

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

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In the Matter of Student K.V. :
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DECISION

HELD: This student is a resident of
Providence for school purposes.

DATE: May 1, 2001

Travel of the Case

In the present case a student, whose initials are KV, has been denied re-admission to the public schools of Cranston. This denial of re-admission has been appealed to the commissioner of education. Cranston contends that this student is now a resident of Providence for school purposes. The mother of this student, who lives in Providence, contends that the student is still a resident of Cranston for school purposes. Providence agrees with the mother that this student should be going to school in Cranston. Jurisdiction to decide this matter is present under R.I.G.L. 16-64-6, R.I.G.L. 16-39-1, and R.I.G.L. 16-39-2.

Under Rhode Island school law a child is presumed to be a resident of the town where the child's parent resides, unless *two* items of fact are proved on behalf of the child by a preponderance of the evidence.¹ These items of fact are that:

1. The child is, in fact, not living with the parent.
2. That the child is, in fact, living in a different town *for a substantial reason other than to go to school in that town.*²

Findings of Fact

The mother in this case, who has two daughters, was a lifelong resident of Cranston. As a child she lived with her own mother in Cranston. When she first married she moved to an address which was also in Cranston. After her first marriage ended, she remarried, and bought a house in Providence, very close to the Cranston line. On January 16, 2001 she went to the Cranston school that her daughter, KV, was attending, and informed officials at that school that she was now a resident of Providence, that she was removing her daughter from the Cranston school system, and that she wanted her daughter's school records transferred to Providence. The Cranston school official the mother spoke to testified that he was surprised that the mother was no longer living in Cranston.

When the mother went to enroll her daughter in the public schools of Providence she was informed that there were two schools in which her daughter could enroll. The mother was not happy with either of the choices offered. KV then applied for re-admission to the Cranston public schools. This request was denied.

¹ R.I.G.L.16-64-3

² R.I.G.L.16-64-4

The mother testified that her daughter, KV, is now living with her grandmother in Cranston. The grandmother, who is a widow, is 64 years old, and holds full time employment. She is not an invalid. The grandmother testified that she does not like to live alone. In fact, for several years the mother's older daughter lived with this grandmother. The grandmother even became the legal guardian of this older daughter. When this older daughter became difficult to manage she was returned to her mother. The grandmother testified that her younger granddaughter, KV, the subject of this hearing, is now living with her. KV has a bedroom in her grandmother's house. She helps her grandmother with cooking, cleaning, and other household tasks. It is rare for KV to spend the night at her mother's house. KV does not get along with her stepfather. However, no issues relating to violence or abuse are present in this case.

KV testified that she would prefer to go to school in Cranston. She also testified that she is, in fact, living with her grandmother in Cranston.

Issue

Has this student proved by a preponderance of the evidence that she is living in Cranston for a substantial reason other than to go to school in Cranston?

Conclusions of Law

There have been occasions when the commissioner has considered issues similar to the issues presented in this case.³ In the present case we accept the testimony of the mother, the grandmother, and the daughter on the issue of physical residency. We find, by a preponderance of the evidence that this student is living with her grandmother in Cranston. The next issue we must decide is whether the student is living in Cranston for a substantial reason other than to go to school in Cranston.

The grandmother in this case is not an invalid. While she does not drive, she does have a full-time job. We cannot say that the record in this case demonstrates that the grandmother needs to be attended to by her granddaughter. We also can find no evidence to show that this student could not live with her mother in Providence. While there may be some tension between the stepfather and the daughter there is no evidence that they could not live in the same house. In fact the record in this case demonstrates that the mother was completely ready to claim a Providence residence when this suited her purposes.

³ *In Re: Jane A.X. Doe*, Commissioner of Education, April 25, 1997; *In Re: John C.T. Doe*, November 18, 1998; *Jane A.O. v. Exeter-West Greenwich Regional School Committee*, August 8, 1996.

When a school residence in Providence resulted in a school placement that the mother was not happy with, a decision was made to once again claim Cranston as this student's school residence. In sum, we find that there is no substantial evidence to indicate that this student is living with her grandmother other than because of a desire to attend the Cranston public schools. Under these circumstances we must find that this student is a school resident of Providence.

Conclusion

This student is a resident of Providence for school purposes.

Forrest L. Avila, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

DATE: May 1, 2001