

IOWA DEPARTMENT
OF EDUCATION
(Cite as 9 D.o.E. App. Dec. 376)

In re Shawn Shaffer :
Shawn Shaffer, :
Appellant, :
v. : DECISION
Iowa High School :
Athletic Association, :
Appellee. : [Admin. Doc. #3194]

The above-captioned matter was heard telephonically on April 27, 1992, before a hearing panel comprising Judge Brown, consultant, Bureau of School Administration and Accreditation; Su McCurdy, consultant, Bureau of School Administration and Accreditation; and Kathy L. Collins, J.D., legal consultant and administrative law judge by designation. Appellant Shawn Shaffer was present by telephone, and was assisted in his presentation by his principal, Mr. Terry Eagen. Appellee Iowa High School Athletic Association [hereafter the Association] was present telephonically in the person of Bernie Saggau, executive director of the Association, also unrepresented by Counsel.

An evidentiary hearing was conducted pursuant to departmental rules found at 281 Iowa Administrative Code 6. Authority and jurisdiction for the appeal are found at 281 IAC 36.17. Appellant seeks reversal of a decision made by the board of control ("Board") of the Association on March 20, 1992, denying him an exemption from the eligibility rule that prohibits high school interscholastic athletic competition when a student reaches the age of 20.

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 the case before them.

Appellant was raised in Arkansas by his mother who unfortunately suffered from alcoholism and abrogated her authority and discipline for Shawn. Not surprisingly, he found himself in trouble at school, failed to attend regularly, and soon also became involved with chemicals.

He was suspended from school in ninth grade and dropped out without obtaining any credits that year. He then moved and began school in Mena, Arkansas, where he completed one high school semester, although he failed three courses, before leaving school again.

Shawn did not return to school but worked during school years 1989-90 and 1990-91. In late summer of 1991, he talked to his father in Oskaloosa who thought that Shawn might be able to get a job at John Deere here. Shawn then moved to Iowa. His first trip to the unemployment office led to a call by an employee there to Shawn's dad, strongly suggesting that Shawn return to high school. Together Mr. Shaffer and Shawn met with school officials in Oskaloosa and Shawn enrolled in the high school. Vice-Principal Doug Baker urged Shawn to get involved in activities, and Shawn chose wrestling.

At some point in the two years prior to his move to Iowa, Shawn was able to straighten himself out, get clean, and change his attitude. His first semester (1991-92) performance was stellar: he had not missed a day of school and his grade point average was 3.1. Shawn testified at hearing that his experience in wrestling had helped him become more involved in school and that it has boosted him academically as well as socially.

Shawn turned 20 in February, 1992, and pursuant to the rules adopted by the State Board of Education in 1972, became ineligible for extracurricular interscholastic competition. It is from this rule that he, and Mr. Eagen on his behalf, seek to be released by the granting of an exception.

Shawn is approximately 5'3" and at the time of hearing weighed about 130 pounds. Mr. Eagen, Shawn's principal, testified that Shawn is of average musculature and is a good, but not gifted, wrestler. He stressed that Shawn's wish to continue wrestling stems from his desire to add to his educational experience rather than from a desire to pursue college scholarships or state titles. Mr. Eagen, himself a member of the board of control (but who, of course, abstained from voting on March 20), clearly understands the purposes of athletic participation and the rationale behind the age limitation. He nevertheless believes that the good that continued participation will do for Shawn outweighs any imagined dangers involved with allowing Shawn to compete. In his words, "I am impressed with this kid. He has no ulterior motives, he is no physical threat. He just wants to enhance his life through athletics."

Mr. Bernie Saggau testified on behalf of the Association and in support of the Board's decision. He pointed out that in addition to the age 20 rule, another rule which limits the total number of semesters of a student's athletic eligibility to eight after "entering ninth grade for the first time" would also prohibit Shawn from competing. While the Board had compassion for this young man, it felt that an exception should not be made to the age 20 limitation where none exists in rules, and Mr. Saggau testified that none had ever been granted.

