

TERESA MUISE-MAGRUDER,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 03-20

OPINION

This is an appeal of the unanimous decision issued by the Montgomery County Board of Education affirming the denial of Appellant's request that her son, Ryan, be permitted to attend Damascus High School ("Damascus") for the second semester of the 2002-2003 school year, his senior year. The local board has submitted a Motion for Summary Affirmance and supporting Memorandum, maintaining that the denial was appropriate under the factual circumstances and the applicable rules and regulations of the local board. Appellant has filed a reply reiterating her desire to have Ryan graduate from Damascus High School.

FACTUAL BACKGROUND

Ryan, a Caucasian student, was expelled from Montgomery County Public Schools ("MCPS") on February 24, 2002, for the remainder of the school year after Ryan provoked a physical altercation with Jonah, an African-American. Jonah was seriously injured in the attack. The school had experienced similar incidents with racial overtones earlier in the school year and at least one more such incident was precipitated by this altercation.

Ryan's parents appealed the expulsion to the local board and requested that Ryan be permitted to return to Damascus. The local board affirmed the expulsion on September 12, 2002. The State Board subsequently upheld the expulsion in Opinion No.03-11, February 26, 2003.

While the appeal was pending, Ryan applied for reinstatement to the Expulsion Review Board¹ ("ERB"). The ERB took into consideration Ryan's efforts in community service and further educational success subsequent to his expulsion and evidence of his general character. (ERB Letter of July 30, 2002). It also took into consideration the need to support a safe atmosphere at Damascus and the impact that this particular fight had on the school and community. The ERB determined that based upon his efforts, Ryan deserved to be readmitted to school, but that it was not in his best interests to return to Damascus. (ERB Letter of July 30, 2002). He was therefore readmitted to Watkins Mill High School for the 2002-2003 school year.

¹The Expulsion Review Board is made up of principals and administrators within the MCPS.

By letter dated December 6, 2002, Appellant requested that MCPS review Ryan's case and reinstate Ryan at Damascus for the second semester of his senior year. She noted that Ryan had received 2 A's and 1 B in his first marking period, had not missed a day of school, and had completed approximately 120 hours of community service. (Letter of December 6, 2002). The request was referred to Hearing Officer Wayne R. Fleeger for review.

Mr. Fleeger recommended that Appellant's request be denied. While he considered Ryan's achievements over the past few months, he noted that:

the central issue in this matter is the atmosphere in the community and school. Although this is, necessarily, a subjective concept, concerns in this are quite real. Both administrators expressed grave concerns about the prospect of Ryan's return. They pointed out that county government representatives had been working with them and community members to heal the rift created by the incident. It was their belief that any action that was perceived as a step away from the progress achieved thus far would be extremely unwise. They were unanimous that the situation remained so fragile that the risk involved in returning the student to school could not be justified.

(Memorandum of hearing officer, p. 1, December 20, 2003).

Appellant also claimed that other students who had been expelled were permitted to return to their former schools. However, the hearing officer noted that while some students had been readmitted to their former schools, others, for cause, were not permitted to return to their former schools.

In every one of these decisions, the members [of the ERB] responded to the infraction and its impact on the school and community in assigning the student to a different school. The decision in Ryan's case was absolutely consistent with the others.

(Memorandum of hearing officer, p. 2, December 20, 2003).

MCPS adopted the hearing officer's recommendation on January 3, 2003. The matter was appealed to the local board which upheld the decision by unanimous vote at their February 11, 2003 meeting. This appeal to the State Board followed.

ANALYSIS

Because this case involves the application of the rules and regulations of a local board, the decision of the local board shall be considered prima facie correct, and the State Board may

not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.01.03E(1). *See, e.g., Breads v. Board of Education of Montgomery County*, 7 Op. MSBE 507 (1997).

In her appeal letter to the State Board, Appellant does not allege that the local board's decision denying Ryan readmission to Damascus was arbitrary, unreasonable or illegal. Rather, she strongly believes that Ryan's accomplishments over the past fourteen months merit his return to Damascus High School.

In its decision, the local board acknowledged Ryan's positive actions subsequent to his expulsion, but deferred to the principal's assessment of the Damascus High School climate:

This review of a decision of the Expulsion Review Board is a case of first impression. Ryan's mother has articulated very well her concern that the decision whether to return Ryan to Damascus should be predicated solely on his conduct over the past several months, not on a perception as to what may or may not have occurred or will occur in the school or larger community. To Ryan's credit - in no small part as a result of the support received from his mother - he has been gainfully employed, he has pursued his studies with success, he has performed community service, and he has shown contrition for his participation in an unfortunate incident of some notoriety.

Although Ryan's actions this school year make this a more difficult decision, the Board, nonetheless, is compelled to defer to the concerns voiced by the school and the Administration were Ryan to be returned to Damascus. The Board does believe that a risk exists that old wounds may be reopened were Ryan returned to the school where his actions - intended or not - triggered a major incident and exposed a serious divide within the community. Ryan has achieved while at Watkins Mill. Under these circumstances, the Board is disinclined to substitute its judgment for that of the principal in assessing the current climate of his school. The fact remains that Ryan's original conduct was very wrong and that he is fortunate that he was permitted to return to complete his senior year, albeit not to his home school. Accordingly, the decision of Mr. Larry Bowers, chief operating officer, is hereby affirmed.

(Local Board Decision and Order, pp. 1-2, February 12, 2003).

The Maryland Court of Appeals and the State Board have long held that a student does not have a right to attend a particular school. *Bernstein v. Board of Education of Prince*

George's County, 245 Md. 464 (1967). As the State Board noted in the earlier opinion concerning the discipline imposed on Ryan, Op. No. 03-11, under MCPS regulation JRA-RB, MCPS reserves the right to reassign a student to a different school or alternative program for disciplinary reasons.² In this case, after reviewing the materials presented by Appellant, including personal statements in support of Ryan from community members, the local board deferred to the judgment of the principal and other school officials in assessing whether Ryan should return to school. School officials believed that the interests of the school and community were better served with Ryan attending a high school other than Damascus. We find that it was well within the local board's discretion to affirm that decision.

CONCLUSION

Finding that the local board's action was not arbitrary, unreasonable or illegal, we find no basis for the State Board to substitute its judgment for that of the local board. We therefore affirm the decision of the Board of Education of Montgomery County denying the request for Ryan to return to Damascus High School.

Marilyn D. Maultsby
President

JoAnn T. Bell
Vice President

Philip S. Benzil

Dunbar Brooks

Clarence A. Hawkins

Walter S. Levin, Esquire

Karabelle Pizzigati

²We believe that the action complained of here, the denial of readmission to Damascus, is an extension of MCPS's disciplinary process rather than an application for a student transfer, as asserted by MCPS in its memorandum.

Edward L. Root

Walter Sondheim, Jr.

John L. Wisthoff

May 21, 2003