation with Wilson—in a letter as required by section 59-25-460 of the South Carolina Code (2019). We disagree.

First, we find Brown's procedural due process rights were not violated because the District provided her notice of the reasons for her dismissal in the August 11, 2015 letter and provided her an opportunity for an evidentiary hearing. While the August 11, 2015 letter did not specifically detail the contents of Wilson's statement, Brown was nonetheless put on notice of the proposed grounds for her dismissal because Dr. Moore stated she was recommending that Brown's contract be terminated because (1) Brown "willfully violate[d] a school directive" given to her by Dr. Carpenter on June 1, 2015, to not speak with other District employees during the investigation; (2) Brown was dishonest in her answers to Dr. Moore's questions regarding the alleged incidents involving Student J on May 28, 2015, and the June 5, 2015 interaction with Wilson; and (3) "if [Brown] did grab the student in a forceful or violent manner, that would serve as an additional ground for [Brown's] immediate termination." Furthermore, Dr. Moore mentioned Brown's interaction with Wilson at Ross on multiple occasions in the letter. Thus, Brown had notice of the import of her interaction with Wilson to the Board's decision of whether to terminate her teaching contract, and she could have prepared a defense as to this issue. Additionally, Brown's conversation with Wilson was not a separate ground for terminating Brown's contract; instead, it was incorporated into the ground that Brown violated Dr. Carpenter's directive to not talk to other District employees. Furthermore, the letter informed Brown of her right to request

an evidentiary hearing, which Brown did. Thus, we believe August 11, 2015 letter satisfied the requirements of section 59-25-460. *See* § 59-25-460(A) ("A teacher may not be dismissed unless written notice specifying the cause of dismissal first is given to the teacher by the superintendent and the teacher is given an opportunity for an evidentiary hearing."); *McWhirter*, 274 S.C. at 68, 261 S.E.2d at 158 (holding two letters sent to a principal "setting forth five fairly specific and unambiguous reasons for his suspension and eventual dismissal" satisfied the Due Process Clause and section 59-25-460).

Next, we note Brown's argument the August 11, 2015 letter stated her attorney was present at the July 31, 2015 meeting when her attorney was not. However, this argument is without merit because (1) while parties attending a meeting to discuss potential reasons for a teacher's dismissal "must have the option of" having representation present, actually having such representation is not required by section 59-25-460; and (2) the presence of Brown's attorney at the July 31, 2015 meeting has no bearing on whether the District provided Brown notice of the grounds for dismissal in the August 11, 2015 letter. *See* § 59-25-460(A) ("The superintendent or his designee may meet with the teacher before issuing a notice of dismissal to discuss alternative resolutions. The parties attending this meeting must have the option of having a representative present.").

Finally, we also note Brown's argument the August 11, 2015 letter stated she, Ruppe, and Dr. Carpenter discussed things that they did not, including Wilson's statement and Owen's allegations. Nonetheless, these issues do not effect whether Brown's procedural due process rights were violated because even if Brown did not discuss this information with Ruppe and Carpenter at the July 31, 2015 meeting, such a meeting discussing the grounds for termination in person is not required by section 59-25-460, and Brown was still provided this information, along with notice of the grounds for her termination, in the August 11, 2015 letter. *See* § 59-25-460(A) ("The superintendent or his designee *may* meet with the teacher before issuing a notice of dismissal to discuss alternative resolutions." (emphasis added)).

Therefore, we find the District provided notice to Brown of the grounds for her termination as required by section 59-25-460 and, thus, did not violate her procedural due process rights. Accordingly, we affirm as to this issue.

D. The District's Policies and Reporting of Child Abuse

Brown argues because teaching contracts incorporate state law and school district policies and South Carolina law and the District's policies include a "mandatory

requirement for reporting of allegations of child abuse," the District violated both state law and its own policies by not reporting the alleged incident between Student J and Brown as child abuse.

