

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JACKSON COUNTY SCHOOL BOARD,)
)
 Petitioner,)
)
vs.) Case No. 02-1705
)
WILFRED BROWN,)
)
 Respondent.)

)

RECOMMENDED ORDER

Pursuant to notice, this cause came on for administrative hearing before P. Michael Ruff, duly-designated Administrative Law Judge of the Division of Administrative Hearings, in Marianna, Jackson County, Florida, on June 11, 2002, and July 25, 2002. The appearances were as follows:

APPEARANCES

For Petitioner: H. Matthew Fuqua, Esquire
Bondurant and Fuqua, P.A.
Post Office Box 1508
Marianna, Florida 32447

For Respondent: Marva A. Davis, Esquire
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STATEMENT OF THE ISSUE

The issue to be resolved in this proceeding concerns whether the Respondent committed certain alleged acts of improper conduct in the form of inappropriate statements to

female students and whether he committed acts of inappropriate touching of a female student and therefore, whether the Petitioner has just cause to terminate him as a contract teacher (Physical Education teacher and basketball coach).

PRELIMINARY STATEMENT

The Respondent, Wilfred Brown, is a member of the instructional staff of the Jackson County School Board. On April 8, 2002, the Superintendent of Jackson County Schools notified the Respondent that he believed that there was just cause to terminate him. On April 16, 2002, Mr. Brown requested that an administrative hearing be conducted and the Jackson County School Board suspended him without pay pending the outcome of the hearing.

The case was transmitted to the Division of Administrative Hearings and ultimately to the undersigned Administrative Law Judge. The School Board contends it has just cause to terminate the Respondent based upon alleged inappropriate comments and physical contact by the Respondent with two female students of the Sneads High School.

The cause came on for hearing on June 11, 2002. The hearing was not concluded on that date and was re-scheduled and completed on July 25, 2002. The Petitioner School Board presented two witnesses at the initial hearing, Charlsie Maphis and Holly Roberts the complaining students, who were students at

Sneads High School during the tenure of the Respondent Wilfred Brown, and at the times pertinent to this proceeding. The Respondent presented twenty-seven witnesses who are identified in the record and upon rebuttal the Petitioner presented the testimony of Assistant Principal Patricia Dickson.

Upon conclusion of the proceeding the parties' requested the opportunity to file proposed recommended orders. They requested an extended schedule for filing those pleadings and they were timely filed. The Proposed Recommended Orders have been considered in the rendition of this Recommended Order.

FINDINGS OF FACT

1. Wilfred Brown is a black male who was employed under an annual contract by the Jackson County School Board. He was employed in the position of a physical education teacher and as the boys' basketball head coach at Sneads High School. Sneads High School actually enrolls both middle and high school students. Wilfred Brown was generally called "Coach Brown" at school. When he assumed the head coach position, he was permitted to select an assistant basketball coach to assist him. James Taylor had previously been an assistant basketball coach, but was not selected to be an assistant basketball coach by Coach Brown.

2. Charlsie Maphis was a white female student at Sneads High School. She was a junior during the 2000-2001 school term.

She dated a black male basketball player named Jason Brown. Her father did not approve of inter-racial dating and therefore, she was unable to openly date Jason Brown. Because of this Charlsie Maphis would come to the Sneads High School gym in order to spend time with Jason Brown.

3. On a number of occasions Jason Brown and Charlsie Maphis would demonstrate inappropriate displays of affection, in terms of the Student Conduct Code, while they were in the gym. They would, for instance, sit between each others legs, lay their heads in each others' laps and otherwise engage in close physical contact, none of which was considered appropriate student behavior. When Coach Brown observed this behavior he would make them stop. Charlsie Maphis explained to Coach Brown that due to their racial differences she could not date Jason outside of school and also stated that the gym was the only place that they could spend any time together. Coach Brown did not accept this explanation and did not respond in a sympathetic way. Instead, he continued to enforce the Student Conduct Code. He would thus not allow Charlsie Maphis and Jason Brown to "hang-out" in the gym and demonstrate inappropriate conduct.

