

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Residency of J.B. and J.B.

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DECISION

Held: In this residency case, based upon the weight of the evidence before us we must conclude that these two students are in fact living with their parents in Pawtucket, and that they are therefore residents of Pawtucket for school purposes. We are aware that one of the children in this case has an autistic condition that can make abrupt transitions difficult. We therefore stay this order until the end of the present school year. These children are then to be enrolled in the public schools of Pawtucket.

DATE: June 3, 2002

Travel of the Case

This is a residency case in which East Providence is alleging that two students are in fact residents of Pawtucket for school purposes. Jurisdiction is present under R.I.G.L.16-64-1. After several continuances this residency case was heard on January 29, 2002.

Position of the Parties

East Providence contends that the two students who are the subjects of this case are school residents of Pawtucket because they are living, in fact, in Pawtucket. The mother of the students contends that these two students are living in East Providence. There is no real dispute about the law in this case. The only issue in this case is the factual issue of where these students are living.

Findings of Fact

The testimony of the East Providence attendance officer convinces us that these two students are living in Pawtucket with their parents. These students are therefore residents of Pawtucket for school purposes.¹ The Pawtucket attendance officer testified that at various times he saw:

1. ... the children being dropped off in the morning by their mother at the East Providence residence of their grandmother. This residence was given to school authorities as being the residence of the children, and it was where the school bus stopped to pick up the children.² On at least one occasion the attendance officer saw the grandmother indicate to the bus driver that the children had not arrived yet, and that the bus driver should not wait for them.
- 2 ... the children leaving a residence in Pawtucket and being driven by their mother in a direction toward East Providence. On at least one occasion the attendance officer attempted to follow the car, but he concluded that the evasive efforts he felt were being made created a safety risk so he discontinued his "pursuit."
3. The attendance officer also placed into the record various items of correspondence and department of transportation documents indicating that the parents of the students were living in Pawtucket.
4. The mother of these students conceded that she did have a residence in Pawtucket, but she also argued that there were times when she and her children stayed overnight with the children's grandmother in Pawtucket. She also indicated that she considered herself to be a lifelong resident of East Providence and that she hoped to buy a home in East Providence before the end of this

¹ R.I.G.L.16-64-1

² One of these children is recorded in some East Providence records as having a different East Providence address. There is some possibility that this may be the address of another relative of these children.

school year. The mother also testified that one of her children has autism and that this child is a special education student in East Providence.

Discussion

Based upon the weight of the evidence before us we must conclude that these two students are, in fact, living with their parents in Pawtucket, and that they are therefore residents of Pawtucket for school purposes. The attendance officer made an extensive investigation of this case. All his checking indicated over and over again that these children were living in Pawtucket. While the evidence might be read to suggest that there are times when these students do stay with their grandmother in East Providence there is nothing in the record to indicate that East Providence is anything more than occasional visit for these students.

The applicable law, in pertinent part, states:

16-64-2. Residency of Children for school purposes.—Except as otherwise provided by law or by agreement, a child shall be enrolled in the school system of the town wherein he or she resides. A child shall be deemed to be a resident of the town where his parents reside....

We therefore find that these children must be enrolled in the public schools of Pawtucket.

Conclusion

We are aware that one of the children in this case has an autistic condition that can make abrupt transitions difficult. We therefore stay this order until the end of the present school year. These children are then to be enrolled in the public schools of Pawtucket.

Forrest L. Avila, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

June 3, 2002
Date