

STATE OF MAINE  
YORK, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. AP-02-38  
GAR - York: 11/21/02

JOHN REGUERA and  
KATHLEEN REGUERA, Individ. &  
on behalf of SCOTT REGUERA,

Plaintiffs

DONALD L. GARBRECHT  
LAW LIBRARY

v.

ORDER

NOV 27 2002

MAINE SCHOOL ADMINISTRATIVE  
DISTRICT NO. 60 BOARD OF DIRECTORS,  
et al.,

Defendants

This is a Rule 80B appeal from a decision of the M.S.A.D. 60 Board expelling Scott Reguera. For reasons stated below, the appeal is Denied.

There is no dispute that Scott Reguera played at least a supporting role in two serious and highly disruptive incidents at Noble Middle School: a small fire in a bathroom of the school, and, two days later, a bomb threat which caused an evacuation. However, the petitioners argue that the penalty of expulsion was too harsh a sanction, given Scott Reguera's performance in school otherwise, and may have certain highly negative collateral consequences in the future. They argue that a recent Federal case, *Logiodice v. Trustees of Maine Central Institute*, 296 F.3d 2002 (1<sup>st</sup> Cir. 2002) suggests in *dicta* that only when serious misconduct is combined with a pattern of incorrigible behavior should the sanction of expulsion be imposed.

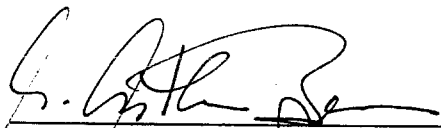
Accepting that Scott Reguera does not have a history of misconduct, that he was honest about and remorseful for the conduct at issue and that his parents have responded appropriately, nevertheless, the legislature has mandated that school boards

shall expel any student who is deliberately disobedient or deliberately disorderly. 20-A M.R.S.A. §1001(9)(A). Here, following a due process hearing, the school board made the requisite findings, which are supported by the record. In essence, Scott Reguera argues that the sanction imposed was disproportionately harsh because, while the misconduct was extremely serious, insufficient consideration was given to his positive qualities. However, by statute the sanction decision rests within the discretion of the school board and only upon a clear showing of abuse could a court intervene. No such showing has been made in this case.

The entry will be:

Appeal Denied.

Dated: November 21, 2002

  
G. Arthur Brennan  
Justice, Superior Court

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