This issue is without merit. First, we note the District states it did not ever believe Brown's actions rose to the level of child abuse; thus, the District did not violate its policies or state law by failing to report the alleged incident to the authorities. Nonetheless, even if the District should have reported the incident, that bears no relevance to the issue of the Board's decision in Brown's case. Accordingly, we affirm as to this issue.

E. Mootness and the Grounds for Brown's Termination

Brown argues the case against her and the grounds for her termination were moot at the time of the Board hearing because there was no controversy for the Board to decide as Student J and his mother denied Brown ever touched Student J. We disagree.

We find the grounds for termination brought against Brown were not moot. Although Student J, his mother, and Brown all stated Brown never touched Student J, Owens and Kelly both alleged they saw Brown touch Student J. Thus, there was a "real and substantial" controversy for the Board to settle, and the Board's determination of whether Brown was fit to teach would have a "practical legal effect" because it would either result in Brown's teaching contract being terminated or upheld. *See Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 25, 630 S.E.2d 474, 477 (2006) ("A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract."); *id.* at 26, 630 S.E.2d at 477 ("A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court."). Accordingly, we affirm as to this issue.

F. Transcript of the Board Hearing

Brown argues the District did not file a transcript of the Board hearing to the circuit court as required by section 59-25-480 of the South Carolina Code (2019), and without the transcript of the Board hearing, there was "a lack of substantial evidence in the record to support" the Board's finding that Brown was unfit to teach.

Although Brown states she was told by the Cherokee County Clerk of Court's office that no transcript was filed in this case, the District has provided substantial evidence it did file the transcript of the Board hearing. First, it attached a letter from its counsel to the Cherokee County Clerk of Court's office to its return to Brown's designation of the matter to be included in the record. In this letter, dated December 1, 2015, the District's counsel stated, "Enclosed herewith for filing pursuant to S.C. Code Ann. § 59-25-480, please find a certified copy of the transcript record of the proceedings before Respondent Cherokee County School District Board of Trustees . . . ." Furthermore, the circuit court's order affirming the Board's finding that Brown was unfit to teach stated, "After reviewing the transcript of the School Board's hearing and exhibits presented as part of the hearings record . . . the School Board's decision is affirmed." Therefore, we find the District filed a transcript of the Board hearing with the circuit court as required by section 59-25-480. *See* § 59-25-480(B) ("Notice of the appeal and the grounds thereof shall be filed with the district board of trustees. The district board shall, within thirty days thereafter, file a certified copy of the transcript record with the clerk of such court."). Accordingly, we affirm as to this issue.

G. Brown's Remaining Issues

Brown argues her termination was excessive because she "was an exemplary teacher" for the District for seventeen years "with no record of being dishonest," and she did not touch or assault Student J. She also claims the circuit court and Board erred because it failed to rule "that during the summer months when school was out, Brown was not under a contract with" the District.

Brown abandoned these issues on appeal because she failed to cite to any supporting authority for her arguments. *See First Sav. Bank v. McLean*, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (providing an appellant abandons an issue by "fail[ing] to provide arguments or supporting authority for his assertion"); *Fields v. Melrose Ltd. P'ship*, 312 S.C. 102, 106 n.3, 439 S.E.2d 283, 285 n.3 (Ct. App. 1993) (stating an issue is deemed abandoned on appeal and, therefore, not presented for review, if it is argued in a short, conclusory statement without supporting authority). Accordingly, we affirm as to these issues.

IV. CONCLUSION

Based on all of the foregoing, we affirm the circuit court's orders affirming the Board's determination.

AFFIRMED.[10]

LOCKEMY, C.J., and KONDUROS and HILL, JJ., concur.

[10] We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

Honorable J. Mark Hayes Jr., Circuit Court Judge

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

Sharon Brown, ... Appellant,

vs.

Cherokee County School District, ... Respondent.

