IOWA STATE BOARD
OF EDUCATION
(Cite as 8 D.o.E. App. Dec. 146)

In re Robert Joseph	:	
Robert Joseph, Appellant,	:	
v.	:	DECISION
Iowa High School Athletic Association Appellee.	:	[Admin. Doc. #3097]

- -

The above-captioned matter was heard telephonically on December 21, 1990, by a hearing panel comprising David H. Bechtel, special assistant to the director of education and presiding officer by designation of the director; Mr. James Reese, consultant, Bureau of Special Education; and Mr. W. Tony Heiting, consultant, Bureau of Instruction and Curriculum. Appellant was present in the offices of his counsel, Ms. Martha McMinn and Mr. Tim Shuminsky of Shuminsky, Shuminsky and Molstad, Sioux City. Appellee Iowa High School Athletic Association (hereafter the Association or IHSAA) was telephonically present in the persons of Executive Director Bernie Saggau; Assistant Excecutive Director David Harty; and Mr. Richard Wulkow, administrative assisstant to the executive secretary, in the offices of its counsel, Mr. Lloyd Courter of Doran, Courter, Quinn and Doran, Boone.

A mixed evidentiary and on-the-record hearing was held pursuant to departmental procedures found at 281 Iowa Administrative Code 6. Jurisdiction for the appeal is found at 281 IAC 36.17, authority for which stems from Iowa Code section 280.13 (1989).

Appellant sought reversal of a decision of the Association by its Board of Control made on December 12, 1990, following an informal hearing. The Association's decision was to deny immediate interscholastic athletic eligibility to Appellant based upon the "transfer rule" duly adopted by the State Board of Education.

I.
Findings of Fact

The presiding officer finds that he and the State Board of Education have jurisdiction over the parties and subject matter of the instant appeal.

Appellant Robert Joseph is a 19 year-old high school senior who, in the fall of the 1988-89 school year, moved from his home in St. Croix, U.S. Virgin Islands, to his aunt and uncle's residence in Tampa, Florida. His sister, who is approximately six years younger than Appellant, moved to Tampa with him. Their relocation was motivated arguably exclusively by the fact that their schools were severely damaged by Hurricane Hugo and the educational program in St. Croix was interrupted for over a month. Appellant's parents remained in St. Croix.

The decision to move to Tampa was made partially by default. Appellant had two other potential options: Virginia with an uncle who is in the Navy, and New York where another uncle lived. Neither uncle was available when the Josephs attempted to reach them, so Appellant and his sister moved to Tampa.

In St. Croix, Appellant was a member of the basketball team. In his sophomore year at Central High School, he had considerable difficulty academically, which he readily admits was due to a lack of motivation. He failed five of seven courses, passed physical education and barely passed industrial arts.[1]

In Tampa, Appellant enrolled in King High School on October 17, 1989. His grades improved in that, his junior year, to one B, four Cs, one D and one F for second semester, 1989-90, from three Cs and four Ds in the first semester of that year. He also played basketball for King High School in Tampa.

Despite this progress, Appellant was apparently not happy in Tampa. He now complains of the serious drug and crime problems in that city, although he admitted he had not experienced any personal difficulties sufficient to be reported to the police or school officials.[2] He voiced a desire to transfer. His mother allegedly informed him that Central High School had not yet fully recovered from the hurricane and that the school was running morning classes for high school students, and in the afternoons the junior high students attended in that building as their attendance center had been completed destroyed.

Appellant had a friend, one Leon Trimmingham, who had graduated from high school in St. Croix and was attending and playing basketball for Briar Cliff College in Sioux City. At some point in the spring of 1990,

---

[1] Appellant testified that he attended summer school in St. Croix in 1989 to raise his grades. His unofficial transcript fails to indicate any enrollment or credits for that term, however. See Joint Exhibit 6 (transcript) at p. 1.

