
FRANK FERRANTE

v.

**BRUCE WHITE,
EWING TOWNSHIP
BOARD OF EDUCATION
MERCER COUNTY**

**BEFORE THE SCHOOL
ETHICS COMMISSION**

Docket No. C36-03

DECISION

PROCEDURAL HISTORY

This matter arises from a complaint filed on October 1, 2003 by Frank Ferrante alleging that Respondent, Bruce White, a member of the Ewing Township Board of Education, violated the School Ethics Act N.J.S.A. 18A:12-21 et seq., by voting to renew a contract with Stout's Bus Service when he had previously abstained in 1999 from any discussion that involved Stout's Bus Service, stating that it would be a conflict of interest for him to participate in the discussions. Complainant alleged, in an amended complaint filed on November 3, 2003, that respondent specifically violated N.J.S.A. 18A:12-24(b) and 18A:12-24.1(f) by the previously alleged conduct because respondent "had an extremely good relationship with Stout bus service." To support the allegation, complainant submitted an obituary of Harry J. Stout Jr., which notes that memorial contributions may be made to Ewing Kiwanis Scholarship Foundation, c/o Bruce White.

In his Answer filed on December 23, 2003, Respondent denies that he excused himself sometime in 1999 from taking part in discussions including Stout's Bus Service. Respondent sets forth that the only times he recused himself in 1999 were on four occasions when there were discussions related to collective bargaining issues. Respondent further sets forth that he abstained from voting when collective bargaining agreements were being ratified in public meetings. When negotiations related to bus issues were being discussed in executive session, Respondent left the room during the discussion. Respondent denies that he violated any provision of the School Ethics Act or the Code of Ethics for School Board Members.

Respondent admits that at the June 23, 2003 board meeting he voted to renew the transportation contract for Stout's Bus Service and he denies that the Act was violated by that vote. Respondent further denies that he has an extremely good relationship with Stout bus service. Respondent sets forth that he does not have a personal relationship with members of the Stout family. Respondent further sets forth that the Stout family's decision to ask friends to consider contributions to the Ewing Kiwanis Scholarship Foundation Fund to benefit Ewing children does not benefit either the Stout family or Respondent.

The Commission invited the parties to attend its meeting on February 24, 2004, to present witnesses and testimony to aid in the Commission's investigation. Complainant appeared as well as the Respondent with his attorney, Joan Kane Josephson, Esq.

At its public meeting on February 24, 2004, the Commission voted to find no probable cause to credit the allegations that Mr. White violated N.J.S.A. 18A:12-24(b) and N.J.S.A. 18A:12-24.1(f) and dismissed the complaint. The Commission adopted this decision at its meeting of May 5, 2004.

FACTS

The Commission was able to discern the following facts based on the pleadings, documents submitted and testimony.

Respondent is a member of the Ewing Township Board of Education. Respondent never recused himself from any discussion related to Stout's Bus Service. Respondent did recuse himself on bus issues related to negotiations with the Ewing Township Education Association. At the June 23, 2003 board meeting, Respondent voted to renew the transportation contract for Stout's Bus Service. Both Respondent and Mr. Stout were members of the Kiwanis Club of Ewing Township. It is undisputed that no member of the Stout family has been to a Kiwanis meeting in over a year and a half. The Kiwanis Club of Ewing Township has established a scholarship fund that provides scholarships to young people who are permanent residents of Ewing Township. An obituary of Harry J. Stout Jr. noted that memorial contributions may be made to the Ewing Kiwanis Scholarship Foundation care of the Respondent.

ANALYSIS

Complainant first alleges that Respondent violated N.J.S.A. 18A:12-24(b) which provides:

No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others.

Complainant contends that Respondent violated N.J.S.A. 18A:12-24(b) when he voted to renew the contract for Stout's Bus Service because he had previously recused himself in discussions regarding Stout's Bus Service in 1999 stating that he had a conflict of interest. However, complainant failed to prove this allegation and the facts show that Respondent never recused himself in any discussion related specifically to Stout's Bus Service, but only regarding general bus issues related to negotiations with the Ewing Township Education Association. In either case, the Commission cannot find that the allegation shows that Respondent used his official position to secure unwarranted privileges, advantages or employment for himself or others.