APPELLANT'S PETITION FOR REHEARING WITH SUGGESTION EN BANC

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INTRODUCTION

Pursuant to Rule 221, SCACR, Sharon Brown, a school teacher, petitioner and appellant petitions this court for a rehearing with a suggestion *en banc* on the above-entitled matter after an unpublished opinion dated January 15, 2020 was issued which affirmed the decision of the circuit court judge who upheld the decision of the Cherokee County School Board Trustees to terminate the teaching employment contract of Brown. It is to be noted that no argument has been waived in our brief and we assert them fully as supplemental to this Petition for Rehearing.

Additionally, in no way should this Petition be construed as an attack on the Circuit Court Judge who I consider to be a fine judge with exemplary standards and character and on this Panel as well. Nevertheless, from the record below it is clear that the District failed to do the following:

1. The District never presented a certified record from the School District signed by an agency official as mandated by Rule 75 SCRCP or S.C. Code 59-25-480.
2. The transcript of the hearing below was certified by the Court reporter and not by an agency official.
3. A certified order was not filed with the Clerk of Court's Office within 30 days of the filing of an appeal by Brown with the Circuit Court.
4. The vote of the Board of Trustees ratifying Brown's termination was not certified within thirty days to the Clerk of Court of Cherokee County as required by Rule 75 SCRCP and S.C. Code 59-25-480.

The record reflects the following:

1. Brown files notice of appeal with circuit court and district.
2. District has 30 days to have an official of the District sign a certified transcript of record below. Here the District only filed the court reporter certified Transcript of the Teacher Dismissal Hearing.
3. District then transmitted this non-agency official Certified Transcript to the Cherokee County Clerk of Court's Office for filing.

4. District's transmittal must be more than the just the record of the hearing below but must include any relevant Certified orders of the District and the certified vote of the District Board of Trustees.

5. Then Brown filed briefs and other exhibits with the Circuit Court.

6. The Circuit Judge stated that he considered the following: "After reviewing the transcript of the School board's hearing and the exhibits presented as a part of the hearing's record, reviewing the pleadings and brief's in the Clerk of Court's file, considering the arguments presented by counsel, and applying the required standard of review, the School Board's decision is affirmed."

7. The School Board Chair Stated: "We thank everyone for their participation in the hearing and ask that you please excuse us now so we can begin our deliberation. As I indicated at the beginning, the Board will deliberate in executive session at the close of the summation. No votes will be taken in executive session. The Board will vote in open session and announce its decision. Within 10 days a written decision of the Board will be issued consistent with the Board's announced decision, the evidence presented, and applicable law." **Supplemental Record on Appeal page 442 lines 14-25.**

8. Then a decision and judgment is rendered by the Circuit Court Judge.

We believe that the Court applied a standard of review not warranted by the facts and law in this case. In this regard we believe that it is understandable that the Panel misconstrued and misapplied its application of Code §59-25-480 and SCRCP 75 where the Court did not take the opportunity to discuss the gaps in S.C, Code §59-25-480. Moreover, we also believe that the Circuit Court judge was hamstrung by the misrepresentations of the District about whether the record in the School District was complete and certified by the requisite agency official as contemplated under S.C. Code §59-25-480 and Rule 75 SCRCP. We also believe that the District's legal counsel was confused and as such committed the logical fallacy of equivocation by equating the Transcript of the Teacher Dismissal Hearing, which transcript was certified by the court

reporter, as the complete record on appeal before the Circuit Court as of December 1, 2015.

Additionally, we respectfully believe that this Court overlooked its own precedent *Tony v. Lee County School District,* 419 S.C. 210, 797 S.E.2d 55 (Ct. App. 2017) as it related to termination of Brown's contract under the substantial evidence standard of proof.

ARGUMENT I

Did the School District Violate the Mandatory Commands of S.C. Code §59-25-480 And Rule 75 SCRCP by Not Filing A Record Certified by The Chief Official of The School Board of Trustees Within 30 Days After Brown the Petitioner Filed Her Notice of Intent to Appeal?