4. Charlsie Maphis opined that Coach Brown was a racist and treated her and Jason Brown more harshly or unjustly because of their inter-racial dating. She did not feel that Coach Brown treated other students the same way. The evidence demonstrated,

however, that Coach Brown enforced the rules of conduct on other student couples as well. Other students, however, did not exhibit the anger or attitude that Charlsie Maphis exhibited against Coach Brown because he so enforced the rules of conduct.

5. Coach Brown, at some point, told Charlsie Maphis that she was a distraction to Jason Brown and because of that and her conduct, Jason Brown was not giving the basketball program his best effort. Coach Brown eventually removed Jason Brown from the basketball team during his senior year because Jason did not cooperate with the Coach and did not "have his heart in the game."

6. Coach Brown also removed two other black male basketball players from the team. They were Lamar Colston and Lynn Colston. Lamar and Lynn Colston were considered talented basketball players but did not get along with Coach Brown. Their step-father was James Taylor who had once served as assistant basketball coach at Sneads High School before Coach Brown became the head coach. Coach Brown selected another person to replace James Taylor as assistant basketball coach. This appeared to cause ill-feeling between James Taylor and Coach Brown as well as his step-sons, Lamar and Lynn Colston.

7. In this regard, Charlsie Maphis claimed that she did not really know James Taylor. However, James Taylor and his step-sons lived in the same neighborhood as Charlsie Maphis and

James Taylor was sometimes the umpire for the softball team on which Charlsie Maphis served as catcher and third baseperson. Charlsie Maphis' friend, Sarranda Hall, testified that she saw Charlsie Maphis talking to James Taylor after a ballgame. Kerri Maphis, the younger sister of Charlsie Maphis, also testified that their mother was a long-time friend of James Taylor. Charlsie Maphis also admitted, on cross-examination, that she gave "shoulder-rubs" to Lamar Colston and the evidence demonstrates that she must have been fairly close friends with Lamar Colston and at least to some extent with his step-father James Taylor.

8. In consideration of the above facts and the fact that James Taylor had been the assistant basketball coach at Sneads High School, Charlsie Maphis' statement that she did not really know James Taylor is not deemed credible. Moreover, her failure to readily admit her knowledge of and acquaintanceship with James Taylor casts doubt upon her testimony concerning her motivation to conceal or testify with a lack of candor.

9. In any event, after Coach Brown removed the Colston brothers from the basketball team, James Taylor started a campaign to get Coach Brown fired. Mr. Taylor met with the principal, administrators, the superintendent and the School Board itself in an unsuccessful attempt to have Coach Brown terminated from his position.

10. Charlsie Maphis's father learned that she was dating Jason Brown and ordered her to stop sometime during the 2000-2001 school year. Therefore, Charlsie Maphis was supposed to have stopped dating Jason Brown and she testified that when Jason Brown graduated in May 2001, they were no longer dating. Jason Brown, however, testified that they did not end their relationship until much later in the year 2001. When school resumed for the 2001-2002 school year, Charlsie Maphis was no longer in Coach Brown's class. Generally she would only see him in passing on the school campus or when she specifically made a trip to the gym. Nonetheless, according to Charlsie Maphis, even after Jason Brown had graduated, when Coach Brown would see her at school he would still "get in her business" by asking her if she and Jason Brown were still together and how was Jason getting along.

11. It became clear during that 2000-2001 school year and the 2001-2002 school year that Charlsie Maphis did not like Coach Brown, based upon her own testimony and that of other students who were aware that she did not like Coach Brown based upon things they heard her say or the way she acted when she was in his presence.