[2] Appellant testified his high school was known as "Death High" due to a number (6-9) of student deaths of causes not disclosed to the hearing panel. He also testified his school employed armed guards, or police officers were otherwise assigned to the schools.

Appellant conveyed his dissatisfaction with life in Tampa to Mr. Trimmingham, who apparently suggested Sioux City as a possibility for relocation.[3]

Again at some point early that spring, Mr. Trimmingham got in touch with the Sioux City West High School basketball coach, Mr. Jim Hinrichs, and they talked about Robert and his desire to relocate. Later, Mr. Hinrichs was present when a call was made to Robert in Tampa from Leon Trimmingham's dormitory room. Mr. Hinrichs spoke with Robert for about 20 minutes and they discussed, among other things, Robert's coming to Sioux City to live and attend West High School.

Thereafter, Mr. Henrichs made calls to King High School to inquire about Robert's academic standing and character. He was informed by the assistant principal and athletic director of Robert's grades and concluded that Robert would have considerable difficulty getting accepted at a four-year college or university. Mr. Hinrichs then called Appellant and urged him to consider a junior college after graduation in order to raise his grades and, accordingly, his potential for being accepted at a four-year post-secondary institution. Thus, in April, Mr. Hinrichs discouraged Robert from transferring to Iowa immediately.

Robert testified that he attended summer school early in the summer of 1990, then returned to St. Croix to his parents' home for the balance of the summer vacation. Leon Trimmingham was also home for the summer. Robert's transcript has a notation regarding summer school, but no grades or credits appear for that period.

In late August or early September, Robert called Coach Hinrichs again. No testimony was forthcoming on the reason for or nature of this telephone call. The result was, however, that Robert made a decision to stay in Tampa only for the first quarter (nine weeks) of the school year and then transfer to Sioux City West High School. Robert's grades improved considerably in the first quarter of this year, 1990-91.

Four or five days prior to Robert's arrival, West High School Athletic Director Bill Lyle met with David Harty, associate director of the IHSAA and discussed Appellant's eligibility status. Mr. Harty informed Mr. Lyle of the transfer rule (281 I.A.C. 36.15(6)) and informally indicated Robert would be ineligible for 90 school days pursuant to that rule.

Also prior to Robert's arrival, Coach Hinrichs called the Association and spoke with Rick Wulkow, administrative assistant, about Robert's eligibility status. Mr. Wulkow confirmed that the Association's informal opinion was that Robert was ineligible for 90 school days.

---

[3] At approximately the same time, Appellant learned that because he would turn 19 in July, he would not be eligible to play in interscholastic basketball competition his senior year at King High School in Tampa. Florida's regulations for sanctioned competition award eligibility only through a high school student's eighteenth year.

Robert Joseph arrived in Sioux City and enrolled November 3, 1990, at West High School. He is taking four academic subjects plus physical education. Robert began practicing with the basketball team. He initially resided with one Mr. Wilshire, the father of a Briar Cliff student, who then found a home for Robert with Katie Roberts who resides within the boundary for West High School in Sioux City. We know nothing more about Ms. Roberts, her relationship to Robert, her reasons for taking him into her home, or how Robert is supporting himself (or whether his parents are continuing to support him).[4]

In Robert's testimony, he gave no indication whatsoever that his parents refused to take him back into their home[5], and in fact testified that he would like to return to St. Croix. Likewise, there was no evidence that his aunt and uncle in Tampa didn't want him to remain there, or that life in Tampa was difficult for him personally, or that he wanted to run away from there. His testimony comes down to the fact that he left St. Croix because of damage to his school from Hurricane Hugo, and he left Tampa because of its high crime rate and the particularly rough environment at King High School. (He did not testify to pursuing attendance at any other high school in Tampa, which would have gotten him out of the "death school" he claims King is reputed to be.) He is candid both about his desire to raise his grades and get a good education and his desire to play basketball.

