

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Residency of Student C.D.

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DECISION

Held: The petitioners' child is not a resident of Barrington for school purposes. The appeal is therefore denied and dismissed.

DATE: December 9, 2003

Jurisdiction

This is a school residency case. 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.

Travel of the Case

In this case the petitioners are the parents of a student who has been denied admission into the public schools of Barrington. The petitioners contend that they are residents of Barrington for school purposes. Barrington, however, contends that the petitioners and their child are, in reality, residents of Swansea, Massachusetts. This matter is now before the commissioner on appeal.

Position of the Parties

The Petitioning Parents

There are two separate and distinct arrows in the petitioners' argument quiver. They first submit that since a tiny portion of a corner of their house lies in Barrington they are, by statute, residents of Barrington for school purposes, despite the fact that the great bulk of their house lies in Swansea, Massachusetts. [See: R.I.G.L.16-64-1, "Where a child is a resident in a dwelling which lies in more than one municipality, the parent(s) or guardian shall choose which school district the child shall attend without payment of costs as tuition."]

In a separate argument the petitioners also contend that, based upon precedent established by the commissioner, they are residents of Barrington for school purposes by virtue of the many contacts they have with Barrington. The validity of this argument does not hinge on whether or not their dwelling crosses a town boundary. It hinges instead on their contacts with Barrington.

The School Committee

The school committee contends that the law relied on by the petitioners is meant to cover Rhode Island municipalities, not Massachusetts municipalities. The committee also submits that the petitioners, in fact, do not have sufficient contacts with Barrington to entitle them to enroll their child in the public schools of Barrington.

Findings of Fact

1. Almost the entire house of the petitioners lies in Swansea, Massachusetts. Only the tiniest corner of the house intrudes into the state of Rhode Island. The petitioners intentionally constructed their house so that about 5 square feet of it lies in Barrington.
2. Petitioners have assembled a galaxy of documents in which their residence is noted as being in Barrington. None of these documents, however, represent independent assessment of where the petitioners are in fact living. These documents are simply the result of the petitioner's own efforts to obtain a multiplicity of documents with Barrington listed as their residence. That is to say, these documents do not prove that the petitioners have ties to Barrington. They only prove that petitioners have taken the time to go to various offices to change their address on various public documents. This is weak evidence indeed. For the past 6 years, however, the petitioners have filed their federal taxes from Massachusetts and they have filed non-resident income tax returns with the state of Rhode Island. These two items, which have fiscal consequences, are much better indicators of the petitioners' true residence.
3. Petitioners have easy access to Swansea Massachusetts. Nothing impedes them from enrolling their child in the public schools of Swansea.

Discussion

Petitioners' First Argument—A Corner in Rhode Island

We believe that in construing a statute our cynosure must be legislative intent.¹ We are convinced that when the General Assembly amended R.I.G.L.16-64-1 to deal with situations where a dwelling was situated in two municipalities the General Assembly was thinking of *Rhode Island* Municipalities—not *Massachusetts* municipalities. To construe the statute otherwise would be to impute to the Rhode Island legislature an intent to provide a free public education to students who are in fact living in Massachusetts, and who are eligible to attend the public schools of Massachusetts. We are convinced that our legislature had no such intent when it passed the legislation now at issue. We therefore must reject the petitioners' argument on this issue.

Petitioners' Second Argument—A Constellation of Interests

Petitioners also contend that their residency in Barrington has been established by a “constellation” of interests that hover over Barrington. We,

¹ *Local 400 v. Rhode Island State Labor Bd.*, 747 A.2d 1003 (R.I. 2000)

however, think that the constellation we are looking at is not the real thing. Instead it is a self-generated planetarium show. Petitioners have done no more than assemble a self-serving cache of documents on which they have claimed a Barrington address.² These documents are completely auto-generated and self-serving. They prove nothing.

The petitioners' situation may be contrasted with a case where a constellation of interests did serve, in a very unique case, to establish school residency in Rhode Island. In this case the commissioner found that when a ward of the state of Rhode Island was removed by the state, and placed in a foster home in Connecticut that is only accessible through Rhode Island, the ward remains eligible to attend the public schools of Rhode Island.³

In the case at hand however no extraordinary circumstances are present. The children are not wards of Rhode Island, and the parents here are not foster or adoptive parents receiving children at the request of the state of Rhode Island. What we have here is an everyday family living in the state of Massachusetts.⁴ There are no factual vectors that compel us to see this student as being a resident of Barrington for school purposes. Nothing more than a plethora of paper supports her case and this plethora of paper does not suffice to overcome the gravitational pull of Massachusetts.

Conclusion

The petitioners' child is not a resident of Barrington for school purposes. The appeal is therefore denied and dismissed.

Forrest L. Avila, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

December 9, 2003

Date

² It is also evident that the petitioners' were, as children and young adults, residents of Rhode Island. The question before us however is not where the petitioners used to live, but rather where they live now.

³ In re Residency of J.R., Commissioner of Education, August 23, 2000.

⁴ The boundary line between Massachusetts and Rhode Island was first established in 1746-7 when the East Bay region was, by order of the Crown, taken from Massachusetts and awarded to Rhode Island [See: Rhode Island Manual—Chronology; See: Public Laws of Rhode Island, 1798, page 99.] Since that date this boundary has been re-surveyed a number of times and it has been the subject of other amendments. One wonders how many families in the densely populated East Bay most own lots which straddle the state line.