



State of Wisconsin

DEPARTMENT OF PUBLIC INSTRUCTION

Barbara Thompson, Ph.D.
State Superintendent

Dwight M. Stevens, Ph.D.
Deputy State Superintendent

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of an Appeal Filed With the State Superintendent of Public Instruction On or About March 5, 1975, By Charles Swanson, Attorney for Mrs. Annie M. [REDACTED], Appealing the Decision Made By Unified School District No. 1, Racine County, on February 24, 1975, To Expell Her Son, Oscar H. [REDACTED], From Racine Horlick High School.

DECISION
AND
ORDER

Both parties to the above appeal have presented a stipulated Statement of Facts of the expulsion hearing held by the Racine School Board on February 24, 1975, which resulted in the expulsion of said Oscar H. [REDACTED], hereinafter known as Oscar. It was further stipulated that the Statement of Facts was to be used as a basis for this appeal to the State Superintendent and it was further stipulated that the facts therein set forth may be used in lieu of any further de novo hearing by the State Superintendent on the subject matter. Briefs of counsel, Attorney Charles Swanson for Appellant, and W. Thatcher Peterson, Counsel for the Racine Board of Education, hereinafter known as the Board, have been received and considered. The State Superintendent, after consideration of all the testimony and the entire record and being fully advised in the premises makes and files the following findings and order.

Findings

That Oscar, a 16 year old 10th grade student at Racine Horlick High School, was expelled by the Racine Board after a hearing held on February 24, 1975.

Oscar was expelled for the possession of a bag of marajuana while appearing in Horlick High School on February 6, 1975.

The school board policy contained in the Code of Student Rights and Responsibilities, Section 4, B, provided, "The use or possession of drugs is illegal and is a health and safety hazard. No student may appear at any school or school-sponsored function under the influence of illegal drugs or chemicals or with illegal drugs or chemicals in his possession."

On February 6, 1975, another student, without warning, struck and hit Oscar while he was in the corridor of Horlick High School and knocked him over causing him to strike his head on a bench corner whereupon he was knocked unconscious and suffered a convulsion.

Oscar was subsequently taken to a hospital by a rescue squad and he was unconscious during this period of time.

While at the hospital Oscar was undressed by a nurse who found a small sack of "substance" tucked into the sock on one of his feet.

This "substance" was subsequently identified by a Racine chemist to be marajuana.

Oscar testified that he did not recall anything from the period when he was struck in the school until he woke up in the hospital.

Oscar further stated that he did not have any marajuana in school on February 6, 1975, and that he had no knowledge of how this marajuana got into his sock.

Conclusions

Although it appears that Oscar was in the possession of marajuana on his person when he arrived at the hospital and his clothes were removed by the nurse, it does not appear that there is any evidence that Oscar possessed marajuana while in attendance at Horlick High School or while under the supervision of Racine school authorities.

Further, no evidence was submitted from which the Board or the State Superintendent could conclude contrary to Oscar's statement of denial that he possessed the marajuana in Horlick High School.

Even if admittedly Oscar were in possession of the marijuana in Horlick High School or under the supervision of Racine school authorities, (such possession would be insufficient to expell Oscar from the school in the absence of the charge or proof of repeated violation of school rules by Oscar.)

To sustain an expulsion for one act there must be proof that the student engaged in conduct either at school or under the supervision of school authorities, which endangered the property, health, or safety of others and the Board must be further satisfied that the interest of the school demands the student's expulsion. In the instant case, there is no showing that the health or safety of others in the school was threatened by Oscar's presence therein even if the possession of marijuana while at school had been proven.

IT IS HEREBY AND HEREWITH ORDERED That the expulsion of Oscar H [REDACTED] from Horlick High School be reversed and that Oscar H [REDACTED] be forthwith returned to attendance in Horlick High School.

Dated this 18th day of April, 1975.

Signed:

Barbara Thompson
BARBARA THOMPSON
State Superintendent
State of Wisconsin