

IOWA STATE DEPARTMENT  
OF PUBLIC INSTRUCTION

(Cite as 2 D.P.I. App. Dec. 42)

In re Douglas W. Williams :

John & Viola Seffinga, Appellants :

v. :

Beaman-Conrad-Liscomb Community  
School District, Appellee :

DECISION

[Admin. Doc. 492]

The above entitled matter was heard on July 10, 1979, before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Mr. Gayle Obrecht, director, administration and finance division; and Mr. A. John Martin, director, instruction and curriculum division. Attorney Randall C. Wilson represented the Appellants, and Attorney Michael J. Moon represented the Beaman-Conrad-Liscomb Community School District (hereinafter District). The hearing was held pursuant to Chapter 290, The Code 1979, and Departmental Rules 670--51, Iowa Administrative Code. The Appellants appealed a decision of the District Board of Directors to expel Douglas Williams.

I.

Findings of Fact

The Hearing Panel finds that it and the State Board of Public Instruction have jurisdiction over the parties and subject matter.

Douglas Williams resides with Mr. & Mrs. John Seffinga, his foster parents, in the District. In the summer of 1977, he was adjudicated a delinquent and spent four months at the Training School for Boys in Eldora. About four months after his release he was returned to the Training School for Boys for violation of parole.

During the 1978-79 school year, Doug was a senior high school student in the District and was involved in several infractions of school rules. Two of the incidents were apparently considered of a minor nature, and Doug was given short detentions. Other incidents, however, were viewed by the District's administration in a more serious light.

On January 17, 1979, he was overheard swearing out loud in the hallway. He served a one day "in-school" suspension. The letter from Gerald Gade, high school principal, to Doug's foster parents, warned that a second suspension would require that he appear before the District Board of Directors.

On February 7, 1979, Doug was determined to have chewed tobacco (Skoal) in class in violation of school rules. He was given a three day "in-school" suspension and directed to appear before the District Board to discuss his disciplinary problems. Five days later Doug and Mr. & Mrs. Seffinga appeared before a special meeting of the District Board.

After discussing Doug's rule infractions and warning him that a third infraction could lead to expulsion, the Board voted to re-admit Doug to school.

On March 16, 1979, Doug was observed shoving another student in the cafeteria. Doug testified that the other boy involved had shoved him first. When a teacher approached him and confronted him, Doug told the teacher that they were just "horsing around." Doug testified that the teacher questioning him had gotten uncomfortably close and warned Doug that if he did not stop shoving he would have Doug "bounced out of school." Doug apparently became angry and insubordinate. The record does not disclose the details of Doug's act of insubordination, but does indicate that he admitted to the fact.

On April 9, 1979, Doug entered an afternoon English class and observed that items were being temporarily stored in boxes in the classroom. He took a pitcher and some lemonade mix from one of the boxes and left the room. He went across the hall and filled the pitcher with water and lemonade mix. As he was returning, he was confronted in the hall by his teacher. The teacher immediately grabbed Doug by the arm, resulting in the spilling of some lemonade. The teacher then took the pitcher of lemonade from Doug, and a verbal exchange ensued. During the verbal exchange, the teacher proceeded to repeatedly poke Doug in the chest with his finger. Doug forcefully removed the teacher's finger from his chest and placed it at the teacher's side. The teacher again proceeded to poke on Doug's chest with his finger. Doug asked that he stop doing so and stepped away. Apparently the "thumping" on Doug's chest continued, and he asked the teacher in a threatening manner if "he wanted to go outside." Doug then asked the teacher if they could go to the principal's office and work the problem out. Mr. Gade was not in at the time but did come in a short time later. Mr. Gade listened to the teacher's side of the story, and then gave Doug a chance to refute what the teacher said. According to Doug's testimony, no other students were consulted during this session in Mr. Gade's office even though there apparently had been some witnesses. Mr. Gade testified that he investigated the incident over the next few days, but he did not specify the scope of his investigation except that he talked with all of Doug's teachers. After thinking the matter over for a few days, Mr. Gade, on April 11, decided to suspend Doug from school temporarily and to recommend that the District Board consider expelling him from school for the remainder of the second semester.

In a letter dated April 12, Roy Messerole, district superintendent, notified Mr. and Mrs. Seffinga that the District Board would meet on April 18 to consider Doug's possible expulsion. The Seffinga's conferred with Frank Buchan, Doug's parole officer, but it was not until about four thirty o'clock in the afternoon on the date of the scheduled hearing that they went to Attorney Michael Moon for assistance. Mr. Moon informed them that he would be unable to represent Doug, because he was counsel to the District Board. Mr. Buchan and Mr. and Mrs. Seffinga accompanied Doug to the hearing. At the hearing Mr. Gade presented the general facts surrounding the incidents of February 7, March 16 and April 9, which lead up to the hearing. Other persons involved in the incidents did not testify and apparently were not present. Doug and the persons with him were given the opportunity to ask questions of Mr. Gade and to make relevant comments as they saw fit. Detailed testimony, especially regarding the April 9 incident, was lacking. No objection was made by the Appellants to any aspect of the proceeding. Two days after the hearing, the District Board met in special session and voted to expel Doug for the remainder of the semester.

Several incidents involving Doug do not appear on the school records. One such incident involved Doug and the teacher which whom he had the confrontation in the cafeteria. Doug testified that he went from a physical education class to a school assembly wearing a "short shirt." He did not explain what had happened to the shirt he wore into the physical education class. At the conclusion of the assembly, the teacher, without prior conversation, grabbed him by the upper arm on both sides and told him to "find a different shirt." He told him to find a shirt or "you'll be hitting the road." Doug went to his locker and put on a musty smelling shirt that he found there.