---

[4] Whether Appellant is entitled to a tuition-free education in Sioux City is also subliminally an issue. He can attend without payment of tuition only if he is a bona fide resident of Sioux City. His "good faith" is determined by applying any of the definitions of resident in the Code:

> For the purposes of this section, "resident" means a child who is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:
>
> 1. Is in the district for the purpose of making a home and not solely for school purposes.
> 2. Meets the definitional requirements of the term "homeless individual" under 42 U.S.C. subsection 11302 (a) and (c).
> 3. Lives in a juvenile detention center, foster care facility, or residential facility in the district/

Iowa Code subsection 282.1 (Supp. 1989) See also Mt. Hope School District v. Hendrickson, 197 Iowa 191, 197 NW 47 (1924). (Good faith residency is determined by physical presence in the district, for other than solely school purposes, and evidenced by an intent to remain.)

Frankly, it doesn't appear to us that Appellant is a good faith resident of Sioux City. Although he's physically present, he admits it's solely for school purposes. (He is clearly not homeless under option 2, and his living arrangements do not qualify him for option 3). Mr. Joseph should be paying tuition to Sioux City in the opinion of this hearing panel.

[5] Robert testified that his mother at one point urged him not to return to St. Croix, but this was in the context of her desire that he pursue the best education possible, including the potential for a college education.

The Association's witnesses testified that the St. Croix Activities Association regulations would limit Robert from participating in official interscholastic competition because of his age (although he could still play on a "Special Team").

Mr. David Harty of the Association testified that an official of the St. Croix Interscholastic Athletic Association informed him over the telephone that Central High sustained damage from the hurricane primarily to the gymnasium; that double sessions (high school operating in the morning, junior high sessions in the afternoon) were conducted in the fall of 1989; and that the basketball program continued uninterrupted for the 1989-90 and 1990-91 school years, except practices had to be held elsewhere. (Financially, some of the schools' teams in the Caribbean did not travel as extensively as they had prior to the hurricane, but their programs continued to operate.) The junior high has been rebuilt and both junior and senior high students attended in their respective buildings this year. Mr. Harty also testified that the St. Croix official told him that Robert Joseph would not be eligible for sanctioned interscholastic athletics this year due to his age, and that he would not have been eligible in St. Croix first semester of last year (1989-90) due to his grades. Mr. Harty's testimony regarding his conversation with the St. Croix official is consistent with an exhibit from the St. Thomas, St. Croix Interscholastic Athletic Association, which delineated that Association's age limitation regulation.

The Association found as fact in its hearing that the Florida Activities Association also has an age rule regarding eligibility, and that Robert, at age 19, would be ineligible in Florida as well as in St. Croix. This fact was evidenced by a letter from Commissioner Fred Rozelle of the Florida High School Activities Association.

Mr. Saggau testified in this hearing that the purpose of the rule limiting the eligibility of transfer students is to discourage recruiting of prep athletes of all kinds, and to keep academics above athletics as a reason for changing schools. He testified further that the rule is applied uniformly, without regard to the ability of the student athlete. The absence of a rule in this area would create "chaos" within high school athletics. Most, if not all, states have a similar rule, but there is no complete uniformity nationwide regarding an athlete's age or how a transfer rule is applied.

Mr. Saggau has the primary authority for making a preliminary determination of an athlete's eligibility for the Association, and he does that in individual cases by listening to the reasons propounded by a student or the student's advocate or representative for changing residences. He testified that the usual reasons for a young man to move out of his home include an inability of the student to live with one or more parents due to poor personal relationships or hardships within the home. Another reason he has encountered is that sometimes a parent will "throw the kid out." In other cases a student may need to work and, unable to obtain employment in his home town, a young man goes to live with relatives or friends in a town where he can work. Ability to afford a car or other transportation is sometimes a strong motivating factor.

