

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BRUCE SMATHERS,

Appellant,

v.

BUFORD CITY BOARD OF EDUCATION

Appellee.

CASE NO. 1983-7

O R D E R

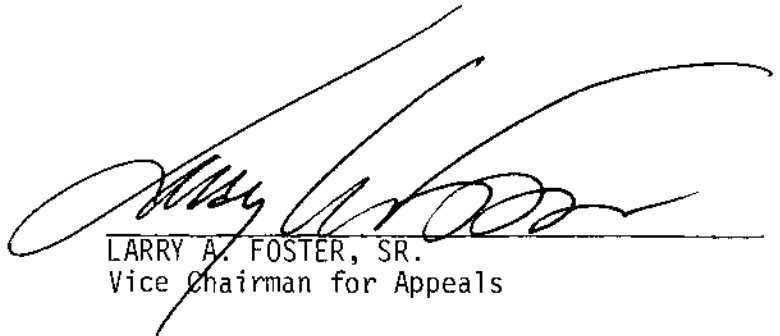
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Buford City Board of Education herein appealed from is hereby sustained.

Messrs. Temples and Lathem were not present.

This 9th day of June 1983.



LARRY A. FOSTER, SR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BRUCE SMATHERS,	)	
	)	
Appellant	)	CASE No. 1983-7
	)	
v.	)	
	)	
BUFORD CITY BOARD OF EDUCATION	)	REPORT OF
	)	HEARING OFFICER
Appellee	)	

This is an appeal by Bruce Smathers (hereinafter "Appellant") from a decision by the Buford City Board of Education (hereinafter "Local Board") that he was liable to pay \$616.00 non-resident tuition or withdraw his two children from the Buford City School System. The appeal was made on the ground that Appellant qualified for an exemption provided by the Local Board's policies in that he had paid taxes exceeding the amount of the non-resident tuition. The Hearing Officer recommends that the appeal be dismissed because of Appellant's failure to prosecute the appeal, and because the ultimate issue of the appeal is moot.

Appellant lives without the city limits of the City of Buford. Pursuant to local law, the Local Board adopted a policy in 1979 which provided that the children of non-residents of the City of Buford could attend the Buford City Schools upon the payment of \$500.00 per year for the first child and \$425.00 per year for each additional child. Appellant was notified of the requirements before the start of the 1982-1983 school year. Appellant's payment of the tuition fee was postponed during the first quarter while he unsuccessfully twice attempted to

have his property annexed by the City of Buford. On December 15, 1982, and January 11, 1983, the Local Superintendent notified Appellant that unless he made the required tuition payments, his children would no longer be able to attend the Buford City Schools. On January 17, 1983, Appellant requested a hearing before the Local Board. A hearing was convened on January 24, 1983, and the Local Board made its decision upon conclusion of the hearing. The decision required Appellant to make the delinquent payment or remove his children from the school on the next day. Appellant filed his appeal with the State Board of Education on February 22, 1983. Appellant was notified of the date for oral arguments and the dates for the filing of briefs. Upon Appellant's motion, the date of the hearing and the dates for filing briefs were delayed and rescheduled. Appellant, however, did not file a brief and did not appear to make oral argument on the day of the hearing.

The policy adopted by the Local Board provided:

For the purposes of this policy, resident status will be approved and no tuition shall be collected from students who meet the following criteria:

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3. Students whose parents pay ad valorem tax, inventory tax, business license tax, or a combination of the above to the City of Buford that equals at least the amount of tuition due.

Appellant testified during the hearing that he had paid a tax lien on property located within the City of Buford which exempted

him from paying the tuition under the third exception contained in the Local Board's policy. The total amount of the tax lien was \$1,560.00, exclusive of attorney fees and advertising costs. Subsequently, the owner of the property repurchased the tax lien from Appellant prior to delivery of the tax deed.

The Local Board argues on appeal that the repurchase of the tax lien prior to delivery of the tax deed causes Appellant's payment of taxes to fall without the parameters of the exemption provided by the Local Board.

The ultimate issue in this case is whether Appellant's children will be allowed to attend the Buford City Schools without the payment of tuition. Since the school year is over and the children have not been enrolled in the Buford City Schools since January 24, 1983, it is unnecessary to decide whether Appellant's payment fell within the third exemption provided in the Local Board's policy because a decision one way or the other will not affect the children's attendance during the current year. The Hearing Officer, therefore, concludes that since the ultimate issue is moot, the appeal should be dismissed.

Based upon the foregoing findings and conclusions, the record submitted, and the brief and argument of the Local Board, the Hearing Officer is of the opinion that Appellant has foregone his appeal. The Hearing Officer is also of the opinion that the ultimate issue in the appeal is moot. The Hearing Officer, therefore, recommends that the appeal be dismissed.

  
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L. O. BUCKLAND  
Hearing Officer