## STATE BOARD OF EDUCATION

## **STATE OF GEORGIA**

A. M.,

Appellant,

vs. CASE NO. 2005-15

GWINNETT COUNTY

BOARD OF EDUCATION,

: DECISION

Appellee.

This is an appeal by A. M. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to suspend him from regular school until January 1, 2005, with the option of attending an alternative school during his suspension, after the tribunal found him guilty of smoking a cigarette and marijuana and being absent from school without permission. The Student claims that there was no credible evidence that he used any marijuana. The Local Board's decision is sustained.

On July 1, 2004, the Student was supposed to be in a summer class. Instead, he and three friends met on the campus before classes began and decided to leave campus to smoke cigarettes and marijuana. A teacher noticed them leaving and alerted the principal, who started an investigation. The Student and his friends were identified as the students who left school. Because of questions posed to the students, they were charged with smoking marijuana and transmission of a marijuana pipe, possession and smoking of a cigarette, and being absent from school without permission.

During a hearing before a student disciplinary tribunal, the Student admitted to smoking a cigarette and being absent from school without permission. He denied that he had smoked any marijuana or had possession of a marijuana pipe, but he claimed that the other students smoked marijuana and had a marijuana pipe. The other students testified that the Student was the one who had the marijuana pipe and two of them testified that the Student smoked marijuana. The tribunal found that the Student was smoking marijuana, had possession of a marijuana pipe, smoked a cigarette, and was absent from school without permission. The tribunal suspended the Student from regular school until January 1, 2005 with the option of attending alternative school during the suspension period.

The Local Board upheld the tribunal's decision when the Student appealed. The Student then filed and appeal from the Local Board's decision with the State Board of Education.

The Student claims that there was no credible evidence that he smoked marijuana or had possession of a marijuana pipe. "The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783, 242 S.E.2d 374 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." Roderick J. v. Hart Cnty. Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). There was testimony that the Student smoked marijuana and had possession of a marijuana pipe. The fact that the principal was unable to find the marijuana pipe does not, as the Student claims, make the testimony of the other three students any less credible.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence that the Student engaged in smoking marijuana, possessed a marijuana pipe, smoked a cigarette, and was absent from campus without permission. Accordingly, the Local Board's decision is SUSTAINED.

| This day of January 2 | 2005.                     |
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|                       |                           |
|                       | William Bradley Bryant    |
|                       | Vice Chairman for Appeals |