Mr. Saggau has, in his lengthy career, made individual determinations of eligibility for literally hundreds of students. He uses common sense and operates on the basis of the rule at issue and the information made available to him by the coaches, athletic directors, parents or guardians of the student, or in some cases, their attorneys. His decisions are appealable to the full Board of Control, whose decisions are appealable to the State Board of Education, whose decisions are subject to judicial review under the provisions of the Iowa Code.

Procedurally, Appellant in this case sought an official ruling on his eligibility from Mr. Saggau, the executive director of the Association, and that ruling denying eligibility was issued on November 21, 1990. At that point, Appellant filed suit in federal district court for the northern district of Iowa, seeking an injunction against the Association to allow him to play, and seeking unspecified damages. Hearings were held, but the judge declined to issue a ruling on the injunction pending Appellant's exhaustion of his administrative remedies, specifically a hearing before the full Board of Control and, if necessary, further appeal to the State Board of Education.[6]

The Board of Control hearing was held on December 10. Appellant appeared with counsel and had a full and fair opportunity to present facts in support of his request for eligibility. The Association Board issued its final decision in this matter in a written opinion on December 12, 1990, affirming Mr. Saggau's initial ruling of ineligibility. Appellant "faxed" an affidavit of appeal to the Department of Education on December 19, 1990, and this telephone hearing followed.[7]

II.
Conclusions of Law

The State Board of Education has adopted rules regarding student eligibility pursuant to Iowa Code section 280.13. Those rules are found in 281 Iowa Administrative Code chapter 36. The rules are enforced by the schools themselves and the coaches, subject to interpretations and assistance from the Iowa High School Athletic Association (for male athletes) and the Iowa Girls High School Athletic Union (for female athletes). The Department of Education has a long-standing agreement (pursuant to Iowa Code Chapter 28E) with the Association and the Union to enforce the rules by unofficial and official determinations, subject to appeal here.

---

[6] The judge issued a preliminary order dismissing Appellant's claim for damages on December 19, 1990.

[7] To expedite this hearing process, both Appellant and Appellee waived receipt of 10-day notices of hearing and rules describing the hearing process. The parties stipulated that Robert has not used up his allotted eight semesters of eligibility, and that his grades from second semester, 1989-90 do not limit his eligibility. Thus, the only issue is the application of the transfer rule.

The entire transfer rule in this case reads as follows, with emphasis on the portions applied in this case:

> Transfer. A student who transfers from a school located in a public school district to a school located in another school district, except upon a like change of parental residence, shall be ineligible to compete in interscholastic athletics for a period of 90 school days as defined in [rule] 11.2(11), exclusive of summer enrollment.
>
> A student who changes school systems located within a given public school district shall be ineligible to compete in interscholastic athletics for a period of 90 school days as defined in [rule] 11.2(11), exclusive of summer enrollment.
>
> When a like change of parental residence occurs within a public school district, and a transfer of a student occurs between a private and a public school both located within the public school district, distance from the school transferred to shall be taken into consideration. The executive board shall be empowered to make decisions on the merits of the individual case.
>
> The executive board must be notified at once relative to all circumstances regarding any legal guardianship custody of the student. A student who attends a high school in a school district other than where the student's parents reside and subsequently returns to live with the student's parents becomes eligible immediately in the district in which the student's parents reside.
>
> a. In ruling upon the eligibility of transfer pupils, the executive board is empowered to consider broken home conditions of students when transfers are alleged to depend upon such factors. When the necessary conditions have been validated, the executive board may declare the student eligible. But under no circumstances shall a student who transfers from one school to another be made eligible for interscholastic athletics until after the student has been in attendance at the school to which the student transfers for a period of ten school days, unless there has been a like change of residence on the part of the student's parents.
>
> b. In ruling upon the eligibility of foreign exchange students, either students from foreign countries transferring to American schools, or American students who have gone to foreign schools and are returning to American schools, the executive board is authorized to make any ruling regarding the student's eligibility deemed to be fair and reasonable.
>
> c. A student who transfers from one school to another at the end of the spring semester is ineligible to participate in a school summer program unless such transfer involves a bona fide change of parental residence and a certified registration for the next semester has been completed at the student's new school.

