

R.W., ON BEHALF OF MINOR CHILD, A.W., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF WASHINGTON,
GLOUCESTER COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner contested the Washington Township Board of Education's decision to remove her son from the district's high school and place him in the Gloucester County Alternative School for the remainder of the 2007-2008 school year. Petitioner contended that her son's suspension was borne of institutional racism and demanded that he be immediately returned to the high school with a private tutor paid for by the school district. During the pendency of proceedings, rather than face truancy charges if her son failed to report to the alternative school, petitioner withdrew her son from the district and indicated that she was home-schooling him instead.

The Initial Decision recommended dismissal of the matter in its entirety. The ALJ found that the petitioner failed to meet the criteria for emergent relief, since the irreparable harm she alleged was caused by her own decision to home school her son and she provided no credible basis for her negative view of the alternative school. The ALJ further found that the appeal on the merits was now moot, since petitioner had withdrawn her son from the district and would not consider reenrollment unless she was granted the relief she sought.

The Commissioner adopted the Initial Decision as the final decision in this matter, noting that the ALJ gave the petitioner every reasonable opportunity to present her case and correctly concluded that R.W. – by withdrawing her son from the school district – had effectively positioned herself outside the Commissioner's jurisdictional authority. Since no purpose would be served by further proceedings, the petition of appeal was dismissed.

<p>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.</p>

March 19, 2008
OAL DKT. NO. EDU 98-08

AGENCY DKT. NO. 28-1/08

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the petitioner's exceptions, to which the Board of Education (Board) did not reply.

In her exceptions, the petitioner objects to the manner in which the Administrative Law Judge (ALJ) conducted and ruled on this matter, contending that her son would be in school if the ALJ had not taken the side of the Board without providing for a full investigation as she requested and ignoring the material and statements she presented to show the effects of institutional racism and the need for her son to receive additional private tutoring in order to realize his potential. She further objects to the manner in which, in her view, the ALJ prejudged her and her son (and their case) based on their appearance and perceived lack of education and social status, and contends that he additionally made factual errors in his decision despite her clear descriptions of events – such as stating that the student involved in a 2006 fight with her son was black, when he was, in fact, white. Petitioner urges that her case not be dismissed and that her son receive tutoring at home while it is pending. (Petitioner's Exceptions at 1-6)

Upon review, the Commissioner is satisfied that the ALJ gave the petitioner every reasonable opportunity to present her case and correctly concluded that the petitioner has – by withdrawing her son from the school district of the respondent Board – effectively positioned herself outside the Commissioner’s jurisdictional authority with respect to the awarding of relief. Therefore, the Commissioner must concur with the ALJ that no purpose would be served by further proceedings in this matter.¹

Accordingly, for the reasons set forth therein and above, the Initial Decision of the OAL is adopted as the final decision in this matter, which is hereby dismissed as a controversy before the Commissioner of Education.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: March 19, 2008

Date of Mailing: March 19, 2008

¹ Even assuming that petitioner is correct regarding the specific factual error alleged in her exceptions, the outcome of this matter would not be altered.

² This decision 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.*