

## CORRECTED RECOMMENDED ORDER

Expulsion Case No.: 15-054  
Student: Infinity Shanel Moreland  
Date of Hearing: November 4, 2014  
Location: School Board Office Room 315  
Hearing Officer: John W. Chapman, Jr., Esq.

This matter came on for hearing before me as the Hearing Officer appointed by the Sarasota County School Board. The hearing was initially convened at 9:28 a.m. on November 4, 2014, in the School Board Administration Offices, 1960 Landings Blvd., Sarasota, FL. Attorney Robert K. Robinson was present and representing the School Board administration. Also present were: Principal, David Jones; School Resource Officer, Floyd Davidson; Assistant Principals, Brad Porinchak and Rob Corso; Supervisor of Alternative Education, Discipline, Dropout Prevention, Bethany King. Present for Infinity were her mother, Miltoni Moreland and Attorney Mark Zimmerman.

The facts of the case are largely undisputed and are set forth in Detective Davidson's Probable Cause Affidavit. On the evening of September 22, 2014, there was an exchange on Twitter from Dejjani Bryant which resulted in Dejjani "calling out" Infinity. Shortly after 10:00, Infinity tweeted "lol man I'm not fight at school .. I know better." Shortly after 7:00 the following morning, a group of students started gathering near Building 5. When Infinity and Ta'Mya Jameson, got off the bus and began walking through the breezeway, they encountered Dejjani and Mariah Williams. Words were exchanged for about a minute or so when Dejjani took a swing at Infinity. A fight then ensued, lasting approximately one minute. A few feet away, Mariah and Ta'Mya were also fighting. A few other students also joined in the fight, until teachers stepped in and forcibly separated the girls. The girls were then brought into administrative offices and questioned.

After brief opening statements by both Mr. Robinson and Mr. Zimmerman, Mr. Robinson offered School Board's Exhibit 1 into evidence – a 3-ring binder. Mr. Robinson then called James Noonan as the School Board's first witness. Mr. Noonan, a teacher, testified that he saw a number of students gathering just outside his classroom on the second floor. He saw students exchange words, but the only student he recognized at the time was Infinity's brother, Xavier. During the approximately 30 seconds it took him to get downstairs, the fight had already started. Ultimately the fight was broken up by several teachers and he helped disperse the crowd of students to get them towards their classrooms. He

testified that he did not see who actually started the fight, but it did appear to him that Javier seemed to be egging the girls on. He also said that based upon the number of students gathered, he believed the fight was planned. He testified that Infinity was a student of his, and that he has never had any behavior issues with her. He also says that her grades are generally very good.

Next to testify was Office Floyd Davidson. Officer Davidson testified that the fight was already broken up by the time he arrived at the scene. He and others escorted the girls back to the administrative offices where he and other took statements. He testified regarding the various statements in evidence and his Probable Cause Affidavit. He says the criminal case against Infinity is still ongoing. He also testified that Infinity and several other girls were talking about the fight and joking, seeming to show little remorse. Although both girls accused each other of starting the fight, it was undisputed that Dejjani threw the first punch. Infinity also admitted that she initially agreed to go into the bathroom to fight, but then quickly changed her mind. He stated that he did not consider this an issue of self-defense as it appeared that Infinity was a willing participant. He said that initially, another teacher, Mrs. Hawkins attempted to separate the girls, and they seemingly ignored her. He stated that neither Infinity nor Dejjani had any recent troubles, but did say that Xavier, Infinity's brother, was always trying to start something. He also testified that shortly after the fight, Dejjani's parents and her brother showed up yelling and screaming and the brother briefly attacked Infinity and that Dejjani threatened Officer Chippendale.

Next to testify was Assistant Principal Ron Corso. He testified that he felt the fight was mutual, and that the administrative faculty's doors are always open to discuss issues with students to avoid this type of event. He felt that there were many opportunities Infinity had to have avoided the confrontation including going directly to administration or simply walking from Dejjani and Mariah.

During his testimony the School Board played two tapes taken from students' cell phones. One tape was approximately 54 seconds and showed the fight itself, while the other, a little less than three minutes, showed the lead up to the fight and the fight from a different perspective. These tapes showed Xavier actively involved and seemingly egging the girls on, and, although you can hear the girls exchanging words, it is impossible to make out who was saying what or what is being said. The tapes clearly show Dejjani taking the first swing, and even appear to show Infinity attempting to retreat a step or two before dropping her backpack and engaging with Dejjani. One can also see Ta'Mya and Mariah fighting a few feet away, with several other students joining in the mayle before being physically separated by teachers and staff.

Next to testify was Assistant Principal, Brad Porinchak. He agreed with Mr. Corso that both girls engaged in a fight, and that out-of-school suspension was appropriate. He also discussed the proposed Settlement Agreement, and the Triad Program.

Next to testify was David Jones, the School Principal. He testified that the school tries to create a very caring and supportive environment for both the staff and students and that a student would never be turned away if he or she had a problem. He testified that this event was extremely disruptive for the school, involving as many as 500 students, and taking several days and numerous hours of staff time to resolve. He also felt that even with Infinity's good grades, that she should be held to at least the same standard as others and that Infinity made very poor choices. As a result, he felt that she was equally culpable. On cross-examination, he agreed that Infinity is otherwise a wonderful student but did not feel that deferred expulsion, which had been offered for some other students indirectly involved, was appropriate here.

