

JAMES LECATES,

Appellant

v.

WICOMICO COUNTY BOARD
OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 16-45

OPINION

INTRODUCTION

Appellant appeals the decision of the Wicomico County Board of Education (“local board”) upholding the nonrenewal of his teaching contract. The local board initially filed a Motion to Dismiss the appeal for untimeliness, but later dropped the untimeliness argument after the Appellant pointed out that he had attempted a timely appeal.¹ The local board instead filed a Motion to Dismiss or for Summary Affirmance maintaining that its decision should be upheld because it is not arbitrary, unreasonable or illegal. The Appellant failed to respond to the local board’s second Motion, despite being given the opportunity to do so.

FACTUAL BACKGROUND

Appellant was a non-tenured teacher employed by the Wicomico County Board of Education (“local board”). He began teaching at Wicomico Middle School in the fall of 2013. For the majority of his first two years there, the Appellant taught a small group of boys in a semi-self-contained environment until the students moved on to high school. At the start of the 2015-2016 school year, Appellant was assigned to co-teach two 8th grade English classes. In mid-November 2015, in order to assist with an extended teacher absence, Appellant was moved from the 8th grade classes to teach life skills to non-diploma bound students with severe special needs. He returned to teach his prior classes in mid-January 2016. (Appeal and Joyce Lecates Letter).

In February 2016, Appellant received an ineffective rating and was placed on a Professional Improvement Plan. *Id.* Thereafter, by letter dated April 5, 2016, the local Superintendent notified the Appellant that his teaching contract would not be renewed after its expiration on June 30, 2016. (Ex. 1). The local board voted to accept the nonrenewal on April 12, 2016. (Pavic Letter, 4/14/16).

This appeal followed.

STANDARD OF REVIEW

In cases involving a local board’s policy, or a controversy or dispute regarding the local board’s rules and regulations, the local board’s decision is considered *prima facie* correct. The

¹ Appellant mistakenly filed his appeal with the local Superintendent. The local Superintendent responded with directions on how to appeal, but he did so after the 30 day appeal period had expired.

State Board may not substitute its judgment for that of the local board unless the decision was arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A.

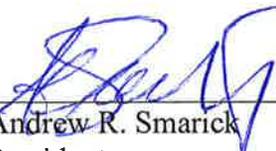
Because a probationary teacher has no due process right to the renewal of the teaching certificate, the local board does not have to establish any cause or reason for its decision not to renew. *Ewing v. Cecil County Bd. of Educ.*, 6 Op. MSBE 818 (1995). A local board's decision to non-renew, however, cannot be based on illegal or unconstitutionally discriminatory reasons. It is the Appellant's burden to prove illegality "with factual assertions, under oath, based on personal knowledge." *Greenan v. Worcester County Bd. of Educ.*, MSBE Op. No. 10-51 (2010); *Etefia v. Montgomery County Bd. of Educ.*, MSBE Op. No. 03-03 (2003).

ANALYSIS

In this case, the Appellant makes no assertion that his non-renewal was based on illegal or constitutionally discriminatory reasons. Rather he argues that he disagrees with his ineffective rating and placement on a professional improvement plan due to the fact that he had recently returned to the 8th grade English classes and was in the process of reestablishing his rapport with the students and co-teachers. As stated above, the local board may non-renew a probationary teaching contract so long as the non-renewal decision is not based on illegal or unconstitutionally discriminatory reasons. *Id.* Appellant's argument does not assert either of these bases. The Appellant has simply not met his burden of proof here.

CONCLUSION

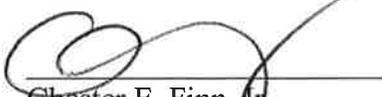
For the reasons stated above, we affirm the local board's decision not to renew the Appellant's probationary teaching contract.



Andrew R. Smarick
President



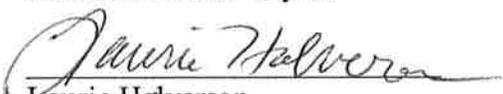
S. James Gates, Jr.
Vice-President



Chester E. Finn, Jr.



Michele Jenkins Guyton



Laurie Halverson



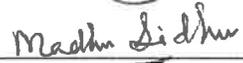
Stephanie R. Iszard



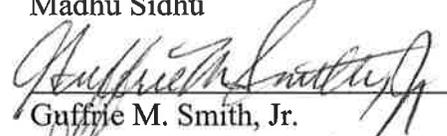
Jannette O'Neill-González



Barbara J. Shreeve



Madhu Sidhu



Guffie M. Smith, Jr.



Laura Weeldreyer

October 25, 2016