

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

T and L DOE

v.

CRANSTON SCHOOL COMMITTEE

Decision

Held: Request for interim order is denied based on determination that the children's residency changed prior to the beginning of the school year.

Date: October 14, 2005

Introduction

Petitioners request an interim protective order directing that their children's enrollment in Cranston schools be reinstated.¹

Background

For the past 15 years, Petitioners owned a home in Cranston. Their two sons, aged 13 and 9, have attended Cranston public schools.

On August 23, 2005, Petitioners sold their house, put their furniture in storage and moved to a hotel in Warwick. Petitioners did not inform the Cranston School Department of their move. When Petitioners' younger son was offered a bus pass by his Cranston teacher on the first day of school, he became distressed and told his teacher that he could not accept the pass because he no longer lived in Cranston. The disclosure prompted the school principal to contact the child's mother. The latter also spoke to her other son's principal and the assistant superintendent before the end of the day. In addition, she spoke to Warwick school officials and enrolled the children in Warwick public schools that same day. The children presently are attending school in Warwick.²

Petitioners are staying at the Warwick hotel on a day-to-day basis. They are building a new home in South Carolina and plan to relocate in July 2006. They have family and friends in Cranston and would move there if they could find suitable housing. Petitioners testified that their automobile and voting registration, drivers' licenses and insurance coverage remain in their Cranston address. Their older son is signed up to play basketball in a Cranston youth league.

¹ The Commissioner of Education designated the undersigned hearing officer to hear and decide the request. A hearing was held on October 6, 2005. The Warwick School Committee, a party in interest in this matter, was represented by counsel at the hearing.

² The children's mother testified that her younger son's principal removed him from the classroom and told her to come to school to take him home. She further testified that her older son's principal told her not to bring him to school the following day for his scheduled first day of school. The younger child's principal testified that the boy became agitated upon being offered the bus pass and that, consistent with his individualized education program, he was taken to the guidance office in an effort to calm him. He remained there until his mother picked him up at the end of the day. The older child's principal testified that on the day in question Petitioners claimed to be homeless in order to try to maintain their children's Cranston enrollment.

Positions of the Parties

Petitioners contend that the Cranston School Department did not follow proper procedure or state law in dealing with this residency question. Under Rhode Island General Law 16-64-2, children remain eligible to receive education in a city or town until residency is established in another city or town and that city or town has enrolled the child within its school system. Cranston did not provide Petitioners with an opportunity to be heard prior to the denial of educational services by the school principals. Under state law, the Commissioner, not school principals, makes residency determinations. Petitioners further argue that their present lodging is temporary and that their family maintains substantial contacts with Cranston. Under Deblois v. Clark,³ a person can have more than one residence and, for education purposes, Petitioners' residence is Cranston. The Warwick enrollment is not dispositive of this case because Petitioners took that action merely to avoid truancy charges.

The Cranston School Committee contends that Petitioners' residency changed when they voluntarily sold their home and moved to the hotel in Warwick. The constellation-of-interests doctrine and the Deblois case do not apply here because this case does not involve a boundary dispute or a second home. There never was a residency dispute because after being informed that they did not meet the statutory definition of "homeless," Petitioners enrolled their children in their city of residence.

The Warwick School Committee confirms that it enrolled Petitioners' children and that it will continue to educate them unless ordered otherwise.

Discussion

We examined the common law of school residency in the case of Laura Doe v. Narragansett School Committee.⁴ In doing so, we noted that "It is generally held that a child has a right to attend the schools of the district in which he is actually living."⁵ As for R.I.G.L. 16-64-2 and the procedural aspects of a residency dispute, we have held that children remain eligible to received educational services from the district in which they are enrolled until the children are enrolled in another district or the original district obtains a

³ 764 A.2d 727 (2001).

⁴ April 17, 1984.

⁵ Ibid., p. 3, quoting from "Schools and the Law" by E. Edmund Reutter, Jr., Oceana Publication, 1981, p. 48.

ruling from the Commissioner that the children are residents of another city or town for school purposes.⁶

The evidence in this case shows that Petitioners' children have been living in Warwick since August 23, 2005. While it is true that the Rhode Island Supreme Court stated in Deblois v. Clark that a person may have more than one residence, that case involved a married couple that maintained and spent time in two dwelling places. Petitioners sold their home in Cranston. They presently do not own or spend time in a dwelling other than their hotel suite in Warwick. Their proffered contacts with Cranston are largely illusory.⁷ Furthermore, any disagreement Petitioners may have had with Cranston on the opening day of school vanished that same day when Petitioners enrolled their children in Warwick schools following several conversations with Cranston and Warwick school officials regarding their children's enrollment eligibility. We find that the posture of this case is the same today as it was on the first day of school – Petitioners' children are actually living in Warwick and therefore are residents of that city.

For the foregoing reasons, the request for interim relief is denied.

Conclusion

Because Petitioners' children established residence in Warwick prior to the beginning of the school year, they are not entitled to attend schools in Cranston.

Paul E. Pontarelli, Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: October 14, 2005

⁶ Garrett and Laura Sullivan v. Newport School Committee, February 10, 1986. School districts are not authorized to unilaterally disenroll students based on a perceived lack of residency. Proper procedure is for the district of enrollment to notify the student's parents of its belief that a change in residency has occurred and to request that the parents enroll the child in the appropriate school district. Parents should also be informed that, if they disagree with the district's belief that their residence has changed, they may request a residency determination by the Commissioner pursuant to §16-64-6. School districts may request such a determination as well if the disagreement persists and the children are not enrolled elsewhere. When a disagreement is presented to the Commissioner, the child's school enrollment is to remain unchanged pending the Commissioner's determination of residency.

⁷ We reserve any further comment with regard to the legality and validity of Petitioners' current drivers' licenses, automobile and voting registration, and insurance coverage.