

# **BOARD OF CONTROL MINUTES**

The KHSAA Board of Control met in Special Session on Tuesday, June 10, 1997, at the KHSAA Office in Lexington, Kentucky. All Board members were present except Betsy Glover, Teresa Isssa, Gary Kidwell and Wendell Thomas. Others present were Hearing Officer George Barker, Commissioner Louis Stout, KHSAA Attorney Danny Reeves, State Department of Education Representative Ernie Tacogue and Ken Tippet. President Bob Rogers called the meeting to order at 9 a.m.

Mr. Rogers informed the Board that the Special Meeting was called for the purpose of hearing an appeal on behalf of Warren Central High School. Pursuant to a Prehearing Conference Order the KHSAA Hearing Officer presided at the hearing.

The Honorable Quinten B. Marquette represented the Petitioner, Warren Central High School. The Honorable Danny C. Reeves represented the Respondent, Kentucky High School Athletic Association.

As provided in the Prehearing Conference Order the parties presented witnesses, exhibits and stipulations of undisputed facts.

At the conclusion of the hearing, upon motion made, seconded and unanimously passed, the Board of Control along with the Hearing Officer went into closed session to deliberate. Thereafter, the Board of Control returned to open session and upon motion made, seconded and unanimously passed by vote of 11 to 0, announced its decision.

Pursuant to the Prehearing Conference Order, the Hearing Officer and the Board of Control issues the following joint findings of fact and conclusions supporting the decision and final order of the Board.

## **HEARING OFFICER FINDINGS OF FACT**

(Regarding Bylaws 6 and 7)

1. In January, 1996, Anthony Grundy, a junior student at Louisville Central High School, was suspended for one year for bringing a gun to school. According to Jefferson County Public School policy, Grundy was assigned to an alternative school, Buechel High School, where Grundy finished the 1995-96 school year. He could have applied for re-admission to Louisville Central in January, 1997.

2. During the summer of 1996, Anthony Grundy decided to transfer schools. He wanted to play basketball and picked Warren Central High School. With the assistance of Mike Reynolds, Attorney, Tim Colovos, residing at 501 Eric Avenue, Apt. D-29, Bowling Green, Kentucky, was appointed "school guardian for Anthony Grundy by the Warren District Court on July 22, 1996. Grundy moved to Bowling Green and subsequently enrolled as a senior at Warren Central High School in August, 1996. Tim Colovos was not related to Grundy. Grundy's mother, a single parent, did not move to Bowling Green, but remained a resident of Jefferson County.

3. Warren Central High School sent a KHSAA Transfer Form 6 for Anthony Grundy to Louisville Central High School for completion of the sending school's section and to be returned to Warren Central for completion of the receiving school's section and filing with the KHSAA. This form was properly completed by Louisville Central and returned to Warren Central along with a copy of a letter to Commissioner Stout from Clint Lovely, AD at Louisville Central. This letter, dated August 10, 1996, detailed the circumstances of the Grundy Case and made it clear that Grundy was still under penalty or discipline by Louisville Central High School.

4. On August 22, 1996, David Crowe, Principal of Warren Central, by telephone, discussed the Grundy case with Commissioner Stout and agreed with him that Grundy was ineligible. However, Principal Crowe failed to follow well established procedures and did not ever complete the Transfer Form and send it to the KHSAA Office so that an official, appealable decision of ineligibility could be made.

5. On December 10, 1996, Anthony Grundy, by and through his "school guardian" Tim Colovos, filed suit in the Warren Circuit Court and obtained an immediate, ex parte Restraining Order which prohibited the KHSAA, Commissioner Stout, the Kentucky State Board for Elementary and Secondary Education, and Warren Central High School from preventing Anthony Grundy from training, practicing, scrimmaging, participating and competing as a member of the Warren Central

High School Boys Varsity Basketball Team. The Restraining Order was served on Principal Crowe at about 6:30 p.m. on December 10, 1996. Mr. Crowe immediately notified the coach, and Anthony Grundy actually played in a game that night, although he had not previously been a member of the team and had not trained or practiced with the team.

6. Except for the period from January 7, 1997, when by operation of the Federal Rules of Procedure the State Court Restraining Order was dissolved, to January 31, 1997, when the case was returned to the Warren Circuit Court from Federal Court and the Restraining Order was reinstated, Anthony Grundy played the entire 1996-97 basketball season by virtue of a Court Order despite being ineligible to play under the rules of the KHSAA. Grundy voluntarily dismissed his suit on March 12, 1997, after the end of the Warren Central High School Boys Varsity Basketball Team's season. Since Grundy was a senior and now has graduated, no penalty could be imposed upon him.