CONCLUSION

A School District Violates the Mandatory Commands of S.C. Code §59-25-480 And SCRCP 75 by Not Filing A Record Certified by The Chief Official of The School Board of Trustees Within 30 Days After Brown, the Petitioner, Filed Her Notice of Intent to Appeal.

The Court of Appeals appears to have overlooked the relationship between S.C. Code §59-25-480 and Rule 75 SCRCP. From precedent it appears that both should be read together. S.C. Code §59-25-480 provides:

> **(A)** The decision of the district board of trustees is final, unless within thirty days afterward an appeal is made to the court of common pleas of any county in which the major portion of such district lies.
> **(B)** Notice of the appeal and the grounds thereof shall be filed with the district board of trustees. The district board shall, within thirty days thereafter, file a certified copy of the transcript record with the clerk of such court. An appeal from the order of the circuit court shall be taken in the manner provided by the South Carolina Appellate Court Rules. If the decision of the board is reversed on appeal, on a motion of either party the trial court shall order reinstatement and shall determine the amount for which the board shall be liable for actual damages and court costs. In no event shall any

> liability extend beyond two years from the effective date of dismissal. Amounts earned or amounts earnable with reasonable diligence by the person wrongfully suspended shall be deducted from any back pay.

SCRCP 75 provides in part:

Appeals to the circuit court shall be made upon the original record in the lower court or administrative agency or tribunal. Upon filing of notice of appeal in an action the original record shall be certified by the clerk of the inferior court or administrative agency or tribunal.

The general proposition under the APA § 1-23-380 is that a party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to this article and Article 1. Judge Geathers goes on to state that all the courts have applied APA standards to certain school board administrative decisions. See *Brown v. James*, 389 S.C. 41, 697 S.E.2d 604 (2010).

In the context of school district terminations of teachers, the school district is looked upon as an agency as defined in the Administrative Procedures Act. See *Brown v. James*, 389 S.C. 41, 697 S.E.2d 604 (2010), also see *McWhirter v. Cherokee County School District 1*, 274 S.C. 66, 261 S.E.2d 157 (1979). "The observance of procedural requirements of the Employment and Dismissal Act is mandatory and not a matter for discretion." *Brown v. James*, 389 S.C. 41, 697 S.E.2d 604 (Court of Appeals 2010).

In *Brown v. James*, the school district prevented Brown from having a due process hearing. *Brown v. James supra.* It is noteworthy to state that this is the same Sharon Brown that is presently before the court and the panel.

Here, Brown exhausted her administrative remedies. The district in turn was duty bound to strictly comply with South Carolina Code § 59-25-480 which by its own admission, the district did not do. See *Brown v. James supra.*

The appeals panel understandably misconstrued and misapplied an erroneous standard of proof in its finding that there was substantial evidence that the trial transcript was filed. The Panel did not properly apply South Carolina Code § 59-25-480 and Rule 75 SCRCP.

Respectfully, the District did not submit the entire record below. The way the process should have worked is as follows:

1. Brown files notice of appeal with circuit court and district.
2. District has 30 days to have an official of the District sign a certified Record of all the proceedings and documents below.
3. District then must transmit this Certified Record to the Cherokee County Clerk of Court's Office for filing.
4. District's transmittal must be more than just the record of the hearing below but must include any relevant Certified orders of the District and the certified vote of the District Board of Trustees.
5. The Appellant then has a due process hearing before the Circuit Court applying the substantial evidence standard of proof.
6. Then a decision and judgment is rendered by the Circuit Court Judge.