12. Charlsie Maphis' alleges that around the month of December 2001, she went to the gym and asked Coach Brown to let her use the phone in his office to call her mother. She

testified that after she came into his office she "slumped down in a chair" resulting in her abdominal area and waist being exposed to his view because her undershirt slid up when she slumped down in the chair, according to her testimony. She contends that after Coach Brown saw her stomach and waistline he made inappropriate comments about her, such as that she had a "sexy waistline" and purportedly touched her inappropriately around her abdominal area and licked her exposed stomach area and placed his hand on the waistline of her pants. Coach Brown denied each allegation by Charlsie Maphis that he made inappropriate statements to her or engaged in inappropriate physical conduct or touching toward her.

13. In this regard Charlsie Maphis made a written statement, dated February 20, 2002, setting forth her allegations against Coach Brown, testifying in a similar manner at hearing concerning her allegations. In her written statement, Charlsie Maphis states that it was nothing out of the ordinary for her to go to Coach Brown's office. However, under the facts and circumstances of their strained relationship, as revealed by the testimony at hearing, it is apparent that she did not like Coach Brown and was not in his class that year and therefore, it is very unlikely that she would regularly go to his office for any reason.

14. Most of her time in school she avoided being around Coach Brown and tried to avoid even speaking to him, according to her own testimony. When he spoke to her, she, by her own admission, forced herself to be cordial or publicly respectful. It thus appears very unusual for her to go to Coach Brown's office, particularly on a regular basis, as she contends.

15. In essence, Charlsie Maphis claims that the incident in the office occurred after part of her body was exposed when her undershirt slid up because she sat slumped in a chair. However, when Charlsie Maphis first reported her allegations to Ms. Dixon, the assistant principal, she claimed that she sat on a table, not in a chair, in Coach Brown's office on the occasion in question. This is established by Ms. Dixon's testimony, which is credited.

16. Although Coach Brown is alleged to have made inappropriate statements and acted inappropriately after Charlsie sat slumped in the chair, Ms. Maphis' bare abdominal area and waistline were not seen and could not be seen beneath her over-shirt when she demonstrated, during the hearing, dressed in the same clothing, sitting with the same posture and holding her hands in the same position as she allegedly was in on the occasion of the incident.

17. Contrary to her allegations that Coach Brown licked her on the stomach, Ms. Maphis told two of her friends that

Coach Brown had licked her ear and offered her money to lick her ear, not her stomach or waistline. These parts of the body are so far apart and different that her statements to two different people to the effect that it was her ear and not her stomach involved in the incident cannot be regarded as an inadvertent mis-statement. Under the circumstances, its probative value reflects negatively on the credibility of Charlsie Maphis.

18. Ms. Maphis claimed to be so surprised by Coach Brown's statements and actions that she was unable to move when he allegedly touched and licked her inappropriately and she claimed that she had to find an excuse to leave the room after she told him to "back-up."

19. Her statements are not credible because, based upon her demeanor, she is obviously an assertive person who was not and is not afraid of Coach Brown. Additionally, it is found, based upon her testimony that Coach Brown talked on the phone several times at his desk while she was allegedly sitting in the chair in his office, that she would have had ample opportunity to move or leave the office without the necessity of searching for an excuse to leave.

20. Moreover, at the time of the alleged incident, Coach Brown had a class waiting for him outside of his office door in the gym, and his students, players and assistants were constantly coming in and out of the office. Having observed the

candor and demeanor of Charlsie Maphis in testifying to these incidents and occurrences, and also observing the candor and demeanor and apparent credibility of the witnesses opposed to her testimony, it is found that the incident did not occur as alleged by Charlsie Maphis and her testimony is not credited.

21. Ms. Maphis also alleged that Coach Brown discussed meeting her one weekend to exchange massages at his parents' home where he lived when his parents would be away. This allegation is not credible because the evidence shows that, contrary to Ms. Maphis' claim, Coach Brown's parents had a strict rule that no child of theirs, including Coach Brown, could entertain any female in their home while they were not present. Coach Brown lived in their home. They were not away for any weekend which would have allowed such an occurrence to happen during the time period in question, and it is not established that Coach Brown had any such intention. Ms. Maphis' testimony in this regard is not credited.