d. In the event a student participates and represents a member school or an associate member school in a tournament series sponsored by a governing organization, the student shall be ineligible to represent another school in the same tournament series.

e. In ruling upon the transfer of students who have attained majority by age or marriage, the executive board is empowered to consider all circumstances with regard to the transfer to determine if it is principally for the purpose of participation in interscholastic athletics, in which case participation will not be approved. If facts showing a valid purpose for the transfer have been validated, the executive board may declare the student eligible.

f. In any transfer situation not provided for elsewhere in this chapter, the executive board shall be empowered to exercise its administrative authority to make any eligibility ruling which it deems to be fair and reasonable. The determination shall be made in writing with the reasons for the determination clearly delineated.

281 I.A.C. 36.15(6) (emphasis added).

Generically, state regulation of high school and college student athletic eligibility is commonplace. With respect to transfer rules specifically, two scholarly sources state the following:

> 'Transfer of Residence' rules typically provide that an athlete who changes schools sacrifices a year of athletic eligibility immediately following his transfer. These rules are drafted to curb recruitment practices aimed at luring students away from their educational institutions for non-academic reasons. Courts generally uphold the application of such rules as a reasonable exercise of an organization's authority to forestall recruiting.

Sloan, The Athlete and the Law; Oceana Publications, Inc., 1983, p. 10.

> Athletic associations and conferences regulate nearly all areas of amateur athletics. Litigation involving these associations and conferences has centered around rulings of ineligiblity of a student, team, or institution because of residency, sex, age limitations, participation on independent teams, or other such restrictions.
>
> . . . Residency/transfer rules limiting the eligibility of student athletes ostensibly exist to deter two conditions: the recruiting of athletes by high schools or colleges which the student-athlete does not in fact attend; and the shopping around by student-athletes for institutions which seem to offer the best opportunities to advance the student's athletic career. Generally, the penalty for violating a transfer or residency regulation is disqualification from participation, usually for one semester or one year.

Rapp, J., Education Law, vol. I, section 3.09 [4][a][i], Matthew Bender, 1990.

The State Board of Education has had numerous opportunities over the past fifteen years to review decisions of the Association and the Union regarding athletic eligibility, and we have eight prior cases related to the transfer rule to guide us.

Most recently, in 1989, the State Board found that a former bona fide foreign exchange student who returned to Iowa the following year without the benefit or sanction of a foreign exchange student program or organization was ineligible for 90 days as a regular transfer student. In re Rita Ricobelli, 7 D.o.E. App. Dec. 105 (1989).

In re Stephen Keys involved a student who transferred from a private school in Waterloo to a public school in Cedar Falls when his parents' financial situation required free education for the children. There was no change in parental residence. The State Board found insufficient hardship existed to justify an exception to the 90-day ineligibility period. In re Stephen Keys, 4 D.P.I. App. Dec. 24 (1984).

In 1982, the State Board overturned an ineligibility ruling by the Association for a boy who was suffering from serious emotional problems (abuse) at the school in the district in which his parents resided. His parents transferred guardianship to others in a neighboring district. The fact that there was "no evidence [of] any athletic recruitment . . . by the receiving school," coupled with the testimony of the boy's psychiatrist as to his emotional stability, led the State Board to apply exception "f" and rule him eligible immediately. In re Todd Bonnes, 3 D.P.I. App. Dec. 106 (1982).

