

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of
ANTHONY CLARK K██████████
by the Amery School District
Board of Education

DECISION
AND
ORDER
87-EX-05

NATURE OF THE APPEAL

On August 10, 1987, Anthony Clark K██████████, through his attorney, filed with the State Superintendent of Public Instruction a notice of appeal "from the disciplinary action of the School District of Amery, taken on May 20, 1987, pursuant to School District meeting of May 18, 1987". The Board's order that Tony is appealing provides that Tony will be suspended from school for part of September, 1987, will be placed on social probation for the 1987 fall semester and will be placed on general probation for the remainder of the 1987-88 school year. Social probation includes placing certain restrictions on Tony, including restricting him from participating in athletic or after-school activities.

FINDINGS OF FACT

On May 18, 1987, the Amery School District Board of Education held a hearing to consider the expulsion of Anthony Clark K██████████. Tony and his parents attended the hearing.

On May 20, 1987, Raymond Norsted, School District Administrator, sent a letter to Walter K [REDACTED], Tony's father, detailing the specific disciplinary measures the Board decided to take in regard to Tony. That part of the letter reads as follows:

1. Tony will continue to be suspended for the remainder of the 1986-87 school year. At the same time, Tony will be allowed to receive his assignments from his teachers and to take his final tests, so he may complete the current school year.
2. When school resumes next fall, Tony will be suspended, once again, for the first seven student days of the 1987-88 school year.
3. Tony will be allowed to attend school on the eighth day, which next year will be August 31st.
4. Tony will remain on an in-school suspension basis, similar to what he had on Monday, through September 28th.
5. Tony will be placed on a social probation for the entire first semester of the 1987-88 school year. During that time he will not be allowed to participate in any athletic or after-school activities.
6. Tony will remain on general probation for the remainder of the 1987-88 school year. What this means is that should there be any other incidents of similar or like nature, the board will then re-evaluate the entire situation and come up with some new recommendations.

7. The board is also requesting that Tony be given some type of psychological evaluation by either Northern Pines or some other similar institution. This is to be completed before Tony will be allowed to start school next fall.

The disciplinary measures do not by their terms include expulsion, but Tony has filed this appeal under s. 120.13(1)(c), Wis. Stats., which provides for appeals only of expulsions. I am assuming, therefore, that the grounds for this appeal are that the restrictions placed on him by the Board constitute a de facto expulsion.

DISCUSSION

Section 120.13(1)(c), Wis. Stats., provides in relevant part,

The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the expulsion to the state superintendent.

(Emphasis added.)

In construing a statute, nontechnical words used, but not defined, in the statute are to be given their ordinary and accepted meaning, and this meaning may be determined by consulting a recognized dictionary. State ex rel. First Nat. Bank & Trust v. Skow, 91 Wis. 2d 773, 781 (1979); State v. Wittrock, 119 Wis. 2d 664, 670 (1984). Black's Law Dictionary defines "expulsion" as follows:

A putting or driving out. Ejectment; banishment; a cutting off from the privileges of an institution or society permanently.

Black's Law Dictionary, 693 (Revised Fourth Edition, 1976).

The term "expel" is defined as follows:

1. to force out from or as if from a receptacle . . .;
2. to drive away . . .;
3. to cut off from membership; <expelled from college> syn. see EJECT.

Webster's New Collegiate Dictionary, 403 (1977).

Thus, a student is "expelled" when the student is ejected or banished from school or cut off from membership in school. The common meaning of expulsion is that the student is not permitted to attend school at all for a specified period of time. Tony has not been expelled from school. He has not been cut off from coming to school or acquiring his education. Although the Board has seen fit to put Tony on a probationary status and place certain restrictions on his activities, these restrictions do not constitute an expulsion, de facto or otherwise.

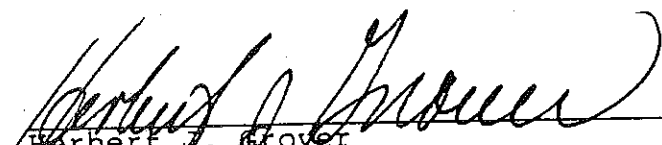
Besides looking at the definitions of "expel" and "expulsion", I have also taken into consideration the language in s. 120.13, Wis. Stats. Sec. 120.13(1)(a), Wis. Stats., gives school boards broad authority to "[m]ake rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere" Sec. 120.13(1)(b), Wis. Stats., establishes when and how a student may be sus-

pended from school. It is important to note that there are no provisions for pupils or their parents to appeal to the state superintendent concerning rules established by the school board under sub. (1)(a), or suspensions imposed under sub. (1)(b). It is only "expulsions" which may be appealed to the state superintendent under sub. (1)(c).

CONCLUSIONS AND ORDER

Based on the findings and discussion above, I conclude that Anthony Clark K [REDACTED] was not expelled by the Amery School District Board of Education and therefore that the State Superintendent lacks jurisdiction to hear this matter under s. 120.13(1)(c), Wis. Stats. Accordingly, this appeal is hereby DISMISSED.

Dated and mailed this 2ND day of September, 1987.



Herbert J. Grover
State Superintendent of Public Instruction