

031-08

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

IN RE: RESIDENCY OF T DOE

Decision

Held: Student Doe, who is living with her grandparents in Glocester, is a resident of that town for school enrollment purposes.

Date: November 25, 2008

Introduction

This is a request for a residency determination of a fourth-grade student.¹

Background

Student Doe completed the third grade at West Glocester Elementary School in June 2008. At the time, Doe, along with her parents and younger sister, was living with her grandparents in Glocester.

In July 2008, Doe's parents entered into a one-year lease for a house in Johnston. Both parents were employed at the time. Following the move, Doe was enrolled in a private school in Warwick. Her sister was placed in day care at the same school, and Doe received after-school care there as well.²

Doe's mother testified that the family suffered severe financial difficulties after Doe's father lost his job in September. The family was unable to meet household expenses and is a couple of months behind in Doe's tuition payments. Doe's mother also testified that Doe and her father do not have a good relationship, that Doe no longer wants to speak to him, and that the father has spoken of leaving the home when he finds work.

On or about November 8th, Doe left the family home in Johnston and went to live with her grandparents in Glocester. She also was withdrawn from enrollment at the private school. On or about November 13th, Doe's mother attempted to re-enroll Doe in West Glocester Elementary School. The school principal testified that Doe's mother told her that Doe was back with her grandparents in Glocester and had left the private school because she was being harassed. Upon learning that Doe's parents were still living in Johnston, the principal asked if the grandparents had legal custody of Doe. When Doe's mother replied in the negative, the principal stated that this presented a problem with enrolling Doe in Glocester. Doe's mother responded that she would not have Doe attend school in Johnston. The principal further testified that Doe's mother did not refer to any financial difficulties, but that she did say that she did not want to break her lease. The principal's testimony was credible.

¹ This matter was heard on November 19, 2008. The Foster-Glocester and Johnston school districts each participated in the hearing.

² The private school is located close to Doe's mother's place of employment.

Doe's mother testified that she was upset and very emotional when she spoke to the principal. She could not recall what she said to the principal, but she testified that it is possible that she mentioned harassment and expressed her dislike of Johnston schools. Doe's mother subsequently met with the Johnston attendance officer, but was denied enrollment when she informed the officer that Doe is living with her grandparents in Gloucester.

Doe's grandmother testified that her daughter cannot presently meet Doe's expenses, that Doe's relationship with her father is poor, that Doe's grandparents are now her primary caregiver, and that they will pay for after-school day care which can be arranged in Gloucester.³ Doe's grandfather testified that the financial viability of Doe's Johnston household was doomed when her father lost his job.

The Johnston attendance officer testified that Doe's mother told her that she disenrolled Doe from private school for financial reasons, and that she sent Doe to her mother's home due to her inability to pay for Doe's school, afternoon day care, and household expenses.

Positions of the Parties

Petitioner contends that Doe is actually living with her grandparents in Gloucester, that the move was necessitated by her family's financial difficulties and her poor relationship with her father, and that Doe's enrollment in Gloucester is in her best interests.

Gloucester argues that the proof offered by Petitioner has failed to rebut the presumption that children reside with their parents for school enrollment purposes. As for the real motivation for Doe's move to Gloucester, her mother initially spoke of harassment at the private school and did not mention financial difficulties. Furthermore, it is not logical for a private school to disenroll a student in the middle of the month, and it appears from the testimony that Doe's mother prefers Gloucester schools to that of Johnston. Finally, financial difficulties have never been found to be a substantial reason

³ After-school day care is possible in Gloucester because the day care provider is located on Doe's school bus route. Both of Doe's grandparents work during the day.

in and of itself to justify a school enrollment in a city or town where the parents do not reside.

Johnston points out that Petitioner's explanation of Doe's move to Gloucester includes the father-daughter relationship as well as financial reasons.

Discussion

In Rhode Island, school enrollment is determined by residency. The school residency statute states that "[a] child shall be deemed to be a resident of the city or town where his or her parents reside."⁴ This "deeming" provision is treated as a presumption, which can be rebutted. The party seeking to rebut the presumption bears the burden of proving that the child's residence is different from that of his or her parents. To be valid for school enrollment purposes, a student's residence that is different from one's parents must be based on a substantial reason other than changing the student's residence for the purpose of enrolling the student in another school system.

Doe's physical presence is not in dispute. She is living with her grandparents in Gloucester. The issue in this case is the reason Doe is living with her grandparents.

The evidence in this case shows that Doe's mother told the principal of the West Gloucester Elementary School that Doe had been harassed at the private school, and that she would not allow her daughter to attend public school in Johnston. Doe's mother testified that she was upset and emotional when she spoke to the principal. The Johnston attendance officer testified that Doe's mother told her that Doe was living with her grandparents in Johnston for financial reasons.

In light of the conversation between Doe's mother and the West Gloucester principal, Gloucester properly denied enrollment to Doe.⁵ The statements of Doe's mother

⁴ Rhode Island General Law 16-64-1.

⁵ Legal custody of Doe is not determinative of this issue, however. Under §16-64-1, a child can establish residency for school enrollment purposes even if living separate and apart from a parent or living with a relative or person who is not the child's legal guardian. If a child is living with a person who has not been appointed as the child's legal guardian, but who is acting *in loco parentis*, and the purpose of the living arrangement is for some substantial reason other than to attend a district's schools, the student is entitled to enroll. A school district cannot condition school enrollment on the appointment of a legal guardian. Under §16-64-4, the appointment of a guardian "shall not operate to change a child's residence unless the child takes up residence with the guardian and unless the guardian has been appointed for a substantial reason other than to change the child's residence for the purpose of enrolling the child in another school system."

in that conversation did not indicate that Doe was living with her grandparents in Gloucester for a substantial reason other than to attend school in Gloucester.

We do not, however, dismiss the testimony of Doe's mother that she was upset and emotional while speaking to the Gloucester principal. Doe's mother was distraught at the hearing. It was difficult for her to explain in any detail the financial and father-daughter relationship problems that have beset her family. There also appear to be serious problems between Doe's mother and father. Doe's mother did not wish to delve into those problems at the hearing and did so reluctantly only when convinced of the legal necessity to do so and given assurances of privacy.

Having considered all of the evidence produced at the hearing, we find that Petitioner has demonstrated that Doe's move to her grandparents in Gloucester was for a substantial reason other than to re-enroll Doe in her former Gloucester school. Doe's mother and father no longer have sufficient income to provide for a four-person household.⁶ Doe and her father do not have a healthy relationship. Doe is able to receive after-school day care in Gloucester. We find that these circumstances, taken in concert, rebut the presumption set forth in §16-64-1.

Conclusion

Student Doe is a resident of Gloucester for school enrollment purposes. She is to be enrolled in the Gloucester school system immediately.

Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: November 25, 2008

⁶ As for Gloucester's argument regarding the illogic of a mid-month disenrollment, we perceive the timing of Doe's withdrawal from private school as an effort to avoid additional tuition debt.