

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

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JANE A. DOE

vs.

CRANSTON  
SCHOOL COMMITTEE  
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D E C I S I O N

February 9, 1989

### Findings of Fact

The parents of this student both live in Connecticut. We find that because this student was in reasonable fear of physical and severe verbal abuse from her father she came to live in Cranston, Rhode Island, with Mrs. Y. Mrs. Y. is also caring for several children of her own who attend Cranston Public Schools. We also find that the parents of this student are still living together in Connecticut.

### Conclusions of Law

The petitioning student argues that this case is governed by that portion of G.L. 16-64-1 which states:

In cases where a child has no living parents, has been abandoned by his or her parents, or when parents are unable to care for their child on account of parental illness or family break-up, the child shall be deemed to be a resident of the town where the child lives with his or her legal guardian, natural guardian, or other person acting in loco parentis to the child

The Cranston School Committee argues that this case is preclusively governed by that portion of G.L. 16-64-1 which states:

A child shall be deemed to be a resident of the town where his or her parents reside.

We reject both lines of argument since in several prior decisions we have pointed out that cases such as this one fall under that portion of G.L. 16-64-1 which states:

In all other cases a child's residence shall be determined in accordance with the applicable rules of the common law.

Our reasons for this conclusion are set forth in cases entitled In The Matter of John A. Doe, Commissioner of Education, December 30, 1985 (at page 4, et seq,) and Laura Doe vs. Narragansett School Committee, April 17, 1984 (at page 1, et seq.) We, therefore, incorporate by reference the discussions contained in these two decisions into the present decision. Copies of these decisions are attached.

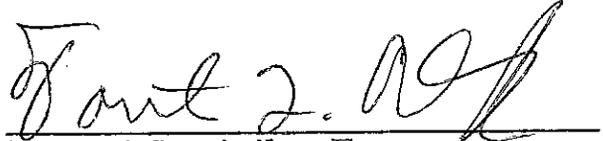
The common law test of school residency requires that a student who is living apart from his or her parents in a new town must show some "substantial reason" for living in the new town other than to attend the schools of the town, before he or she enrolls as a student in the new town. In the case at hand we think it clear that this student is living in Cranston to avoid abuse from her father. This certainly constitutes a "substantial reason" under the common law test.

#### Conclusion

This student is a resident of Cranston for school purposes. We therefore, rule that:

1. An Interim Order is hereby issued directing the immediate enrollment of this student into the Cranston School System. This Interim Order is to remain effective during any appeal of this matter unless vacated by a Court of competent jurisdiction. (§16-64-6).

2. We find on the merits that this student is  
a resident of Cranston for school purposes.

  
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Forrest L. Avila, Esq.  
Hearing Officer

Approved:

  
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J. Troy Earhart  
Commissioner of Education

February 8, 1989