What was not done in this case:

7. The District never presented a certified record from the School District signed by an official as mandated by Rule 75 SCRCP or S.C. Code 59-25-480.
8. The transcript of the hearing below was certified by the Court reporter and not by an agency official.
9. A certified order was not filed with the Clerk of Court's Office within 30 days of filing of an appeal by Brown with the Circuit Court;
10. The vote of the Board of Trustees ratifying Brown's termination was not certified within thirty days to the Clerk of Court of Cherokee County as required by SCRCP 75 and S.C. Code 59-25-480.

Since the School District transmitted what we say is a defective and incomplete non-certified "record" to the Circuit Court, the Circuit Court judge could not properly consider and apply the substantial evidence standard of proof without running afoul of both due process and equal protection clauses of both the South Carolina Constitution, the Federal Constitution and mandatory State Statutes, such as 59-25-480 and Rule 75 of SCRCP. The Statutory provisions of the Act governing teacher dismissals are mandatory on all parties.

Since S.C. Code §59-25-480 only deals with part of the transmittal process. It is clear that the Rule 75 fills in the gaps and list the administrative agency's clerk, then if no agency clerk, then some other top official as being charged with certifying the transmittal of the record from the School board of trustees to the Circuit Court Clerk. Here legal Counsel for the School Board of Trustees of Cherokee County gives the impression from her December 1, 2015 letter that she filed a certified transcript. This hearing transcript was certified by the Court Reporter. However, Ms. White has not identified any school board official who signed off and certified the record that was ultimately transmitted to the Clerk of Court of Cherokee County. Not having done this, due diligence renders the "Record' before the Circuit Judge defective and a nullity in terms as to what was ordered in the way of termination of Brown since no valid order existed before the Circuit Judge.

Filing a defective uncertified record does not excuse the District from filing a certified record.

Additionally, the District's legal counsel's letter to the Court of Appeals dated November 22, 2017, the School Board's counsel states that she filed the Transcript of record on December 3, 2015 which is a different date than what she represented in her letter dated December 1, 2015. Additionally, the School Board claims that the only record

they submitted to the Cherokee County Clerk of Court was the Transcript of the Hearing below that was typed by the court reporter. This is significant because Judge Hayes only considered the following:

"After reviewing the transcript of the School board's hearing and the exhibits presented as a part of the hearing's record, reviewing the pleadings and brief's in the Clerk of Court's file, considering the arguments presented by counsel, and applying the required standard of review, the School Board's decision is affirmed." R. p. 2.

As has been adverted to Rule 75, states in pertinent part, appeals to the Circuit Court shall be made upon the original record in the lower court or administrative agency or tribunal. Upon filing of notice of appeal in an action, the original record shall be certified by the clerk of the inferior court, or administrative agency or tribunal and transmitted within 30 days to the clerk of court to which the appeal is taken. If the lower court, agency or tribunal has no clerk, then the original record shall be certified and transmitted by the judge or chief official of the lower court, agency or tribunal. (Emphasis added).

In this case, we have not been provided with the name of the person who properly certified the record from the School Board of Trustees of Cherokee County to be transmitted to the Cherokee County Clerk of Court within the thirty (30) requirement under both the Statute and the Rule 75. Moreover, the Court reporter does not appear to be listed in either S.C. Code §59-25-480 or Rule 75 of the SCRCP.

Respectfully, the Panel's finding that the District " ...has provided substantial evidence that it did file a transcript of the board hearing" with respect to the mandatory certification is questionable with regard to the confused dates on the District about when the transcript of the hearing was filed and a lack of a named certifying official of the Record before Judge Hayes. Also, the Panel's reasoning does not comport with the plain language of either the Statute of S.C. Code 59-25-480 or Rule 75 SCRCP.

Additionally, the Court of Appeals appears to be confused about the issue as to who certifies the record below and what is to be included in the record. Clearly, the transcript and the exhibits from the Court reporter were insufficient. It follows that the School District had the burden to provide the lower court judge with the decision and order of the School District within the 30 days contemplated by both the Statute of S.C. Code §59-25-480 and Rule 75 of the SCRCP.