Mr. Saggau also supplied a copy of a judicial ruling in a 1972 legal dispute for the purpose of background information to the panelists regarding the rule at issue in this case. Miller v. Iowa State Dept. of Pub. Instruction, Mem. Op. 2-4-73 (Polk Cty. Dist. Ct., Eq. #76650). The judge in the Miller case found as fact, based upon the testimony of witnesses at that hearing, that thirty-three of fifty states had a "nineteenth birthday rule" at that time. Mr. Saggau testified that currently even more have gone this direction, leaving Iowa one of only a handful of states that allow high school athletes to play sports beyond their nineteenth birthday. Thus, ours is more generous than most.

The judge in Miller also determined that the rationale behind the age rule is reasonable:

An 'age limit' rule is necessary in inter-scholastic athletics to maintain an opportunity for equal competitive conditions and for the safety of the participants. A 20 year-old participant has a distinct advantage over younger participants. There is a definite relationship between age, maturity and athletic accomplishment. Strength, stamina, agility, speed, confidence, aggressiveness, coordination, muscular development and other important contributions to successful athletic performance are greater in 20 year-olds than in younger individuals.

Miller, supra, at p. 8. Expert testimony at trial in Miller also caused the judge to conclude that

a 20 year-old athlete has a biochemical advantage over a younger athlete, [and] utilizes more oxygen because of greater muscle mass

Id. As Mr. Saggau pointed out at our hearing, despite the fact that Shawn is an average athlete of small stature, he would be wrestling young men of the same weight but who are

up to five years younger than he. Moreover, if he were allowed to continue eligibility at age twenty, he would be older than some collegiate athletes competing within the NCAA.

We adopt the court's findings as our own with respect to the reasons underlying the rule.

II. CONCLUSIONS OF LAW

The rule at issue in this case reads as follows:

Scholarship rules.

. . . All contestants must be under
20 years of age.

281 IAC 36.15(2)b

Appellant and Mr. Eagen drew the panel's attention to a case decided here about two years ago, involving a nineteen year-old former drop-out who, once re-enrolled and in the process of turning his life around, sought relief from the eight-semester rule referred to earlier. (That rule limits the total semesters of eligibility of a student to eight after entering ninth grade for the first time.) In In re Shawn North the State Board of Education overturned the Association board of control's decision denying eligibility on the basis that the Board had narrowly read the exception in the rule allowing for "extenuating circumstances." In re Shawn North, 8 D.o.E. App. Dec. 87 (1990).

Shawn North and Shawn Shaffer have some common history, it is true. However, the Shawn North case involved applying a rule exception to the eight-semester limitation, which rule contains a built-in exception. The age 20 rule does not. Had Shawn North appeared before us asking for relief from the age 20 rule, we think his appeal would have been denied. There are differing reasons for the eight-semester rule and the 20th birthday rule, and neither this agency nor the Association board of control has ever granted an exception to the latter.

No medical testimony has ever been presented to rebut the physical factors that occur with the average person's maturation. Especially in wrestling, where weight is equal in competition, the additional age of one or two years can be

a significant advantage. We therefore decline to make an exception to the rule here.

Before closing, we wish to go on record as commending Shawn Shaffer for his outstanding effort and success in altering his life circumstances. And we thank his principal and all other Oskaloosa staff and administration who have been there for and in support of Shawn. We sincerely hope that in addition to the possibility of working out with his school team, Shawn will find some legitimate non-school athletic organization within which he can compete or otherwise wrestle, as Mr. Eagen suggested in his closing statement. We hope that Shawn understands that this decision is in no way a reflection on his former situation. It is instead a decision based upon biological maturation factors common to all of us. We wish him success.

III.
DECISION

For the foregoing reasons, the decision of the executive board of control of the Iowa High School Athletic Association denying Shawn Shaffer an exemption from the rule denying high school eligibility to students who reach their twentieth birthday is hereby recommended for affirmance. There are no costs of this appeal to be assigned.

December 7, 1992

DATE

Kathy L. Collins

KATHY L. COLLINS, J.D.
ADMINISTRATIVE LAW JUDGE

It is so ordered.

12-9-92

DATE

William L. Lepley

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