7. Gary Alan Wallace transferred from Butler County High School to Warren Central High School in August, 1996. A KHSAA Transfer Form No. 6 was completed by Butler County and Warren Central and sent to the KHSAA Office. Residence and custody information was provided to Warren Central by Alan Wallace's father, Gary Lynn Wallace, but David Crowe, Principal of Warren Central, made no effort to verify this information and certified it to be accurate without knowing it to be true.

## **BOARD OF CONTROL FINDINGS OF FACT**

The Board of Control agrees with the foregoing findings of the Hearing Officer and makes the following additional findings with reference to Bylaws 1 and 2.

1. Warren Central High School, through its Principal David Crowe, was negligent in failing to make any effort to verify residence and custody information given to it in connection with the transfer form of Gary Alan Wallace when the facts were available and could have been known upon such investigation as a principal is expected to make in the case of each of his players.

2. Warren Central High School, through its principal, was negligent in failing and refusing to complete and file with the KHSAA a Transfer Form No. 6 upon the transfer of Anthony Grundy from Louisville Central High School.

3. Warren Central High School, through its principal, was negligent in failing to recognize that Grundy was a student/athlete under penalty or discipline and ineligible under Bylaw 7.

4. Warren Central High School was negligent in that its principal David Crowe failed to recognize and investigate the unusual circumstances in connection with Anthony Grundy's decision to enroll at Warren Central.

5. Warren Central High School was negligent through its principal, David Crowe, being unfamiliar with the Bylaws and rules interpretations of the KHSAA. In particular, Principal Crowe should have known that a "school guardian" is not recognized by the KHSAA as a substitute for a parent when determining whether there has been a bona fide change of residence.

6. Mitigating facts found are that significant personnel changes have been made by Warren Central High School since the service of penalties by Commissioner Stout on March 17, 1997.

In addition, affirmative steps have been taken to insure proper investigation and monitoring of eligibility information in transfer cases which would indicate that current problems would not be repeated.

In addition, concern for the students at Warren Central High School causes a reluctance to impose a penalty which would unduly effect all students unless necessary to insure proper compliance with the Bylaws and rules of the KHSAA.

## **CONCLUSIONS OF LAW**

**Bylaw 1, Section 8: Certification of Ineligible Player:** If any school plays an ineligible player when the facts were available and could

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have been known upon such investigation as a principal or designated representative is expected to make in the case of each of his players, that school shall be suspended from the Association or otherwise penalized.

Bylaw 2. Responsibility for Eligibility: The Principal of a school shall be held ultimately responsible in all matters in the school which concern eligibility, and inter-school contests.

Bylaw 7, Conduct, Student or Other Representative Under Penalty: Any student, contest official or other school representative who is under penalty or discipline or whose conduct is such as to reflect discredit upon the school or the KHSAA is not eligible.

Bylaw 30. Imposition of Penalties: Q/A #2 - If a student is found to be ineligible after exhausting the Due Process Procedure, but the student was allowed to play under a court injunction or other order, can a school be penalized" Answer. Yes.

It is the conclusion of the Board of Control that Warren Central High School, by and through its Principal David Crowe negligently violated Bylaws 1, Section 8, 2, 6 and 7 which resulted in at least one ineligible player, Anthony Grundy, playing. No decision is made by the Board of Control at this time as to the eligibility of Gary Alan Wallace and the recommendations of the Hearing Officer in that case have not been considered. It is the conclusion of the Board of Control that while the violations found were not deliberately done, the violations could have been avoided by the exercise of ordinary care and the knowledge and support of the KHSAA Bylaws expected of the principals or designated representatives of member schools.

It is the further conclusion of the Board of Control that the penalties imposed upon Warren Central High School by the Commissioner were fair and appropriate, but should be modified due to the mitigating facts found by the Board.

## FINAL ORDER

The following penalties are hereby imposed upon Warren Central High School.

1. Warren Central High School Boy's Basketball Program shall be suspended for all pre-season scrimmage or practice games and all post-season games. The regular season games may be played.
2. Warren Central High School Boy's Basketball Program shall serve a period of three (3) years probation beginning with the 1997-98 school year and extending through the 1999-2000 school year.
3. All Warren Central High School Coaches and assistant coaches in all athletic programs and the new principal of Warren Central High School must attend and pass the KHSAA Coaches Education Program no later than January 1, 1998. Arrangements for classes may be made through the Commissioner's Office.
4. Any action taken by the schools who represent District 14 relative to the tournament disbursements shall be decided by the member schools within the district.
5. Regional Tournament disbursements shall be determined by the member schools that made up Region 4.

There being no further business to come before the Board, the meeting was adjourned at 1 p.m.