It is axiomatic that Brown's due process rights were violated by this oversight by the Court of Appeals which is understandable due to the misrepresentations made by the District to the Clerk of Court, Brown's legal Counsel and the Court of Appeals concerning the certification issue and the District's mischaracterization of what it filed or didn't filed in the Cherokee County Clerk of Court's Office.

To reiterate, from the record below, it does not appear that the school board and/or its agents, servants and/or employees complied with Rule 75 of the South Carolina Rules of Civil Procedure because it does not appear that the record below was certified to the circuit court by the administrative agency itself. And it does not appear, we believe, that Ms. White on behalf of the school district has submitted a certified record to the circuit court. If so, then please show us who signed and where it has been submitted.

Clearly then, the Cherokee County School District did not comply with 59-25-480 and/or Rule 75 of the South Carolina Rules of Civil Procedure. It is stated in *Vansant v. Smith* that Rule 74 and 75 make uniform the procedure on appeals to the circuit court where there is no provision by statute or do not replace any provision in Title 18 relating to such appeals in other statutes. Clearly, Rule 75 must be read with 59-25-480 in order to deal with the issue of transmittal of the record below.

In its Brief, the District states that "The District has presented evidence to this Court that it filed the transcript. In its return filed with this Court on November 27, 2017, the District

responded to Appellant's designation of matters to be included in the record on appeal to ask this Court to include a transcript of the teacher dismissal hearing. In that return, the District included as Exhibit A its counsel's letter to the Honorable Brandy McBee, Cherokee County Clerk of Court, dated December 1, 2015, "enclosed for filing the transcript of Brown's teacher's dismissal hearing in accordance with the requirements of South Carolina Code Annotated § 59-25-480." Brown's counsel was copied on the December 1, 2015 letter. In that return the district states, "As further evidence the District filed a transcript, and that it was received by the lower court, Circuit Court Judge J. Mark Hayes cites to the transcript in his order upholding the Board's decision, demonstrating that the transcript was in fact filed. Had the transcript not been filed, Judge Hayes could not have reviewed it." The District also states, " assuming *arguendo* that the clerk of court did not receive the transcript, the appropriate relief is not Brown's reinstatement. Once Brown was informed, through her counsel's discussion with the Cherokee County Court of Common Pleas' clerk on October 30, 2017, that the clerk had not received the transcript, Brown was on notice that there was a possible question over the filing of the transcript. As such, Brown should have remedied the matter by pursuing the appropriate *writ of mandamus*, which she did not do."

Please note in the Transcript of the Teacher Dismissal Hearing there was no order filed with it. Look at Supplemental Record p. 442.

The District cited *Joyner v. Glimcher Properties*, 356 S.C. 460, 463, 589 S.E.2d 762, 765 (Ct. of App. 2002).

This argument is without merit. Why? Because the District's legal Counsel allegedly transmitted an uncertified and incomplete record to the Clerk of Court of Cherokee County. This is distinguishable from the procedure in the magistrates Court's where the Magistrate is mandated to file a return where neither the Solicitor or Criminally Accused are employees charged with transmittal of the Return form the Magistrate to the Court of Common Pleas versus the Clerk of Court's Office. Here, White claims in two different letters that she transmitted the transcript of the Teacher Dismissal Hearing and its exhibits to the Clerk of Court. On page 442 Lines 14-25 Transcript sets forth what the Chairperson of the Board States:

"We thank everyone for their participation in the hearing and ask that you please excuse us now so we can begin our deliberation. As I indicated at the beginning, the Board will deliberate in executive session at the close of the summation. No votes will be taken in executive session. The Board will vote in open session and announce its decision. Within 10 days a written decision of the Board will be issued consistent with the Board's announced decision, the evidence presented, and applicable law." **Supplemental Record on Appeal page 442 lines 14-25.**

What Judge Hayes states he considered in rendering his decision:

"After reviewing the transcript of the School Board's hearing and the exhibits presented as a part of the hearings record, reviewing the pleadings and briefs in the Clerk of Court's file, considering the arguments presented by Counsel, and applying the required standard of review, the Board's decision is affirmed." R.. p. 2.

