



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

DISMISSAL

OAL DKT. NO. EDS 02922-22

AGENCY DKT. NO. 2022-34010

M.T. on behalf of A.E.,

Petitioner,

v.

SOUTH BRUNSWICK TOWNSHIP

BOARD OF EDUCATION,

Respondent.

M.T. on behalf of A.E., petitioner, pro se

R. Taylor Ruilova, Esq., for respondent South Brunswick Township Board of Education (The Comegno Law Group, P.C., attorneys)

Record Closed: June 1, 2022

Decided: June 2, 2022

BEFORE **TRICIA M. CALIGUIRE, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On March 14, 2022, pro se petitioner M.T., on behalf of her minor son, A.E., filed a due process petition to challenge home instruction pending an out-of-district placement for A.E. On April 13, 2022, the matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case.

On April 27, 2022, the parties appeared for a settlement conference via Zoom Audio Communications, Inc., an audio-video platform licensed by the OAL for use during the COVID-19 public health emergency. The parties reached agreement on settlement and the terms of settlement were placed on the record. After being duly sworn, M.T. responded to a voir dire, and I **FOUND** that:

1. M.T. understood and agreed to the settlement terms;
2. M.T. understood that by accepting the settlement, she was giving up the right to a hearing;
3. M.T. acted voluntarily and without threats or coercion from any person or persons;
4. M.T. was not suffering from any impairment, including from medications or other substances, or any medical condition, that would interfere with her judgment and ability to enter into the settlement agreement; and
5. M.T. expressed her wishes that the settlement agreement be approved.

At the conclusion of the settlement conference, the parties agreed to exchange a written document memorializing the terms of the settlement, to sign this document and to submit it to me for review and approval.

A telephone hearing was scheduled for May 24, 2022. Notice of this conference was sent to the parties on April 27, 2022, by email. A call-in number was provided for the parties' convenience and to avoid long-distance telephone charges, if any. M.T. failed to appear for this hearing. Counsel for respondent stated that, consistent with its obligations under the settlement, respondent had contacted seven potential out-of-district placements and had sent M.T. the settlement agreement for her signature.

M.T. did not contact the OAL prior to or after the May 24, 2022, telephone hearing to explain her absence. The hearing was rescheduled for May 31, 2022. Notice of this conference was sent to the parties on May 25, 2022, by email. A call-in number was provided for the parties' convenience and to avoid long-distance telephone charges, if any. M.T. failed to appear for this hearing. Counsel for respondent stated that M.T. had not responded to communication from his client.

M.T. did not contact the OAL prior to or after the May 31, 2022, telephone hearing to explain her absence. She did not request an adjournment of either telephone hearing. She did not file objections to or request reconsideration of the settlement which was placed on the record April 27, 2022. She did not take any steps to further prosecute her petition for due process.

LEGAL ANALYSIS AND CONCLUSIONS OF LAW

N.J.A.C. 1:1-14.4(a) provides that if a party fails to appear for a scheduled proceeding the judge shall hold the matter for one day before taking any action. N.J.A.C. 1:1-14.4(c) further provides that if the judge receives an explanation for the nonappearance and "concludes that there was no good cause for the failure to appear," the judge may refuse to reschedule the matter and shall issue a decision explaining the basis for that conclusion, or may reschedule the matter and, at his or her discretion, order the delinquent party to pay costs and fees to the State or the aggrieved person or other case-related action the judge deems appropriate.

Based on the foregoing, I **CONCLUDE** that petitioner M.T. on behalf of A.E. has provided no explanation or response and therefore has failed to demonstrate good cause for her failure to appear for the telephone hearings of May 25 and 31, 2022. I further **CONCLUDE**, based on statements of respondent's counsel that M.T. has failed to respond to communications sent to her by respondent, that petitioner no longer wishes to

pursue the due process petition filed on behalf of her minor son. Accordingly, I **CONCLUDE** that the petition must be **DISMISSED** for failure to pursue a claim of action under N.J.A.C. 1:1-14.4.

ORDER

Based upon the foregoing, I **ORDER** that the due process petition filed by petitioner M.T. on behalf of A.E. is **DISMISSED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2022) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. § 300.516 (2022).

June 2, 2022

DATE



TRICIA M. CALIGUIRE, ALJ

Date Received at Agency: _____

Mailed to Parties: _____

TMC:nmn