

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

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IN RE: RESIDENCY OF T. DOE  
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**Decision**

Held: Based on the geographical setting of the home and the family's community orientation, the student is a resident of Foster for school enrollment purposes.

Date: January 28, 2005

## **Introduction**

This is a request for a residency determination for a student who lives near the Rhode Island-Connecticut border.<sup>1</sup>

## **Background**

Student Doe is 7 years old. He lives with his parents at their Jenks Road, Foster, Rhode Island address. Doe has lived at that address since the property was purchased in the spring of 2002. He is in his third year of attendance in the Foster school system.

The School Department has recently determined that the entire dwelling in which Doe's family resides is actually located in Sterling, Connecticut. A portion of the family's land, including the beginning of the driveway off Jenks Road, is located in Foster.<sup>2</sup>

The family pays real property taxes to both towns. About 97% of the combined amount is paid to Sterling.

The only access to Doe's home is from Jenks Road. There is no road access from the home directly to Sterling.

The town of Foster plows Jenks Road, removes trash from the property, and provides emergency services. All utility services provided to Doe's home are furnished by Rhode Island companies. Since moving to this location, both of Doe's parents have declared Foster as their residence for state and federal income tax purposes.<sup>3</sup> The family's motor vehicles are registered from Foster and that town receives the taxes on the vehicles. Both parents have Rhode Island motor vehicle operator's licenses. One of Doe's parents is registered to vote, and that is in Rhode Island from the Foster address.

Doe's social and recreational activities take place in Foster. He plays tee-ball as part of the Scituate-Foster little league. His teammates attend schools in Scituate and Foster. His physicians are located in Rhode Island.

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<sup>1</sup> The Commissioner of Education designated the undersigned-hearing officer to hear and decide the request. A hearing was held on September 1, 2004.

<sup>2</sup> The family's mailbox is located where their driveway meets Jenks Road. There was testimony at the hearing that this fact accounts for the family's Foster mailing address.

<sup>3</sup> Both parents work in Rhode Island.

## **Positions of the Parties**

Relying on In Re: Residency of J.R.,<sup>4</sup> Doe's family contends that the constellation-of-interests test should be applied to this case, and that the indicia of residence presented at the hearing demonstrate that Doe has a true constellation of interests tied to Foster. Chief among these ties are Doe's social and emotional connections to Foster, as well as tax contributions that his parents are making to the state and the town. It is argued that Doe and his family do not have any ties to Sterling.

The School Committee relies on a different decision of the Commissioner, Residency of C.D.,<sup>5</sup> in arguing that Doe is a resident of Connecticut. According to the Committee, the creation of a Foster mailing address by the United States Postal Service is the equivalent of the self-created Barrington residence found to be invalid in the C.D. case. The Foster mailing address cannot overcome the fact that Doe's home is located in its entirety in Sterling, and that nearly all of the family's property taxes are paid to the Connecticut town. Unlike the J.R. case, Doe is not a ward of the state of Rhode Island, and there is no basis under R.I.G.L. 16-64-1 to permit Doe to attend school in a town in which his home is not located.

## **Discussion**

In this case we return to the Foster-Connecticut border, to an area south of the property at issue in the case of In Re: Residency of J.R.. The property on Jenks Road is, geographically, the same as that in J.R.: a portion of the property lies in Rhode Island, a portion lies in Connecticut; the house is located on the portion located in Connecticut; the Rhode Island/Connecticut boundary line runs horizontally across the property in the front yard; the only access to the home is from the Rhode Island-situated road.

Other similarities between the parents of J.R. and Doe exist with regard to property taxes, income taxes, employment, driver's licenses, voter registration, and home utilities. We discern two noteworthy differences. First, Doe's family's motor vehicles are registered and taxed in Rhode Island. Second, Doe's family does not have any involvement with the Rhode Island Department of Children, Youth and Families.

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<sup>4</sup> Commissioner's decision, August 23, 2000; request for rehearing denied, December 5, 2000.

<sup>5</sup> December 9, 2003.

In the J.R. decision, we applied a “constellation of interests” test to determine the student’s residency. That test does not exclusively rely on the physical location of a residence, but instead looks at the community orientation of the student and his/her family as well as the geographical factors. As we stated,

The obvious benefit of a fact-based approach which takes into account the “constellation of interests” of the family and the student in determining school residence in rare boundary line cases is more flexibility. Such an approach also recognizes that educational interests are personal, and rules governing school attendance for those few families whose properties lie in two localities should take into account a broad range of personal factors. J.R. decision, p. 9.

We noted the extensive evidence in the J.R. case showing that the significant contacts and activities of J.R.’s family occurred in Rhode Island, not in Connecticut. We focused specifically on the fact that the Rhode Island Department of Children, Youth and Families had placed J.R. in foster care at the home and approved the home for a preadoptive placement. We concluded that the physical location of the house did not accurately and fully reflect the interests and orientation of J.R.’s family, and that J.R. was a resident of Foster for school enrollment purposes.

In this case, Doe’s home is the same as J.R.’s from a geographical standpoint. It is set back on the portion of the property that is located in Connecticut. Except for Jenks Road, it is landlocked. There is no direct road access to Connecticut. Thus, it is fundamentally different from the home at issue in the C.D. case, which had easy access to Swansea, Massachusetts. Here, when Doe’s family travels to and from its home, it must do so by way of Foster. When the family moves about the immediate neighborhood, it is in Foster, populated by Foster residents.

The geographical setting of the home is entirely consistent with the family’s community orientation. The family has a Foster mailing address. It receives town services from Foster. Doe’s parents are employed in Rhode Island and pay income taxes there. They have Rhode Island driver’s licenses, drive Rhode Island-registered motor vehicles and pay automobile taxes to Foster. The parent that is registered to vote does so in Rhode Island. Doe participates in social and recreational activities in Foster. He is a

member of the Scituate-Foster little league and his teammates are Rhode Island residents. He is seen by Rhode Island physicians.

There is no evidence of any significant or regular family activities in Sterling.

Our review of the record shows that there are only two factors linking Doe to Sterling: the location of his home and the proportion of the real property taxes paid by the family. The significance of the first factor is undercut by the landlocked nature of the property. As previously discussed, the family does not have direct access to Sterling. To get there, the family must first travel through its immediate Foster neighborhood. We find the lack of direct access to the Connecticut town of purported residence to be an extraordinary circumstance. The importance of this circumstance is magnified by the scope of the family's Rhode Island contacts and interests. These ties to Rhode Island, and the absence of such in Connecticut, are convincing evidence of the family's true sense of community.

We do not find the real property tax factor to be determinative in this case. While we recognize that a financial inequity is being placed on Foster, we cannot lose sight of the fact that public education is meant to benefit people, not property. Furthermore, by enacting the provision of R.I.G.L. 16-64-1 that permits parents to choose the school district of attendance when a child resides in a dwelling that lies in more than one municipality, the General Assembly has sanctioned possible situations where Rhode Island towns are charged with educating students while receiving the smaller proportion of the family's combined real property taxes. Again, personal interests take precedence over property interests.<sup>6</sup>

## **Conclusion**

Based on the geographical setting of the home and the community orientation of the child and his family, we find student Doe to be a resident of the town of Foster for

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<sup>6</sup> While the involvement of the Rhode Island Department of Children, Youth and Families with the family in the J.R. case was emphasized in our decision, it was but one factor in the examination of the personal interests and community orientation that we conducted therein.

school enrollment purposes.

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Paul E. Pontarelli  
Hearing Officer

Approved:

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Peter McWalters  
Commissioner of Education

Date: January 28, 2005