

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JAMES and JACQUELINE D. :

vs. :

WOONSOCKET :
SCHOOL COMMITTEE :

DECISION ON REQUEST

for

ISSUANCE OF AN INTERIM ORDER

December 11, 1991

TRAVEL OF THE CASE

This matter was heard on the request of the appellants, Jacqueline and James D. , for issuance of an interim order to require that their children receive bus transportation to the East Woonsocket School. Mr. and Mrs. D 's letter of appeal was received on November 26, 1991 and the undersigned Hearing Officer was designated by Interim Commissioner Dr. Janice M. Baker to hear the matter.

Testimony was taken and documentary evidence received at a hearing held on December 4, 1991. The transcript of the hearing was received on December 9, 1991. On December 9, 1991 with permission of the parties, this Hearing Officer went to Woonsocket to view the route which the appellants' children would be required to walk to school.

Jurisdiction to hear the matter lies under 16-39-3.2 and 16-39-2.

DECISION

The appellants and their two children, J age 7 and D , age 5 live at Aylsworth Avenue in the City of Woonsocket. Their home, which they purchased this past summer, is located approximately .9 of a mile away from the East Woonsocket Elementary School. Until this fall, the D 's children received bus transportation to and from school. In the course of realignment of the city's school bus schedule, measurements to the residences of several school children were checked. It was at this time (October of 1991) that it was discovered that the D residence was within one mile of the school, which pursuant to school committee Policy P4-9.1 made their children ineligible to receive bus transportation. They were so notified on October 9, 1991 by the school principal, Robert E. Jones.

We find on the basis of the record created at the interim order hearing¹ and from this Hearing Officer's observations of the route the children would travel up Aylsworth Avenue and along Mendon Road to the East Woonsocket Elementary School.

that the D children are entitled to bus transportation under 16-21-1.

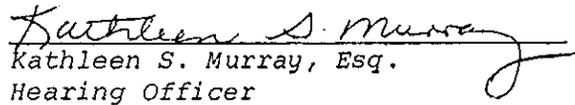
Our Supreme Court in Brown v. Elston, 445 A.2d 279 (R.I. 1982) has directed that consideration of "a host of factors affecting the practicality of traveling the distance to and from school" take place. (See Brown v. Elston, page 283. The determination that must be made is whether or not it would be impractical for a student to go back and forth to school on his own.² Elston at 283.

Considering the following factors:

- (1) the age of the children, ages five and seven,
- (2) the distance they would walk (.9 mile, Approximately),
- (3) the lack of sidewalks at many points along Aylsworth Avenue,
- (4) the need for the children to cross the very busy intersection of Cass Avenue and Mendon Road, and
- (5) that Aylsworth Avenue appears to be a busy short-cut for drivers seeking to get back and forth from Cumberland Hill Road to Mendon Road,³

We conclude that the D children qualify for bus transportation under 16-21-1. Not only is the distance long for such young children, but the particular route they would take poses risks to their safety and welfare.

Pending hearing on the merits, as well as during any subsequent appeal, the School Committee is directed to provide the D children with suitable bus transportation to and from school.


Kathleen S. Murray, Esq.
Hearing Officer

Approved:


Janice M. Baker
Interim Commissioner

2) Not whether there are alternatives available which would overcome the impracticality of the child's walking to school, i.e., ability of the parent to accompany the child, availability of "car pool" or "walk pool" arrangements etc., information which was the focus of much of the testimony at the hearing.

3) "No thru trucks" signs are posted at either end of Aylsworth Avenue, but this Hearing Officer found herself behind two tractor trailer trucks on that road at approximately 2:00 p.m.

December 11, 1991