Complainant further contends that the relationship between Mr. Stout and Respondent was such that Respondent violated N.J.S.A. 18A:12-24(b), set forth above, when he voted to renew the contract for Stout's Bus Service. To support this contention, complainant showed that Respondent and Mr. Stout were members of the Kiwanis Club of Ewing Township. Complainant also submitted an obituary of Harry J. Stout Jr., which noted that memorial contributions could be made to the Ewing Kiwanis Scholarship Foundation in care of Respondent. However, complainant failed to show that the relationship between Respondent and Mr. Stout was such a relationship that Respondent's action in voting to renew the contract would benefit either Respondent or Mr. Stout. In his capacity as a Kiwanis member, Respondent merely processed contributions to the Ewing Kiwanis Scholarship Foundation that were to be made in the name of Mr. Stout. In so doing, Respondent received no personal benefit from such funds which ultimately benefited Ewing Township students. In fact, there has been no demonstration of a personal relationship between Respondent and the Stout family. The only tie between the Respondent and Mr. Stout was membership in the Kiwanis Club of Ewing Township and no Stout family member has attended Kiwanis meetings for over a year and a half. Membership in the same community organization is not enough to bring Respondent's actions into conflict with N.J.S.A. 18A:12-24(b).

Thus, there is insufficient information to find probable cause to credit the allegations that Respondent's vote to renew Stout's Bus Service's contract was an attempt by Respondent to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others.

Complainant also contends that through Respondent's actions he violated the Code of Ethics for School Board Members, N.J.S.A. 18A:12-24.1(f) which provides:

I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

The Commission finds no evidence that respondent surrendered his independent judgment to special interest or partisan political groups or used the schools for personal gain or for the gain of friends. N.J.S.A. 18A:12-29(b) provides that in making an allegation regarding the Code of Ethics for School Board Members, the burden of proof shall be on the accusing party to establish factually a violation of the code. In this matter, complainant has failed to establish any facts that would prove that Respondent violated N.J.S.A. 18A:12-24.1(f). In complainant's testimony he states that Respondent benefited somehow, but he just did not know how Respondent benefited. The facts show that Respondent did not personally benefit from his affirmative vote to renew Stout's Bus Service's contract and the Commission cannot find that Respondent's action benefited a friend. There are also no facts which demonstrate how Respondent surrendered his independent judgment when he voted to renew the Stout's Bus Service transportation contract.

In sum, the Commission finds no probable cause to credit the allegations that the Respondent used his official position to violate N.J.S.A. 18A:12-24(b). The Commission further finds no evidence to support a violation of N.J.S.A. 18A:12-24.1(f).

DECISION

For the reasons expressed above, the Commission finds that Complainant has failed to set forth a cause of action under the School Ethics Act and therefore the complaint is dismissed in its entirety.

This decision is a final decision of an administrative agency. Therefore, it is appealable only to the Superior Court--Appellate Division. See, New Jersey Court Rule 2:2-3(a).

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C36-03

Whereas, the School Ethics Commission has considered the pleadings and the response filed by the parties and the documents submitted in support thereof; and

Whereas, the Commission finds no probable cause to credit the allegations that Respondent violated N.J.S.A. 18A:12-21 et seq.; and

Whereas, the Commission has reviewed the proposed decision of its staff dismissing the complaint; and

Whereas, the Commission agrees with the proposed decision;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision to dismiss as its final decision in this matter and directs its staff to notify all parties to this action of the Commission's decision herein.

Paul C. Garbarini, Chairperson

I hereby certify that the Resolution
was duly adopted by the School
Ethics Commission at its public meeting
on May 5, 2004.

Lisa James-Beavers
Executive Director

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