So where is the Certified decision of the Board of Trustees and its vote other than the exhibits that were filed by Brown? There is no decision that was timely filed by White as legal counsel that Brown had in fact been fired. The District had a right to certify any aspect it considered to be its record. No such duty fell upon Brown to have a writ issued to force the District to protect its own decision before the Circuit Judge.

The Panel cannot relax the rules to suit the District's failure to comply with the clear commands of the Employment and Dismissal Act S.C. Ann.§ 59-25-410, 59-25-480.

CONCLUSION

Since the District chose what record to submit and that record being defective on its face, reversal of the Circuit Judge and School Board's decision is mandated because it is impossible to apply the substantial evidence standard of proof to the facts in the Transcript of the hearing without a certified decision from the District and as such the lower court's decision should be reversed and Brown must be reinstated to her former teaching position.

ARGUMENT II

Did the Court Err in Ruling That Brown Was Unfit to Teach Due to Dishonesty During the Investigation into An Alleged Assault of a Minor School Aged Child Where Brown Is Alleged to Have Failed to Comply with A Directive of Her Superior?

This Court states:

> "Because one ground for Brown's termination-dishonesty-was supported by substantial evidence, the Circuit Court did not err in affirming the Board's finding that Brown was unfit to teach pursuant to 59-25-430."

We believe that the court of appeals overlooked and/or misapprehended its prior precedent as set forth in the case of *Tony v. Lee County School District,* 419 S.C. 210, 797 S.E.2d 55 (Ct. App. 2017). It appears to be a clear equal protection and due process oversight.

In *Tony*, a determination by the Lee County School District was made to terminate a teacher from employment for disobeying a directive not to have contact with any employees of the school district and for a lack of candor during the course of an investigation into that teacher's alleged misconduct and/or unfitness to teach. The court of appeals in that case affirmed the decision of the circuit court judge and held that the lack of candor and the failure to follow the directives of the superintendent did not rise to the level which warranted termination as set forth by the school board in its determination on the substantial evidence standard of proof. See *Hall v. Board of Trustee*, 330 S.C. 420, 499 S.E. 2d 216 (Ct. App. 1998).

It is noteworthy that both Judge Lockemy and Judge Konduros participated in the *Tony* decision as these said two judges participated on the panel of the above-referenced matter now before it. I suppose a lack of candor means "dishonesty." If that be the case, maybe Tony deserved to be fired for unfitness. But we know from the decision that was not the result in where the court recognized that in some ways Tony acted in several ways unprofessional.

Since there appears to be a conflict and/or an overlooking of the precedent of its own court, Brown requests that the court rehear this matter in the panel with a respectful suggestion of an en banc hearing.

Finally, the Court overlooked precedent that 59-25-430's dishonesty provision is void for vagueness and a violation of Due Process both substantive and procedural due to its over-breath. Thus this portion of the statute is unconstitutional. See *State v. Legg*, 416 S.C. 9, 785 S.E. 2d 369 (2016); *Town of Mt. Pleasant v. Chimento* 401 S.C. 522, 737 S.E. 2d 830 (2012).

CONCLUSION

This prejudice the Petitioner in so many ways. As such, Petitioner requests that the Circuit Court's decision be reversed and that Brown be ordered reinstated to her job as a school teacher. A job she is well qualified to serve in.

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Email: fnsmith@bellsouth.net

Greenville, South Carolina
Dated: Saturday, January 25, 2020

EXHIBIT A

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

Sharon Brown, ... Appellant,

vs.

Cherokee County School District, ... Respondent.

