

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA**

ROBIN MUFFLEY and CHARLES MUFFLEY, Plaintiffs	:	
	:	No. 20-20346
	:	
vs.	:	CIVIL ACTION - LAW
	:	CUSTODY
PAULINE HALL, Defendant	:	Petition for Special Relief

OPINION IN SUPPORT OF THE AUGUST 31, 2020 ORDER DENYING PETITION

The facts of this case are tragic and the children, ages 12 and 13, have experienced more trauma in their limited years than most. Both of the children’s parents are deceased. For approximately five years, the children were in the custody of Defendant, Pauline Hall, who is the stepmother of the children. The children have attended the Loyalsock Township School District since entering school. In late April or early May 2020, Ms. Hall suffered a massive stroke and could no longer care for the children. As a result, since May 2, 2020, the children have been in the sole physical custody of Plaintiffs, Robin and Charles Muffley, who are the children’s maternal grandparents. By agreement of the parties, as of July 6, 2020 Mr. and Mrs. Muffley have sole legal custody and primary physical custody of the children. Ms. Hall is entitled to visits with the children as agreed upon by the parties. Mr. and Mrs. Muffley live in the Williamsport Area School District. On August 17, 2020, the Muffley’s filed an Expedited Petition for Special Relief asking the Court to enter an order directing the children to continue to attend school in the Loyalsock Township School District. Ms. Hall concurred in this request.

A factual hearing and argument was held on August 31, 2020 at which time Mr. and Mrs. Muffley appeared with their counsel, Attorney Dinges, Ms. Hall did not appear due to her medical condition, and Dr. Gerald McLaughlin, Superintendent of the Loyalsock Township School District, appeared on behalf of the school district. Dr. McLaughlin indicated at the outset of the hearing that the school district opposed the Petition. Testimony was presented regarding the children's history at the Loyalsock Township School District and their learning and intellectual disabilities as well as the services they receive through the Loyalsock Township School District.

Pursuant to Pennsylvania law, a child must attend the school district in which their guardians reside. 24 Pa.C.S.A. § 13-1302(a) ("A child shall be considered a resident of the school district in which his parents or the guardian of his person resides"). See also *Ferndale Area Sch. Dist. v. Shawley*, 313 A.2d 366, 368 (Pa.Cmwlth. 1973). However, the board of school directors, as its discretion, may permit a non-resident student to attend its public schools even if that student does not reside in its district. 24 Pa.C.S.A. § 13-1316. The board of directors can also decline to allow a non-resident to attend its school district, as is its right. *Ferndale*, 313 A.2d at 368. The Court has no authority to require a school district to enroll a child, other than the one in which the child resides. *Id.* The Court similarly has no authority to require the district in which the child resides to pay tuition to another district. *Id.*

Here, it is undisputed that the children reside with Mr. and Mrs. Muffley in the Williamsport Area School District. In support of their position, the Muffley's argue that the Pennsylvania Code allows the Court to order that a child attend a different public school than where he or she resides. Specifically, they cite to 22 Pa. Code §

11.11(a)(1) which states that a child is entitled to attend the public schools in which his or her guardian resides and that when the parents or guardians reside in different school districts, the child may attend school where he or she lives for the majority of the time “unless a court order or court approved custody agreement specifies otherwise.” 22 Pa. Code § 11.11(a)(1). This section, however, is inapplicable to this case as it only applies when children reside in two different school districts due to a divorce or some other special circumstance. While the current Custody Order allows Ms. Hall visitation with the children, due to her stroke, Ms. Hall has moved to and has likewise been living in the Williamsport Area School District. Therefore, while the Court understands the Muffley’s position and acknowledges that these children have faced tragedy, the Court cannot enter an order requiring the children to attend Loyalsock Township School District or requiring Williamsport Area School District to pay the children’s tuition so that they can attend Loyalsock Township School District. It is, however, hoped that Loyalsock would reconsider or revisit its decision if the Williamsport Area School District would agree to pay for the children’s tuition. Plaintiff’s Petition is denied.

BY THE COURT,

Ryan M. Tira, Judge

RMT/ads

cc: Christina Dinges, Esquire
Pauline Hall

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