

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the matter of the Expulsion of
Gary K [REDACTED] by the Wabeno School Board
from the Wabeno High School on March
19, 1980.

DECISION
AND
ORDER

This is an appeal pursuant to Section 120.13(1)(c), Wis. Stats., from the March 19, 1980 decision of the Wabeno School Board, hereinafter Board, of the Wabeno School District, hereinafter Respondent, [permanently expelling] Gary K [REDACTED], hereinafter Appellant, from Wabeno High School. Now having fully reviewed all matters of record, including a taped transcript of the March 17, 1980 proceedings before the Board relative to this case, the State Superintendent of Public Instruction makes the following,

FINDINGS OF FACT

The Appellant, a freshman at Wabeno High School, was expelled permanently from attendance at the High School on March 19, 1980, with homebound instruction provided by the Respondent for the remainder of the school year for conduct which endangered the health and safety of others.

That the misconduct for which Appellant was expelled took place on March 6, 1980, in the early morning general science classroom of Jack R. Drinkwine, hereinafter Drinkwine, a teacher in Wabeno High School. That the resulting disturbance involved Drinkwine, Appellant and Appellant's twin brother, Jerry K [REDACTED], who was also a student in the freshman science class.

Early in that science class on March 6, a discussion took place between Drinkwine and Jerry concerning another student having previously pulled the school fire alarm when there was no fire. During the discussion that ensued, Drinkwine, on the basis that Jerry had spoken disrespectfully to him, walked over to Jerry's seat and taking him by the back of the neck, raised him out of his seat and informed Jerry that he was taking him to the office. While leaving the classroom in this manner, Drinkwine was struck in the back without any warning other than the Appellant's statement "you're not going to do that to my brother".

As Drinkwine was struck in the back by the Appellant, he fell forward onto Jerry with the Appellant landing on top of Drinkwine. There was testimony that the incident was of short duration and that there was no serious injuries resulting. Drinkwine stated that although Appellant was slow in his science class that there was still something he could do to help the Appellant if he continued in school.

CONCLUSIONS

Unprovoked attacks upon a member of Respondent's teaching staff such as Appellant participated in at Respondent's school on March 6, 1980, cannot be condoned by school authorities and is conduct which endangered the health and safety of others.

The expulsion of Appellant on its merits for some appreciable period of time was reasonable and justified under Section 120.13(1)(c), Wis. Stats.

Having considered all the circumstances relating to Appellant's expulsion, it is determined that to permanently expel Appellant, a child of compulsory school attendance age, would be unduly harsh. It is further determined and concluded that an appreciable and reasonable period of time for Appellant's

expulsion is to the end of the first semester of Respondent's 1980-81 school year and that during said period of expulsion, the Board is to provide alternative instruction such as was provided in the expulsion order of March 19, 1980, to the end of the last semester of the 1979-80 school year.

IT IS HEREBY ORDERED That Appellant's expulsion be affirmed to the end of the first semester of the 1980-81 school year and that thereafter Appellant is to be reinstated as a student in Respondent's school at the beginning of the last semester of the 1980-81 school year.

The Board is further ordered to provide Appellant with alternative study to the end of the present semester such as was provided or offered in its expulsion order of March 19, 1980.

Dated this 5th day of September, 1980.

Barbara Thompson
Barbara Thompson
State Superintendent