IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

IN RE: ESTABLISHMENT OF	:	
INDEPENDENT SCHOOL DISTRICT	:	
CONSISTING OF WOODWARD	:	No. 99-00,889
TOWNSHIP, LYCOMING COUNTY	:	
PENNSYLVANIA,	:	
Petitioners	:	

Issued: January 4, 2001

O P I N I O N
Issued Pursuant to Pa. R.A.P. 1925(a)

This opinion is written in support of the decisions this court rendered in the above-captioned matter. The Williamsport Area School District has challenged three decisions made by this court: (1) The determination that minors may not be considered "taxable inhabitants," (2) The admission of the 11 August 1999 additions to the Per Capita/Occupation Tax Roll as prima facie evidence of taxable inhabitants, and (3) The referral of the state subsidy proration to the Pennsylvania Department of Education for calculation when the necessary information becomes available.[1]

I. Questions Regarding Sufficient Number of Signatures

The first two complaints raised by the Williamsport Area School District involve our

[1] The Williamsport Area School District has also appealed the Secretary of Education's determination that the transfer has educational merit. The statue governing the transfer of an area from one school district to another, 24 P.S. §- 2242.1, specifically reserves the decision on the educational merit of the transfer for the Secretary of Education. This court had no jurisdiction to decide that issue, and we accordingly never addressed the merits of the transfer. Likewise, it would be totally inappropriate for us to comment on the Secretary's decision. Furthermore, it is far from clear that the Secretary of Education's decision is reviewable by the judicial branch–even on the appellate level.

ruling that the majority of taxable residents of Woodward Township signed the petition in favor of transfer to the Jersey Shore School District, as required by 24 P.S. § 2-242.1.[2] In its attempt to attack the petition, Williamsport employed two tactics. First, it tried to invalidate signatures on the petition, and second, it tried to expand the total taxable inhabitants of Woodward Township, thereby increasing the number of signatures the petitioners must obtain to constitute a majority.

A. Minors[3]

In its effort to enlarge the number of taxable inhabitants, Williamsport has taken the untenable position that minors should be included.[4] In doing so, Williamsport asked us to apply a hyper-literal interpretation of the term "taxable inhabitant;" i.e., someone who pays

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[2] We note that this court's decision regarding the sufficiency of the petition will not be overturned unless the Williamsport Area School District wins on both issues regarding the sufficiency of the petition, for only then would the number of valid signatures fall below the majority of the taxable residents of Woodward Township.

[3] Our decision on this issue resulted in a net decrease of 211 to the total number of taxable inhabitants (from 2074 to 1863), and a net decrease of 11 valid names on the petition (from 1070 to 1059).

[4] This issue arose when Williamsport asked the court to admit the names on the Earned Income tax rolls as prima facie evidence of taxable residents. We declined to admit any names on that list which did not also appear on the Per Capita/Occupation tax list or the Voter Registration list, without evidence establishing that they were eighteen or older on the date the petition was filed. In rendering this decision, we did not conclusively invalidate names on the Earned Income Tax Rolls not appearing on one of the other two lists. We merely placed upon a challenging party the burden of showing that the people appearing only on the Earned Income Tax Rolls were eighteen or older on the date the petition was filed.

taxes and lives in the area.[5] Naturally we declined to consider anyone under the age of eighteen to be a taxable inhabitant, for to do so would mean that such individuals are eligible to sign the petition for transfer, and that would be nothing less than absurd.

Individuals under eighteen are not considered legally competent adults in our society and are not deemed mature enough to make important decisions. For instance, they are not permitted to vote in elections, 25 P.S. § 2811; they cannot sue or be sued in their own name, 23 Pa.C.S.A. § 5101(b) and Pa. R.Civ. P. No. 2028; they cannot enter into contracts, 23 Pa.C.S.A. § 5101(a); and they cannot sign nominating petitions for political candidates, 25 P.S. § 2868. If our society does not trust minors to make these sorts of decisions, why should we permit them to help decide which school district their community belongs to?

