

S.G., on behalf of minor child, F.W., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF EWING, MERCER :
COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioning grandmother challenged the Board's residency determination that F.W. was not domiciled in the District.

In light of the credible presentation by petitioner that she was fully responsible for F.W. and that he lives with her in Ewing and stays with his mother for convenience when petitioner works at night, the ALJ found that F.W. lives with petitioner. S.G. has legal custody of F.W. and has claimed him as a dependent for income tax purposes since he was born. The ALJ ordered that F.W. be permitted to attend school in the District free of charge.

The Commissioner concurred with the ALJ that F.W. was domiciled in Ewing with his grandmother, S.G., and that he is entitled to attend school in the District free of charge.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

August 1, 2003

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The record in this matter and the Initial Decision of the Office of Administrative Law have been reviewed. No exceptions were filed by the parties.

Upon careful and independent review of the record in this matter, the Commissioner determines to adopt the Initial Decision. In so determining, the Commissioner notes that S.G., F.W.'s grandmother, has legal custody of F.W.¹ and has claimed him as a dependent for income tax purposes since he was born.² Although the fact that F.W. sleeps at his mother's residence in Trenton while S.G. and her husband work nights, on its face, raises a reasonable question as to whether F.W. is, in fact, domiciled in Ewing,³ S.G.'s explanation that this sleeping arrangement is for convenience is plausible in this particular instance, given the

¹S.G. obtained legal custody of F.W. by Consent Order, Docket No. FD-11-604-00, Superior Court, Chancery Division, Family Part, on September 20, 1999.

² S.G. testified that F.W. has lived with her since his birth in 1991 to her daughter, I.C., who was fourteen years old at the time.

³This arrangement obviously means that F.W. spends a considerable amount of time with his mother in Trenton. In that regard, it is noted that I.C. indicated to the Board by way of a letter and testimony at a Board hearing that F.W. lives with her in Trenton. S.G. testified that I.C. had attended the Board meeting alone due to S.G.'s illness at the time and that I.C. didn't understand the situation.

history of F.W.'s living arrangements with his grandmother.⁴ Moreover, as noted by the Administrative Law Judge, there are no other indications in the record that F.W.'s activities have shifted to Trenton.

The Commissioner, therefore, concurs that F.W. is domiciled in Ewing with his grandmother, S.G., and is entitled to attend school in the Ewing School District free of charge.

Accordingly, the Initial Decision is adopted for the reasons expressed therein.

IT IS SO ORDERED.⁵

COMMISSIONER OF EDUCATION

Date of Decision: August 1, 2003

Date of Mailing: August 4, 2003

⁴ S.G. testified that her daughter has had drug and instability problems since she was a teenager and is unable to care properly for F.W.

⁵ This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*