22. There may have been a financial motive for the allegations by Ms. Maphis. After the allegations became public she told one of her friends that she was going to get some money out of Coach Brown and admitted consulting an attorney about a civil lawsuit against Coach Brown. In fact, Ms. Maphis told the School Resource Police Officer, Brian Stagner, that "she felt she could get some money out of this."

23. Although Ms. Maphis claims that Coach Brown had engaged in inappropriate conduct with other students or former students, each one of these students or former students denied that any such conduct had ever occurred. In fact, each of them testified that Coach Brown was completely professional in his conduct toward them at all times.

24. Ms. Maphis may also have been motivated out of dislike for Coach Brown. She told Officer Brian Stagner, that ". . . she was going to do everything she could to fuck him up." She told Officer Stagner that "if she could not go after him criminally that she would go after him civilly" and that she felt she "could get some money out of this." This conversation took place during a school day at Sneads High School where Officer Stagner was the Police Department's School Resource Officer.

25. In any event, after observing Charlsie Maphis and her testimony at the hearing and listening to the testimony of Officer Stagner, other witnesses, and considering all the other evidence, it is concluded that Charlsie Maphis' testimony may be motivated by some malicious intent toward Coach Brown. Due to her general lack of credibility, I also do not credit her allegations that Coach Brown asked her to meet him one weekend; that he called her into his office and offered her \$75.00 to let him "lick her again"; or that he asked her to come to his home one weekend to exchange massages.

26. Holly Roberts claims that around the month of December 2001, she went to Coach Brown's office to use the telephone and when she arrived Coach Brown asked her to input some student absentees into his computer. While she was doing this and while he was having a telephone conversation, she observed a vacation brochure on his desk related to Hawaii. Holly Roberts admits asking Coach Brown if she could go with him to Hawaii. She then alleges that he told her that he would buy her a ticket to go with him to Hawaii. It is apparent from the totality of the testimony and circumstances that she asked him if she could go to Hawaii more or less in jest or in a joking manner. Coach Brown denies that he offered to buy her a ticket to Hawaii.

27. Holly Roberts also maintains that Coach Brown asked her to come to his home while his parents were out of town for the weekend to give him a massage. Coach Brown admits that Holly Roberts asked him if she could go to Hawaii, but denies offering to buy the ticket and moreover testified that he jokingly told Holly Roberts that she could go to Hawaii with him if she would pay \$9,000.00 or \$10,000.00 for tickets and costs for everybody in his party to go. He denies ever talking to her concerning her coming to his parents' home during their absence or giving him massages or shoulder rubs.

28. The preponderant evidence establishes that Holly Roberts is not a credible witness in this regard. The totality

of the evidence and circumstances related to her and to witness Montario Garrett establishes that she was dating, or in a close personal relationship with Montario Garrett. She did not tell the truth about the nature of the letter that she wrote to Montario Garrett. She maintained that she wrote it to help him break up with Lauren Faircloth, a fellow student. Montario Garrett testified contrarily, however, that it was a "love letter" and that they were in a dating relationship. The plain language of the letter clearly supports his version of its nature. It appears likely that she misrepresented the nature of their relationship due to her fear of her parents or her father's disapproval of her inter-racial dating relationship with Montario Garrett since Holly Roberts is white and Montario Garrett is black. She falsely accused Montario Garrett and Michael Reed of telling her that Coach Brown had inquired if she would date "black boys." She also falsely testified that she was afraid of Coach Brown because Montario Garrett had told her that Coach Brown had a history of "messing with other young girls." Montario Garrett categorically denied that he ever told her that story.