Permitting individuals under eighteen to sign petitions for school district transfer would be particularly ridiculous because we would be allowing them to participate in deciding which school *they themselves* would attend. Individuals under eighteen simply cannot be trusted to have yet developed the discipline, foresight, and maturity necessary to make sound decisions of this type. As anyone who has ever been young well knows, youth entails a certain amount of impulsiveness and short-sightedness which is not without its peculiar charm; however, that type of disposition often compels one to choose short-term pleasures over hard work for the long haul. In short, it is entirely possible these minors

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[5] We note that even under this interpretation, minors might not be considered taxable inhabitants, for although money earned by minors is taxable, the ultimate responsibility for filing a tax return rests with the minor's parent or guardian. Moreover, minors are considered dependants unless they are emancipated, which happens only in rare cases.

would base their choice of school on considerations having nothing to do with the quality of their education.

It is inconceivable that the Pennsylvania legislators trusted children to help make such an important decision affecting their own education. Merely because a minor is earning money and thus on the tax rolls does not make him or her mature enough to make competent decisions. A summer job flipping hamburgers at the local fast food joint does not guarantee much of anything in the way of mental maturity. Neither does babysitting, mowing grass, or shoveling snow–all favorite methods of minors to earn pocket money.

Not surprisingly, case law supports our decision to exclude minors. In Chester's Annexation, 174 Pa. 177, 178, 34 A.457 (1896), the Pennsylvania Supreme Court affirmed that master's decision that taxable inhabitants included people who lived in the area at the time they signed the petition, and "were all of age." And in Penn Township Annexation, 76 Pitts. 457, 459 (1928), the Court of Quarter Sessions of Allegheny County refused to consider one disputed individual to be a taxable inhabitant without evidence he was of age on the date the petition was filed.

B. Additional Names from the August 11, 1999 Tax Assessor List[6]

The Williamsport Area School District also challenges our decision to accept the additional names submitted to Lycoming County by the Woodward Township tax assessor as prima facie evidence that the individuals on the list were taxable residents on the date the

[6] Our decision on this issue resulted in a net increase of 75 names to the total number of taxable inhabitants (from 1788 to 1863), and a net increase of 71 names to the number of valid signatures on the petition (from 988 to 1059).

petition for secession was filed. Williamsport rightly points out that because the list was submitted to the county on 11 August 1999, there is no guarantee the people on the list lived in Woodward Township on 16 June 1999, the date the petition was filed. No available list, however, would guarantee that.

In modern society, people are highly mobile. They move frequently, and for a variety of reasons they do not always immediately appear on the tax rolls of their new location. Because the Woodward Township tax collector was in the process of compiling these additional names prior to the date she submitted the list to the county for inclusion, it is perfectly reasonable to accept those additional names as prima facie evidence of taxable residents.

This decision, of course, did not constitute a conclusive determination that each person on the list resided in Woodward Township on 16 June 1999. It merely assigned the burden of proof to a party challenging names on the list. Either side had a right to present evidence that individuals included on the tax assessor's list did not live in Woodward Township on 16 June 1999.

II. Proration of State Subsidies

In issuing a decree establishing an independent school district for the purpose of transfer, a trial court is to prorate the state subsidies payable between the two school districts. 24 P.S. § 2-242.1(a). Instead of specifying the precise amounts in our decree, this court chose to specify how the proration was to be made and direct the Department of Education to calculate the amounts when the necessary information became available.

Williamsport Area School District apparently believes that by doing this, we shirked our duty. We fail to understand its position.

Our decree does not give the Department of Education free reign to divvy up the subsidies however it likes. We specifically told the Department exactly how it was to calculate them. Our decree states:

> Proration of the applicable State subsidies between the Williamsport Area School District and the Jersey Shore Area School District shall be calculated by the Department of Education, Division of Subsidy Data and Administration. The proration shall be based on the actual number of students transferred and shall be effective for the school year in which the transfer is effected.

