

IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 10 D.o.E. App. Dec. 330)

In re Rob Olmsted :
Kathy Olmsted, :
Appellant, :
v. : DECISION
Iowa High School :
Athletic Association, :
Appellee. : [Admin. Doc. #3370]

The above-captioned matter was heard telephonically on August 9, 1993, before a hearing panel comprising Don Helvick, consultant, Bureau of School Administration and Accreditation; Robert Yeager, assistant chief, Bureau of Educational and Student Services; and Kathy L. Collins, legal consultant, designated administrative law judge, presiding on behalf of William L. Lepley, Ed.D., director of education.

Appellant and her son, Rob, were "present" by telephone, unrepresented by counsel. Appellee Iowa High School Athletic Association [hereafter, IHSAA or the Association] was also telephonically "present" in the person of Executive Director Bernie Saggau, also unrepresented by counsel.

An evidentiary hearing was held pursuant to departmental hearing procedures found at 281 Iowa Administrative Code 6. Appellant sought reversal of a decision of the Board of Control of the IHSAA made on June 24, 1993, denying her request for an additional semester of athletic eligibility for her son, Rob.

I.

FINDINGS OF FACT

The administrative law judge finds that she and the director of education have jurisdiction over the parties and subject matter of this appeal. 281 IAC 36.17.

Rob Olmsted is a high school senior in Iowa City who is due to graduate at the end of the first trimester this year (1993-94), although he has attended high school for four years. In Rob's sophomore year, he attended city alternative school; the other three years he attended West High School. He was out for football in his freshman, junior, and (first) senior year and played on the varsity squad for the last two years and was in the

starting lineup last year. He could have played for West High in his sophomore year even though he went to the alternative school. Rob has had eight semesters of eligibility to date.

Appellant is a long-term single parent who has essentially raised Rob by herself. In 1990 she decided to further her education and went back to school full time. Rob needed money for school and she was unable to provide it, so they decided he should get a job. In the summer of 1990, Rob worked between 38-42 hours per week. When school started his sophomore year, he continued to work over 30 hours a week, and with his mother's advice, he made the decision not to go out for football but to keep working. Rob made \$1,844 in tax year 1990. Appellant's income for 1990 was under \$5,000.

Rob did not have a good sophomore year academically or attitudinally. Rob characterized himself as a "brat" during this time. He was not happy with himself or being at the alternative school, so he made up his mind to do well enough to be able to return to West High School for his junior year. He did so and went out for football again. His grades have been better in each of the trimesters in which he played football than at any other time, and he has made academic improvement every year.

Appellant has asked the Association for one more semester of eligibility so that Rob can play football this fall. He plans to enter into military service upon completion of his high school coursework. Rob testified that although his last term at school would be enhanced for him if he could participate in sports, he does intend to finish his high school education regardless of whether he plays football.

In essence, Appellant's request for a ninth semester¹ of eligibility for Rob is based upon family hardship. She has assumed the responsibility for Rob's decision to work during his sophomore year instead of playing football because she knows or believes Rob did it at her request to help them out financially.

II. CONCLUSIONS OF LAW

The eligibility rule at issue in this case reads as follows, in pertinent part:

¹The fact that West High School is on a trimester system does not impact the rule at issue here. Eight consecutive semesters is equivalent to the typical four-year high school program. We also have a rule specifying that no student of an accredited school shall be denied eligibility because the school program deviates from the traditional two-semester school year. 281 IAC 36.15(2) "c."

Scholarship rules.

d. A student who meets all other qualifications may be eligible to participate in interscholastic athletics for a maximum of eight consecutive semesters upon entering ninth grade for the first time. . . . Extenuating circumstances, such as health, may be the basis for an appeal to the executive board which may extend the eligibility of a student when it finds that the interests of the student and interscholastic athletics will be benefited.

281 IAC 36.15(2) "d."

The rule, of course, is designed to keep athletics and academics in balance. Its intent is to prohibit the practice of holding students back (known as "redshirting" at the collegiate level of interscholastic athletics) for the purpose of gaining additional physical or other maturation. It is similar to another rule limiting athletic eligibility to students under the age of 20. 281 IAC 36.15(2) "b." The exception clause was built in to take into consideration students who, for reasons generally beyond their control and unrelated to athletics, were unable to attend school and participate in sports for a time. For example, a student who is injured in a car accident and is hospitalized, missing an extended period of school, or a student who suffers from an illness and is unable to attend school would be a strong candidate for the executive board ("Board of Control") of the IHSAA to grant an exception.