SUPPLEMENTAL RECORD ON APPEAL

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ATTORNEYS FOR RESPONDENT

STATE OF SOUTH CAROLINA) BEFORE THE BOARD OF TRUSTEES
) OF CHEROKEE COUNTY SCHOOL
COUNTY OF CHEROKEE) DISTRICT

Dr. Quincie Moore,

Complainant,

vs.

Sharon Brown,

Respondent.

COPY

TRANSCRIPT OF THE TEACHER DISMISSAL HEARING

****

Wednesday, October 7, 2015
6:35 p.m. - 10:45 p.m.

Held at the Cherokee County School District Office
141 Twin Lake Road, Gaffney, South Carolina 29341

Board Members Present:
Cheryl Smith, Board Chairman
Barry Bailey
Billy Blackwell
Elaine Fowler
Robin Harper
Tracy Moore
Mark Nix

Attorney for the Board:
Kenneth E. Darr, Jr., Esquire

Andrea E. White, Esquire representing the Complainant
Fletcher N. Smith, Jr., Esquire, representing the Respondent

She does a good job. None of them have come in here and told you she does a bad job. Fact is she's a good teacher. What conversation she had, and you'll read that Hall case, had nothing to do with the classroom whatsoever, and on that basis, she can't be fired by the superintendent or recommended, have a recommendation for her firing, so I ask you all to bring her back. You all have no enemies to punish or anybody reward, but I think it ought to end tonight. I think this whole situation ought to end tonight. Her contract should be honored by the school district, and, and I'll leave it in you all's hands. Thank you.

MADAM CHAIR: We thank everyone for their participation in the hearing and ask that you please excuse us now so we can begin our deliberation. As I indicated at the beginning, the Board will deliberate in executive session at the close of the summation. No votes will be taken in executive session. The Board will vote in open session and announce its decision. Within 10 days a written decision of the Board will be issued consistent with the Board's announced decision, the evidence presented, and applicable law.

(Off the record)

CERTIFICATE

This is to certify that the foregoing transcript of Cherokee County School Board hearing, consisting of one hundred sixty-six (166) pages, is a true and correct transcript of the testimony given at said hearing; said hearing was reported by the method of voice writer with backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 31st day of October, 2015.

Judy R. Urso
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 1-24-21

The South Carolina Court of Appeals

Sharon Brown, Appellant,

v.

Cherokee County School District, Respondent.

Appellate Case No. 2017-001466

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

_____ C. J.

_____ J.

_____ J.

Columbia, South Carolina

cc: Fletcher N. Smith, Jr., Esquire
Andrea Eaton White, Esquire

FILED

May 22, 2020

Andrea E. White
Ashley C. Story
Brittany M. Lozanne
Imani N. Newborn

WHITE & STORY LLC
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November 22, 2017

VIA HAND-DELIVERY

The Honorable Jenny Abbot Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: Sharon Brown v. Cherokee County School District
C.A. No. 2015-CP-11-0828
Appellate Case No. 2017-001466

Dear Ms. Kitchings:

Enclosed for filing please find a certified original ***Transcript Record*** of the proceedings before Respondent Cherokee County School District Board of Trustees regarding the above-referenced matter. This Transcript was originally filed with the Cherokee County Circuit Court on December 3, 2015, but apparently was lost or otherwise destroyed.

Please be aware that we were advised by the Court Reporter, Judy Urso, that she does not maintain the original exhibits; therefore, we have enclosed copies of those exhibits that were introduced during the hearing and which are referenced in the Transcript.

As always, should you have any questions please feel free to contact our office.

Thank you for your assistance in this matter.

With kind regards, I remain

Sincerely,

Mendy M. Young
Litigation Paralegal to Andrea E. White & Brittany M. Lozanne

/mmy
Enclosures

cc: The Honorable Mark J. Hayes, II (w/o enclosures)
The Honorable Brandy W. McBee (w/o enclosures)
Fletcher N. Smith, Esquire (w/o enclosures)