The reason we did not calculate the subsidies and specify the exact amounts in our decree is because it is impossible to predict at this time which subsidies will be available for the school year in which the transfer occurs, nor can we know exactly how many students will be transferring. This is amply demonstrated by the letter of Patricia Fullerton, Assistant Chief Counsel to the Secretary of Education. (Attached as Exhibit A.) Ms. Fullerton flatly declined to provide financial estimates to the Williamsport and Jersey Shore School Districts, which had inquired about what the proration of subsidies might be. Ms. Fullerton specifically stated that the information is not yet available for the Department to identify which subsidies will be available, nor does it have the data necessary to calculate aid ratios.

This court is not the first to refer the matter to the Department of Education for calculation when the information becomes available. The Court of Common Pleas of Armstrong County did precisely the same thing in its decree declaring portions of East Brady Township an independent school district for the purpose of transfer to the Armstrong

School District. (Armstrong County No. 1991-0661.) The State Board of Education specifically approved this procedure in its report on the transfer, stating, "The Decree is consistent with the court's authority under section 242.1 of the Public School Code." (Relevant portion attached as Exhibit B, p. 51.) And in fact, the Department of Education has agreed to do so again. In her letter to Williamsport and Jersey Shore school districts, Ms. Fullerton states,

> In other cases involving the transfer of property from one district to another, the court has ordered the Department to prorate the subsidies and transfer the applicable funds for the school year in which the students actually transfer. If the court orders the Department to prorate the subsidies, we will calculate the amount in accordance with the order. . . . In the event that the court orders the Department to prorate the subsidies, the Department will calculate the percentage and identify the specific subsidies at the time of the transfer.

We fail to see how this procedure violates the spirit of § 2-242.1(a). This court determined how the subsidies are to be calculated, deferred the exact calculation until the necessary data is available, and referred the technical calculation to the entity most qualified to do it. Any other method might have resulted in one school district receiving more or less money than it deserves, or sacking the taxpayers with a higher tax bill than necessary. The method we used, by contrast, ensures a fair and just proration for both school districts and also protects Pennsylvania taxpayers from shelling out more money than is necessary to educate their children. Surely that is precisely what the General Assembly had in mind when it enacted the statute.

The Williamsport Area School District's position is especially untenable in light of its own proposal, namely that the court should order *no* proration of subsidies. See 10 October 2000 N.T., p. 5. Instead, Williamsport wants us to butt out and allow tax funds to

be doled out as would normally be done under the School Code if no transfer was taking place, and Williamsport was losing students because of ordinary declining enrollment. Under that scheme, Williamsport would continue to receive money for the students who had transferred to Jersey Shore, and Jersey Shore would also receive money for those same students.[7]

This proposal clearly violates the mandate of § 2-242.1(a), which specifically states that the subsidies should be prorated between the districts. If the General Assembly had wanted funds to be distributed according to another section of the School Code, it would have said so, or at the very least, would not have explicitly required a proration of state subsidies.

Even if it were within this court's discretion to adopt the scheme advocated by the Williamsport Area School District, however, we would decline to do so. We see no reason to saddle Pennsylvania taxpayers with a double bill for educating the same set of students, and we see no reason why Williamsport Area School District should receive money for students whom they no longer have the responsibility of educating.

Having found that Williamsport's proposal was repugnant to the statute and to common sense, we naturally declined to hear the testimony of the expert Williamsport offered in support of its scheme. Permitting Williamsport to call that witness would have

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[7] This is because a "hold harmless" provision in the School Code protects school districts from losing money immediately after enrollments decline. By the same token, the Code ensures that Jersey Shore will automatically receive money for its increased enrollment.

A related argument regarding a conflict between § 2-242.1(a) and the School Code provision on subsidies was offered but rejected by the State Board of Education in the Armstrong County case. See Exhibit B, p. 50-52.

been an unnecessary waste of time, money, and judicial resources.

BY THE COURT,

Date: _____ Clinton W. Smith, P.J.

cc: Dana Jacques, Esq., Law Clerk
Hon. Clinton W. Smith
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Fred Holland, Esq.
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