In another incident, Doug was accused of taking \$100 from school. He was subjected to a strip search of his person and two polygraph tests administered by the Iowa Bureau of Criminal Investigation and apparently cleared of wrongdoing. Later the school administration apparently was not certain that the \$100 was missing. Doug felt that he had been singled out for attention and discipline because of his time spent in the Training School for Boys.

## II.

### Conclusions of Law

The matter currently before us is inordinately difficult and has occasioned considerable discussion and reflection on the part of the Hearing Panel. There appears to be the possibility of some basis in fact existing regarding the Appellants' contention that Doug has been singled out and treated differently due to his having spent time at the Boys' Training School. On several occasions, District staff members have confronted Doug in a belligerent manner and may have, by their actions, escalated the seriousness of the event out of proportion to that which was warranted. We are concerned, for instance, that Doug was often the subject of unwarranted physical contact by the teachers when he was confronted with alleged wrongdoing, and it was likely that the physical contact unduly escalated the teacher-student conversations into confrontations. We think that Doug generally showed good judgment and restraint during those confrontations. Remarks attributed to Mr. Gade are also indicative of a certain negative attitude toward students who have returned to the regular school environment from a training school situation.

We do not want to be misunderstood as reproaching the District's staff in this regard. There was no indication of any conscious, intentional, or concerted effort to harrass Doug or to force him out of school. There is at least one instance where the school administration bent over backwards to postpone Doug's second appearance before the District Board. What we do conclude, however, is that Doug, perhaps like many other students in similar circumstances, are the victims of unconscious preconceived notions and prejudices regarding students who are sent to the state's juvenile offender's institutions. Students returning to the regular school environment from such institutions have an uphill struggle to show people that they are "normal" students and given the opportunity will respond to situations in ways similar to other students.

We are also concerned that the expulsion hearing before the District Board was not orchestrated to bring to light more of the specific facts surrounding the allegations against Doug. Merely because Doug did not deny the general allegations does not mean that extenuating circumstances did not exist which could have tempered the Board member's decisions. We think that it is advisable when making decisions involving student discipline that boards delve as deeply into the facts and circumstances as reasonably possible. That did not occur here. Long gone are the days when school boards may merely accept the superintendent's recommendation in such matters. See for example the provisions for teacher termination found in Chapter 279.

Not all of our concern of procedures of investigation of the facts must fall with the Board, however. We are disappointed that Doug's representatives at the District Board hearing did not take the potential consequences of expulsion for Doug more seriously. They had been warned three months earlier that further serious misconduct could result in Doug's expulsion, and the notice of hearing from the superintendent clearly stated that expulsion was a possibility. Why, then, did they wait until the eleventh hour to seek out legal assistance? Competent legal assistance or better preparation on their part could have succeeded in better bringing the full facts before the District Board.

Even with all of our above concerns, however, the fact remains that Doug has not lived up to the standards of student conduct established by the District. While he has made definite improvement in his in-school conduct over previous years, he continues to exhibit a lack of understanding of the purpose and importance of rules in the educational environment. While none of his individual violations of school rules during the 1978-79 school year would individually be likely grounds for expulsion, collectively they pattern a young man who has not yet learned the desirability and necessity to live within the bounds of the District's rules for students. Such rules are established for the benefit of the educational community of a school district as a whole, and when one student continues to test the system as much as Doug appears to have done here, something must give. A frequent testing of the system either strengthens or weakens the system depending on how those administering the system react. In this instance the District Board saw fit to exercise its legal authority in order to strengthen the system in the eyes of parents and other students in the District and to maintain what it perceives as the standard of conduct desired by District residents.

As much as we empathize with Doug's position, we cannot bring ourselves to sufficiently support that position to overturn the District Board's decision to expel him. Even with the extenuating circumstances of the stigma of his experiences at the Training School for Boys, and a less than ideal representation at the District Board hearing, we cannot forget that it was Doug himself, by his own actions in violating established standards of school conduct on at least six occasions after repeated warnings from the District administration and Board, that has precipitated his expulsion. He has created the situation, now he must learn to accept responsibility for his actions.

In conclusion, while the Appellants have raised before us several issues of legitimate concern, we have not been shown sufficient reason for overturning the District Board's decision in this matter. We certainly hope that the new school year will bring a better understanding and feeling for the perspective of each of the persons involved in this matter and that a more harmonious and productive relationship can be established.

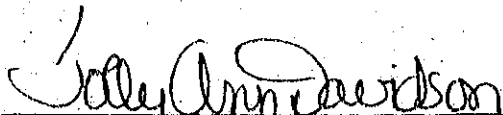
Any motions or objections not previously ruled upon are hereby overruled.

III.  
Decision

The decision of the Beaman-Conrad-Liscomb Community School District Board of Directors in this matter is hereby affirmed.

August 9, 1979

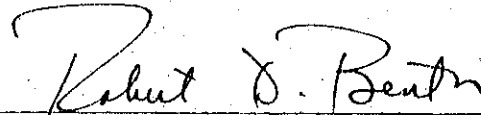
DATE



JOLLY ANN DAVIDSON, PRESIDENT  
STATE BOARD OF PUBLIC INSTRUCTION

August 6, 1979

DATE



ROBERT D. BENTON, Ed.D.  
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION  
AND  
PRESIDING OFFICER