

0006-03

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

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Residency of Michael G.

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DECISION

HELD: We find that this student is a resident of West Warwick for school purposes. We are aware of the fact that there are now only a few months left in the school year. To avoid disruption of this student's education this decision will become effective at the conclusion of this school year in Coventry.

DATE: March 20, 2003

Travel of the Case

In this residency case the Coventry school committee argues that the student involved in this case is not a school resident of Coventry, but rather a school resident of West Warwick. The mother of this student takes the opposite position and contends that he is a school resident of Coventry. West Warwick has appeared in this case for the purpose of arguing that at all times it has been prepared to provide this student with a free appropriate public education in West Warwick.

Jurisdiction

Jurisdiction is present under R.I.G.L. 16-39-1, R.I.G.L.16-39-2 and R.I.G.L. 16-64-6.

Findings of Fact

1. The student in this residency case was enrolled in the West Warwick public schools until December of 2001 when enrolled in a private school. He remained in this private school until June of 2002. In September of 2002 he enrolled in the public schools of Coventry. [Tr. Pages 8, 9, and 10]
2. Toward the very end of October of 2001 the student, while a student in the West Warwick school, brought a realistic replica of a gun to school. At the start of November of 2001 this student was placed on a 10-day suspension for this incident. A full-core special education evaluation was requested and made for this student. [Tr. Page 27]. The student never returned to school after his suspension. On November 15, the day the student's suspension was to end, his mother called the superintendent and told her that the student was being enrolled in private school. [Tr. Page 29]
3. The evaluation reached the conclusion that: "There is nothing to contradict [this student's] returning to the public school." [Tr. Page 30]
4. For practical purposes this student has—during all the time relevant to this case—continued to live with his mother in West Warwick. [Tr. Page 24] The record before us shows that that this student has only spent a few nights with his aunt and his grandmother in Coventry. [Tr. Pages 10, 19, 20, 21, and 22]
5. For all practical purposes he has continued to live with his mother in West Warwick. [Tr. Pages 10, 19, 20, 21, and 22] In fact the respondent parent concedes as much. [Tr. Page 48]

6. The respondent parent claimed at the hearing that, as of the night of the hearing date, she was sending her son to live his grandmother in Coventry. [Tr. Page10] In fact the grandmother lives in a senior mobile home park that does not allow children to be in continuous residence. [Tr. Page 11]
7. The respondent parent alleges that she removed her son from the West Warwick public schools, and placed him in a private school, because he was being bullied at his West Warwick school. [Tr. Page 7]
8. The respondent parent complained to the school disciplinarian about this alleged bullying. The respondent parent did not complain to the principal, the superintendent, or the school committee. [Tr. Pages 7 and 8]
9. West Warwick disputes the allegation of bullying, and claims that its investigation revealed no evidence of bulling. [Tr. Pages 31, 32, 33, and 34]
10. The principal of the student's West Warwick school testified that she is confident that this student received a safe free appropriate public education when he was in the West Warwick and that he would continue to receive such an education if he returned to the West Warwick schools. [Tr. Page 40]
11. When the petitioning parent had difficulty in paying tuition to the private school she enrolled her son in the public schools of Coventry. [Tr. Page 5]
12. The mother and sister of the petitioning parent live in Coventry. [Tr. Pages 10 and 11]
13. The respondent parent testified that she placed her West Warwick home up for sale two days before the present hearing. She has not employed a real estate agent to sell this property. [Tr. Page 1, 5]
14. The student in this case is presently attending the schools of Coventry.

Conclusions of Law

1. Under R.I.G.L.16-64-1 a student who is living with a parent in a Rhode Island city or town is presumed, subject to rebuttal, to be a resident of that city or town for school purposes. [R.I.G.L. 16-64-1]

2. If a student is not living with a parent, but rather with (e.g.) a relative, the student has to prove two things before he or she can go to school in the town where the relative is living. First the student must show that he or she is, in fact, living with the relative. Secondly, the student must prove that he or she is living with the relative for a substantial reason other than to go to school in the town where the relative lives. *Laura Doe v. Narragansett School Committee*, Commissioner of Education, April 17, 1984.

Discussion

The record in this case causes us to conclude that this student has lived only a very few days with relatives in Coventry. Furthermore, we are skeptical about the suggestion that as of the hearing date this student will, in fact, take up residence with his grandmother in Coventry. This is partially because the rules governing the grandmother's housing would seem to prohibit a child from taking up residence with her.

Of course, even if this student were to take up residence with his grandmother this fact alone would not make him a resident of Coventry for school purposes. The student would still have to show that he was living in Coventry for a substantial reason other than to go to school there. The record, however, in this case established that the only reason this student is seeking to live in Coventry is to go to the public schools of Coventry. Under these circumstances this student cannot qualify as a school resident of Coventry.

Conclusion

We are constrained to find that this student is a resident of West Warwick for school purposes. We are aware of the fact that there are now only a few months left in the school year. To avoid disruption of this student's education this decision will become effective at the conclusion of this school year in Coventry.

APPROVED:

Forrest L. Avila, Hearing Officer

Peter McWalters, Commissioner

March 20, 2003
Date