The appeal cases brought under the eight-semester rule are instructive to our decision making. In 1983, the State Board affirmed a denial by the Board of Control of an additional semester of eligibility to a student who had dropped out of school for a year. In re Dennis Vacha, 3 D.P.I. App. Dec. 143 (1983). Later that summer a student who had experienced drug and alcohol problems that contributed to sporadic school attendance and lack of involvement for two school years asked for additional eligibility and was denied. In re Terry Thill, 3 D.P.I. App. Dec. 190 (1983). In that case, the Board distinguished between Terry's problems with drugs and alcohol from another student's request for an additional semester of eligibility due to receiving inpatient treatment for drug dependency. The boy who sought inpatient treatment, thereby missing school for a semester, was granted an additional semester under the rule exception related to "extenuating circumstances, such as health."

The next request involved a young wrestler whose parents decided he should repeat ninth grade due to the young man's physical and emotional immaturity. At the end of eight consecutive semesters, the wrestler won a state championship in his weight class. He and his parents requested another year of eligibility but despite the fact that he had been injured (at wrestling practice) and missed some school and most of one wrestling season, the request was denied. In re Jason Jewett, 7 D.o.E. App. Dec. 335 (1990).

The last two cases involved two young men named Shawn. The first was a drop-out student and convicted felon who found a family to take him in when he made the decision to turn his life around. He had been given eight semesters of eligibility but played no sports after the first few weeks of ninth grade. The Board of Control denied his request for an extra semester, but the State Board reversed. In re Shawn North, 8 D.o.E. App. Dec. 87 (1990). The bases for the reversal were that he had not exercised any of his eligibility and that this poor young man's whole life was "one extended 'extenuating circumstance,'" id. at 91, (raised and abandoned by motorcycle gang parents, diagnosed as special education, living without a regular place to sleep and trouble at school leading to expulsion to name a few of Shawn North's problems).

The last case we had involving a request for additional eligibility was In re Shawn Shaffer. This Shawn, too, had experienced tremendous obstacles in his life: an alcoholic mother who failed to discipline him, an absent father, school failure and discipline problems that led to dropping out, drug and alcohol abuse. This young man also managed to straighten himself out and returned to school desirous of participating in sports. Unfortunately he had turned 20 and, pursuant to our rules, was no longer eligible. His request was turned down because there is no exception to the age 20 rule. In re Shawn Shaffer, 9 D.o.E. App. Dec. 376 (1992).

One additional case is enlightening on the issue of whether financial hardship constitutes ample justification for granting a waiver from the 90-day eligibility requirement for transfer students. In re Stephen Keys, 4 D.P.I App. Dec. 24 (1984) involved a father who was laid off from his job, and a mother who went to work part-time and attended school part-time to upgrade her earning potential. Due to the financial stress placed on the family, they could no longer afford private school tuition. Despite these facts, the State Board affirmed the IHSAA's refusal to grant immediate eligibility. Id. at 29.

Clearly then, the record reflects that only twice since 1983 has additional eligibility been granted: once by the IHSAA for a boy who missed a semester due to hospitalization for chemical dependency, and once by the State Board for a student who had never had a break in his life -- and who had not used any of his eligibility up to that point.

I do not view Rob Olmsted's family financial necessity in the same light. That is not to say that Rob and his mother made a bad decision when they decided he needed to work rather than play football. I think Rob did the right thing under the circumstances. I do not see it as a significant enough situation, particularly where he missed no semesters or trimesters of school, to justify giving him another football season.

I do want Rob to know I'm proud of him for returning to the regular school environment and for making a commitment to graduate. I wish him must success in the future, starting with his experience in the military. He is unquestionably a fine young man who has done much to improve himself and help his mother. It is my hope that this decision not be misinterpreted to suggest anything else.


Any motions or objections not previously ruled upon are hereby denied and overruled.

III.
DECISION

For the foregoing reasons, the decision of the executive board of control of the IHSAA, denying an extra semester of eligibility to Rob Olmsted, is hereby affirmed.

DATE

9-3-93



WILLIAM L. LEPLEY, Ed.D.
DIRECTOR OF EDUCATION