

SAMUEL S. FROMILLE, IV,

Appellant

v.

HARFORD COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 02-33

OPINION

In this appeal, Appellant challenges the local superintendent's decision to suspend him for six days for possession of tobacco and weapons on school property. Specifically, Appellant maintains that he did not provide voluntary consent for the search of his car which resulted in the detection of the prohibited items. The local board has filed a Motion to Dismiss based on mootness. Alternatively, the local board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable, or illegal. Appellant has responded to the local board's Motion for Summary Affirmance.

FACTUAL BACKGROUND

During the 2001-02 school year, Appellant was a senior at Fallston High School and served as the student representative on the Harford County Board of Education. On February 1, 2002, the Harford County Sheriff's Office implemented a drug dog scan of the Fallston High School parking lot. During the course of the scan, a dog alerted to the vehicle driven by Appellant. Appellant unlocked the vehicle and opened the driver's side door.¹ The Sheriff's deputies conducted a search of the vehicle and found cigars and a butterfly knife. Appellant maintains that he was unaware that the items were in the car.

Because possession of these items is a violation of local board policy, Robert B. Pfau, principal of Fallston High School, suspended Appellant for 10 days effective Friday, February 1, 2002, and referred Appellant to the superintendent for further action. Based on an investigation, the superintendent determined that Appellant gave his verbal consent to the search but that his consent was never reduced to writing and signed by Appellant as required by the local board's policy.² See affidavit of Jacqueline C. Haas, Superintendent of Schools for Harford County. The

¹Appellant disputes that he gave voluntary consent, verbal or otherwise, to the search of his car. Andrew P. Cassily, Assistant Principal at Fallston, maintains that Appellant gave verbal consent for the deputies to search his car. See affidavit of Andrew P. Cassily.

²Local board policy 02.08.032(12)(b) states that when a drug detecting dog alerts to the presence of a controlled dangerous substance in a vehicle on school property "[t]he police officer will request the consent of the vehicle operator to search the vehicle. The consent of the vehicle operator to a search must be in writing and must be signed by the operator. This will be kept in the possession of the principal."

superintendent terminated the suspension at six days but denied Appellant's request to expunge the suspension from his record. She reasoned that the failure of the police to reduce Appellant's consent to writing did not render the search illegal. Because possession of a knife and cigars on school property is a violation of school rules, the record of the six day suspension would not be expunged. The superintendent did find it appropriate to reduce the suspension to six days based on Appellant's having no prior disciplinary referrals, a good academic record, and participation in extracurricular activities.

Appellant appealed the decision to the local board. The local board did not hear the appeal given the recusal of six of the seven members of the board based on their relationship with Appellant as the student representative and their belief that they would be unable to render a fair and impartial decision. As a result, the superintendent's decision remained in effect and Appellant appealed that decision to the State Board.

ANALYSIS

The local board has filed a Motion to Dismiss based on mootness. It is well established that a question is moot when "there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the courts [or agency] can provide." *In Re Michael B.*, 345 Md. 232, 234 (1997); *See also Arnold v. Carroll County Board of Education*, MSBE Opinion No. 99-41 (September 22, 1999); *Farver v. Carroll County Board of Education*; MSBE Opinion No. 99-42 (September 22, 1999); *Chappas v. Montgomery County Board of Education*, 7 Op. MSBE 1068 (1998).

Appellant has already served the six day suspension issued in this case. Additionally, Appellant graduated from Fallston High School on or about May 28, 2002 and the local school system has confirmed that Appellant's disciplinary records were destroyed. *See* Motion to Dismiss and affidavit of Stephen C. Lentowski, Director of Pupil Services. Thus, the punishment has been served and the record of it has been expunged. There is thus no effective remedy that the State Board can provide.

CONCLUSION

For these reasons, we dismiss the appeal on the basis of mootness. *See* COMAR 13A.01.01.03J(2)(b).

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July 23, 2002