After the School Board rested, Mr. Zimmerman offered Student's Exhibit 1, Infinity's tweet referenced above, and Student's Exhibit 2, a letter from teacher Lisa Glass, attesting to Infinity's involvement in the childcare internship program and excellent academic status. He then had Infinity testify as to her version of what happened. Infinity stated that Mariah and Dejjani are known bullies, and that Infinity's group looks to her as a leader and as a peacemaker. She testified that everything began when Mariah began tweeting about Fabienne and making threats. When she started sticking up for Fabienne, Dejjani called her out. She testified regarding her final tweet that evening, that she was not going to fight. She felt that Dejjani and her group were pretty much just trash talking and did not go to school expecting that a fight would occur. She testified that she did not "dress for a fight" – because she didn't anticipate that there would be a fight. She did not have her phone with her and did not know that there was a crowd gathering. While walking through the breezeway, Dejjani and Mariah were following her and she was trying to walk away. She testified that she did not walk into the fight, but was merely walking from her bus to where she and her friends usually hang out before going to class. She repeated that she was not going to fight. She then heard Dejjani threatening Ta'Mya and turned back and told her to get out of Ta'Mya's face. It was at this point she said that Dejjani threw the first punch and she responded in defense. She testified that she has made every effort to stay current with her assignments during her suspension and she and Dejjani have put aside their differences and both work together at McDonald's. She agrees that she could have made better decisions, and that some discipline is appropriate. School is very important to her, however, and she is involved in basketball and taking dual enrollment classes at SCF.

The School Board called Bethany King in rebuttal, to testify about the Triad Program and Florida Virtual School. Both Mr. Robinson and Mr. Zimmerman then gave closing statements.

It is the School Board's contention that Infinity was aware that a fight was likely when she went to school on the morning of the 23<sup>rd</sup>, that she confronted Dejjani and Mariah and was fully aware that a fight was likely to happen. The

School Board believes that Infinity could have done many other things to have avoided the fight in the first place, and even though Dejjani may have thrown the first punch, that Infinity was equally responsible for the fight. On the other hand, Infinity testified that she thought the issue was put to bed the following evening, and that she was not aware that anything was going on before she got off the bus the next morning. She also testified that she did not willingly walk into a fight, but was merely walking as she normally would after getting off the bus. When taking this testimony at face value, however, even Infinity admits that she turned back towards Dejjani when Dejjani was confronting Ta'Mya.

In Mr. Robinson's opening statement, he argued that self-defense could never be a defense to a charge of fighting in school. However, the Hearing Officer agrees with Mr. Zimmerman's contention that self-defense could be a defense, but only if the situation was where the student was caught completely unaware. This is not the case here, although Infinity may not have been certain that a fight was going to take place, she was certainly aware that it was a very real possibility and could and should have taken further steps to avoid it.

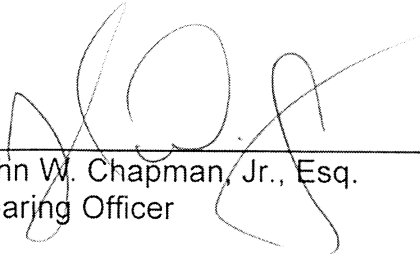
Although the Hearing Officer feels that Infinity's conduct may have been appropriate had it occurred off school grounds, it was not appropriate here. The Hearing Officer agrees with the School Board's contention that Infinity had many opportunities to avoid a confrontation with Dejjani that she did not take. That she herself admitted that she turned back towards Dejjani when Dejjani and Ta'Mya were exchanging words, and even initially agreed to fight in the bathroom shows that she was willing to confront Dejjani, even if that confrontation escalated into a fight.

At the close of the hearing, the Hearing Officer stated to both parties that this was an extremely difficult case. While the Hearing Officer agrees with the school administration that this was an extremely disruptive incident and the school has an interest in maintaining the safety and order on the school grounds, he also agrees with Mr. Zimmerman, that the students' particular conduct and situation must be looked at on an individual basis. What makes this case particularly troubling is the obvious impact it will have on Infinity's otherwise superb school record, and the repercussions it could have on her future. The Hearing Officer must take each case on an individual basis, and while mindful of the impact this will have on Infinity, I feel that all students should be held accountable for their actions, and that a particular incident should have the same repercussions for any student, whether he or she be over-performing or under-performing in school.

Taking this all into consideration, this Hearing Officer feels he has no other choice but to find that Infinity willingly engaged in a fight on school grounds, which is a Level 3 offense warranting out of school expulsion for the remainder of the school year.

This Hearing Officer finds that the School Board has complied with the mandated prerequisites, as set forth in the Due Process Checklist, and conducted a Manifestation Determination Review.

Date: November 13, 2014.



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John W. Chapman, Jr., Esq.  
Hearing Officer

Copies via email to:  
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