29. Moreover, Holly Roberts minimizes her acquaintanship with Charlsie Maphis. However, there were numerous opportunities for Holly Roberts and Charlsie Maphis to be together and to communicate during their tenure at Sneads High

School. They were both in the same DCT class for two semesters in the 2001-2002 school year. They were on the softball team together in February of 2002 when these allegations were made public. Holly Roberts rode to school everyday with one of the best friends of Charlsie Maphis' younger sister. Before the allegations against the Respondent became public the younger sister Kerri Maphis, Nicole Rabon and their other friend Samantha Wilkerson, had been discussing rumors about alleged inappropriate conduct by Coach Brown including the rumors of his alleged misconduct towards Charlsie Maphis, Kerri's older sister.

30. During the first and second semester of the 2001-2002 school year, Charlsie Maphis and Holly Roberts were in Mr. Stoutamires' Career Development class. Charlsie Maphis and Holly Roberts testified that Mr. Stoutamire did not require students enrolled in this class to attend class everyday. Instead, students were on their own and could go and come to work or even go home, according to their testimony. Both Charlsie Maphis and Holly Roberts had an unexcused absence from two of their classes on February 20, 2002, and apparently left the campus together.

31. During the first and second semester of the 2001-2002 school year, Charlsie Maphis and Holly Roberts played softball together, beginning in February 2002. Charlsie Maphis was the

catcher and James Taylor, who also had a history of enmity towards the Respondent, was an umpire at some of those softball games.

32. Moreover, it is significant that the most serious conduct alleged against Coach Brown is alleged to have occurred months before it was ever reported. The initial reports were not even made by the alleged victims. The manner and timing in which the allegations of Charlsie Maphis and Holly Roberts became public appears to have been planned. Kerri Maphis, Charlsie's younger sister, and Nicole Rabon, who rode to school daily with Holly Roberts and their friend Samantha Wilkerson, went to the office of Ms. Dixon, the assistant principal, together to report to Ms. Dixon the rumors concerning Coach Brown. Within a short time after they spoke with Ms. Dixon, both Charlsie Maphis and Holly Roberts voluntarily reported their allegations to the School Resource Officer, Brian Stagner. Moreover, the unrefuted testimony of Coach April Goodwin reveals that Holly Roberts did not have the best reputation in her school community for truth and veracity. Consequently, Holly Roberts' testimony regarding the facts and the nature of the interaction she had with Coach Brown, concerning which she made her complaints, is not credited. It is apparent that whatever occurred in this interaction with Coach Brown in his office concerning a trip to Hawaii was, at most, simply a joking or

jesting reference to their going to Hawaii on a vacation trip. It is determined, based upon the testimony of Coach Brown and of his parents, as well as the numerous witnesses who described Coach Brown as being an instructional employee and coach who never exhibited any unprofessional or inappropriate conduct or behavior, that the incident concerning his purported invitation to Holly Roberts to come to his home on the weekend, when his parents were purportedly to be absent, simply did not occur.

33. Wilfred Brown grew up in Jackson County and attended Jackson County public schools. His parents are respected and respectable citizens who retired from employment with the state. Wilfred Brown and his brothers participated in high school sports, and after graduating from high school, Wilfred Brown attended college. Upon graduating from college he returned home to Jackson County and ultimately was hired as the head coach of the Sneads boys basketball team.

34. Respondent Brown primarily resided with his mother and father at times pertinent hereto. His mother and father do not allow him or his brothers to bring female companions to their home when the parents are not at home and do not allow their sons' female friends to stay overnight in their residence.

35. Coach Brown is a Deacon in his church and a Sunday school teacher. He also works with the youth in his church and community. He provides free basketball camps for youth athletes

during the summer. He has an outstanding reputation in his community for truth and veracity. He has a reputation among students at school for requiring them to abide by the rules of good conduct and of being professional and an exhibitor of good conduct himself. There is no evidence that Coach Brown has ever been previously accused or found guilty of any inappropriate, unprofessional statements or behavior towards students or young females at any time or location.

36. Upon observing and considering the demeanor of Wilfred Brown and his testimony, carefully weighing and comparing his testimony to that of the complaining witnesses, and in consideration of the numerous witnesses as to Coach Brown's reputation in his community for truth and veracity as well as, more specifically, the testimony concerning his failure to ever exhibit any inappropriate, unprofessional conduct toward female students or others, it is determined that Coach Brown is credible as a witness. His testimony is credited over that of Holly Roberts and Charlsie Maphis.

