

**IOWA DEPARTMENT
OF EDUCATION
(Cite as 22 D.o.E. App. Dec. 42)**

In re Jesus Tule

Jesus Tule,	:	
Appellant,	:	DECISION
vs.	:	
	:	[Admin. Doc. 4541]
Iowa High School Athletic Association,	:	
Appellee.	:	

This matter was heard on May 22, 2003, before Carol J. Greta, designated administrative law judge¹, presiding on behalf of Ted Stilwill, Director of the Iowa Department of Education.

Appellant, Jesus Tule, was present telephonically for the hearing on his own behalf. Also present telephonically on behalf of Jesus were two outreach specialists for the Sioux City Community School District, Gary Fuentes and George Sayavong. Appellee, Iowa High School Athletic Association [hereinafter, "IHSAA"] was represented telephonically by its Executive Director, Bernie Saggau. Neither party was represented by legal counsel.

An evidentiary hearing was held pursuant to departmental rules found at 281-Iowa Administrative Code chapter 6. Jurisdiction for this appeal is pursuant to Iowa Code § 280.13 and 281 Iowa Administrative Code 36.17. Appellant seeks reversal of a decision of the Board of Control of the IHSAA made on April 26, 2003, that Jesus is ineligible under the provisions of 281 Iowa Administrative Code chapter 36 to compete in interscholastic athletics following his mid-year graduation from the Sioux City Community School District.

The administrative law judge finds that she and the Director of the Department of Education have jurisdiction over the parties and subject matter of this appeal.

¹ Judge Greta is the Iowa Department of Education's liaison to the Board of Control of the Iowa High School Athletic Association, a non-voting position. She deliberately was not present when the IHSAA Board discussed and voted on this eligibility matter. Her membership on that Board was fully disclosed to the Appellant in writing prior to this hearing.

I. FINDINGS OF FACT

No one disputes the facts of this case. Jesus is 19 years of age,² and had been enrolled at West High School in the Sioux City District until December 20, 2002, the effective date of his approved application for early graduation.

In the fall of 2002, because of a family crisis whose validity is not disputed by anyone, Jesus determined that early graduation from West High was his best course of action. Accordingly, he filed for permission to graduate after the fall semester. The permission form purportedly was signed by his father, by a high school guidance counselor, and by the principal of West High, and is dated October 27, 2002. At that time, Jesus had sufficient credits to graduate (as well as a 3.25 grade point average) from high school. According to Mr. Saggau, the school transcript for Jesus that was provided to the IHSAA showed that his final day of enrollment at West High was December 20, 2002.

Jesus then moved to Mexico to be with a critically injured family member, his father. Sometime during the spring semester, he moved back to Sioux City. He did not re-enroll at West, testifying that the school would not permit him to do so.³ However, he sought permission to participate in interscholastic soccer with the West High team. After eligibility was denied by the administration and Board of Control of the IHSAA, this appeal followed.

Jesus testified that his request for eligibility to play soccer was not motivated by a desire to play soccer, but to give him an opportunity to be seen by college scouts. His motivating purpose was confirmed by the outreach specialists who assisted Jesus in this appeal.

II. CONCLUSIONS OF LAW

The Iowa State Board of Education has adopted rules regarding student interscholastic athletic eligibility pursuant to the authority in Iowa Code section 280.13. Those rules are found in 281—Iowa Administrative Code chapter 36. An

² The original Appellant herein was Jesus' father. However, once it was determined that Jesus is an adult, both parties agreed that he could be substituted as the Appellant for his father. His father did not take part in the hearing.

³ No one from West High or central administration for the District testified at this hearing. We are left to speculate that the district, in compliance with Iowa Code section 282.6, refused to re-enroll Jesus, tuition-free, because he had already met graduation requirements and had left school.

intergovernmental agency agreement allows IHSAA to interpret and enforce these rules, subject to appeal to the Director of the Department of Education. The decision rendered herein is to be based on the laws of the United States and the State of Iowa, the regulations and policies of the Iowa Department of Education, and shall be in the “best interest of education.” 281—IAC 6.17(2).

The scholarship rule, 281—IAC 36.15(2), is the applicable regulation in this appeal. That rule is one which governs the eligibility of students to compete in interscholastic athletics, and states that the following conditions (among others not contested here) must be met:

1. The student must be enrolled in a member school.
2. The student must be making passing grades in the current semester in subjects for which 20 semester hours’ credit is given (the equivalent of four courses).

West High is a member school of the IHSAA, but Jesus is no longer enrolled there as a student. Accordingly, he is not taking and passing at least four subjects. While it is not unusual for a high school student to have sufficient credits to graduate after the first semester of his senior year, s/he can maintain eligibility to participate in interscholastic athletics only by staying in school and taking and passing at least four courses.

We note that a majority of courts, including the federal courts in Iowa, have ruled that there is no “right” to participate in interscholastic athletics. *Brands v. Sheldon Community School*, 671 F.Supp. 627 (N.D. Iowa 1987); *Gonyo v. Drake University*, 837 F.Supp. 989 (S.D. Iowa 1993). Accordingly, Jesus cannot successfully argue that he is harmed legally by his ineligibility to compete in interscholastic soccer.

Jesus arguably had a good reason to seek early graduation; however, the validity of his reason does not negate the fact that he was not, at the time of the hearing, enrolled in school. We have no authority to make an exception for Jesus.

III. DECISION

For the foregoing reasons, the April 26, 2003 decision of the Board of Control of the Iowa High School Athletic Association that Jesus Tule is ineligible to compete in interscholastic athletics at Sioux City West High School or any other member of the IHSAA is **AFFIRMED**. There are no costs associated with this appeal to be assigned to either party.

Date

Carol J. Greta, J.D.
Administrative Law Judge

It is so ordered.

Date

Ted Stilwill, Director
Iowa Department of Education