

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JESSICA M

vs.

BARRINGTON
SCHOOL COMMITTEE

D E C I S I O N

November 1, 1990

This matter was heard on September 14, 1990 upon the appeal to the Commissioner of Education under the provisions of §16-64-6 of the General Laws of Rhode Island, as Amended. The appeal was made by the Barrington School Department because it believes that Mrs. M 's two children, K and J , are attending school illegally in Barrington because they are residents of East Providence for school purposes.

Due notice was given to the parties as to the date, time and place of the hearing. The appellant School Department was represented by counsel, and the respondent appeared pro se. Testimony was taken, a transcript of which was made and evidence was presented. The undersigned Hearing Officer was assigned to hear the case under authorization from the Commissioner.

Facts of the Case

1. K and J are the children of Jessica M
2. K is in the third grade and J is in kindergarten at the Nayatt School.
3. K has been attending school in Barrington continuously since kindergarten and J began school in Barrington last year in pre-kindergarten.
4. Jessica M , mother of K and J , lives at Shore Road in Riverside, Rhode Island, and has lived at that address since May 11, 1978.

5. Mrs. M owns the property at Shore Road in Riverside.
6. Mrs. M is the legal guardian and natural parent of both children and has physical custody of both children. Her ex-husband lives in New Hampshire.
7. Mrs. M is registered to vote in East Providence and pays taxes there for the property she owns at Shore Road.
8. The East Providence address is listed on her driver's license and her car is registered in East Providence.

The Barrington School Department alleges that both children are attending school illegally in Barrington since they are living with their mother in East Providence. The School Department argues that pursuant to §16-64-1 ". . .the child shall be deemed to be a resident of the town in which the parent having actual custody of the child resides". The School Committee argues that in accordance with that provision of law, J and K should be attending school in East Providence.

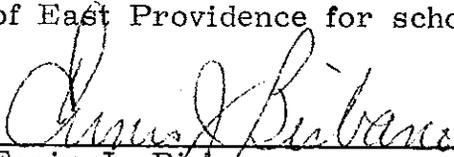
Mrs. M testified that her two daughters "sleep at her mother's house in Barrington during the week but that they stay with her at Shore Road in East Providence on weekends". (Tr.p.4). She further testified that the children "have stayed at her mother's house in Barrington since they were born" and that "her mother has always watched them while she worked". (Tr.p.4). Mrs. Massotti testified that her home in East Providence is for sale and that she is looking at several homes in Barrington in the Nayatt area, hoping to purchase one of them as soon as she sells her house. She also testified that in 1988 she signed a

"Statement of Residency" form for the Barrington School Department, attesting to the fact that her daughters were residing with her parents Robert and Jeannine C at Chapman Lane in Barrington for the 1988-89 school year. (Respondent's Ex. 1).

Mr. Robert V. Hassan, principal of the Nayatt School, testified that until recently, school authorities believed that K and J were residents of Barrington, but it has now come to their attention from comments made by the teachers of K and J that they are not "living at Chapman Lane in Barrington but at Shore Road in East Providence, and that the arrangement at Chapman Lane is nothing more than a "day care arrangement". (Tr.p.16).

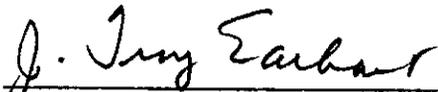
In order for Mrs. M to prevail she would have to prove that her children were living in Barrington for a substantive reason other than to attend the Barrington Public Schools. (See: e.g. Laura Doe vs. Narragansett School Committee, Commissioner of Education, April 17, 1984 -- a case where such proof was made.) No such proof was offered in this case so we must rule that under the law the students are residents of East Providence.

We sustain the position of the Barrington School Committee and find that these students are residents of East Providence for school purposes.



Ennis J. Bisbano
Hearing Officer

Approved: November 1, 1990



J. Troy Earhart
Commissioner of Education