37. The testimony of the numerous witnesses as to his competent performance as a teacher and coach and his good personal conduct and character, including towards female students, along with and the lack of any testimony, other than that of the discredited complaining witnesses, concerning any unprofessional, inappropriate behavior on his part has been

carefully considered. It is determined that preponderant evidence has been adduced which establishes that Coach Brown has not lost his effectiveness as a teacher and a coach in the Jackson County School community nor in Sneads High School in particular.

CONCLUSIONS OF LAW

38. The Division of Administrative Hearings has jurisdiction of the subject matter of and the parties to this proceeding. Sections 120.569 and 120.57(1), Florida Statutes (2001).

39. The Petitioner School Board has the burden of proving just cause for termination of the Respondent in this proceeding and must carry that burden by a preponderance of evidence. See Dileo v. School Bd Of Dade County, 569 So. 2d 883 (Fla. 3rd DCA 1990); and McNeill v. Pinellas County School Board, 678 So. 2d 476, 477 (Fla. 2d DCA 1996).

40. Section 90.608, Florida Statutes, provides that a party may attack the credibility of a witness or impeach that witness by (1) Introducing statements of the witness, which are inconsistent with the witnesses' present testimony; (2) Showing that the witness is biased; (3) attacking the character of the witness in accordance with the requirements of Sections 90.609 and 90.610, Florida Statutes; (4) showing a defect of capacity, ability or opportunity in the witness to observe, remember, or

recount the matters about which the witness testified; and (5) proof by other witnesses that material facts are not as testified to by the witness. The Respondent clearly has successfully attacked the credibility of both complaining witnesses, Charlsie Maphis and Holly Roberts, and has successfully impeached both witnesses, as delineated in the above findings of fact.

41. Where the complaining witnesses, such as these female students, have falsely or mistakenly accused a school employee, who is on annual contract, and the accusations are shown not to be as reported and alleged, then there can be no just cause for termination. Where, as here, the School Board has pled and evidenced no other valid reason to terminate employment or to fail to renew a contract, then the appropriate remedy to make an employee whole is reinstatement in his job position with back pay and renewal of his annual contract. Compare, Davis v. School Board of Gadsden County, 646 So. 2d 766 (Fla. 1st DCA 1991). School Board of Seminole County v. Morgan, 582 So. 2d 787, 788 (Fla. 5th DCA 1991).

42. In summary and in essence the Petitioner School Board has not proven by a preponderance of evidence that it had just cause to terminate Coach Brown in the particulars found and discussed above. Moreover, the evidence is insufficient to support a conclusion that the Respondent's effectiveness as a

teacher is impaired because there has not been significant hostility or condemnation from school community members or community members in the wider community of Jackson County as a whole demonstrated toward Coach Brown as a result of the allegations involved in this case. Rather, there has been a significant demonstration of support for Coach Brown from past and present students, teachers and other co-workers, friends and associates, who both attest as witnesses to his good performance as a teacher, to his good personal conduct and character and to his past record for appropriate conduct and behavior as a teacher.

RECOMMENDATION

Having considered the foregoing Findings of Fact, Conclusions of Law, the evidence of record, the candor and demeanor of the witnesses and the pleadings and arguments of the parties, it is, therefore,

RECOMMENDED that a final order be entered by the School Board of Jackson County finding that the allegations made against the Respondent Wilfred Brown are not established and that he be re-instated to his position as teacher and basketball coach with back pay and with renewal of his annual contract.

DONE AND ENTERED this 1st day of November, 2002, in
Tallahassee, Leon County, Florida.

P. MICHAEL RUFF
Administrative Law Judge
Division of Administrative Hearings
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Filed with Clerk of the
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this 1st day of November, 2002.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.