In In re Nancy Sue Walsh the State Board overturned a decision of the Girls' Union and awarded eligibility to a junior girl whose guardianship was transferred from her parents to a family in another community because of rumors regarding the student-athlete and the coach in her resident district. The rumors reached a fever pitch, to the point where Nancy was contemplating dropping out of school entirely. Again, there was literally no contact between Nancy or her family and the coaches in the new district, so recruiting was not found or even hinted at. In re Nancy Sue Walsh, 3 D.P.I. App. Dec. 34 (1982)

The Union was again overturned in an eligibility decision involving a young woman who moved from one divorced parent's home to the other's and then back again. At issue was transfer subrule (a), and the State Board, interpreting its own rule, stated, "We do not feel that eligibility should be denied a student who changes residence in a broken home situation in the absence of evidence of an improper motive for the change in residence." In re Tamara Bruns, 2 D.P.I. App. Dec. 353, 356 (1981).

In 1978, a student who changed school districts without a corresponding change of residence by her parents was denied eligibility when her stated motive for changing residences (to family friends under guardianship) was for superior academic and athletic opportunity in the new district. In re Carme Braby, 1 D.P.I. App. Dec. 284 (1978).

On the other hand, a student whose family relationship with his parents had broken down considerably, motivating the district court to place him with his older brother in another district, was ruled eligible over the Association's initial determination of ineligibility. That case is instructive for its broad definition or interpretation of the term "broken home situation" as used in subrule 36.15(a):

> We feel that any significant and serious disruption of the family unit which causes a serious disfunctioning of the family unit as a whole should be taken into consideration as a 'broken home' condition. Examples [include] death of a family member, divorce or separation of the parents, abandonment, and significant and serious breakdowns in communications which result in alienation of family members.

In re Scott Anderson, 1 D.P.I. App. Dec. 280, 282 (1978). We believe the discussion quoted above is instructive in that nearly if not all examples cited in support of a broad interpretation relate to conditions beyond the student's control, not conditions of the student's own making or choosing.

And finally, in the earliest recorded State Board of Education decision on athletic eligibility and transfer status, the State Board denied eligibility to a student who moved with his family from West Des Moines to Missouri, and then moved back without them for his senior year under guardianship with his uncle. In that decision, the State Board rejected the notion that court-appointed guardianships should be determinant on the issue of transfer. In recognizing that court-appointed guardianships are relatively easy to obtain (given the consent of the legal parent) and yet do not necessarily establish the requisite non-athletic motivation, the State Board wrote, "To allow the mere establishment of guardianship [as the sole, conclusive, deciding factor of eligibility] would effectively emasculate the athletic transfer rules." In re Steven John Duncan, 1 D.P.I. App. Dec. 117, 120 (1976). Interestingly, Steven was just shy of his eighteenth birthday (age of majority) prior to the hearing and determination of his eligibility.

If the validity or reasonableness of the transfer rule were at issue, case law would be very instructive; the weight of it clearly supports the denial of immediate eligibility to a transfer student whose parents do not move with him or her. See United States ex rel. Missouri State H.S. Activ. Assn., 682 F. 2d 147 (8th Cir. 1982) (Missouri Association rule making transfer students ineligible for one calendar year unless the student meets one of the exceptions (i.e., if the transfer is due to a corresponding change of parental residence, was due to a school closing or reorganization, or if the transfer was ordered by the board of education) is a reasonable and neutral regulation.); Simkins v. South Dakota H.S. Activ. Assn., 434 N.W.2d 367 (S.D. 1989) (Association rules barring transfer student from eligibility for one year except students whose parents correspondingly made a bona fide change in residence was rationally related to purposes of discouraging recruitment and school-hopping and therefore constitutional); Steffes v. California Interscholastic Federation, 222 Cal Rptr 355 (Cal. App. 1986) (Transfer student whose parental residence did not correspondingly change is ineligible, under rule, for varsity sports in which student previously

competed or ineligible for all sports, depending upon certain conditions, for one full year from date of transfer; rule held valid under constitutional challenge); Berschback v. Grosse Pointe Pub. Sch. Dist., 397 N.W.2d 234 (Mich. App. 1986) (Similar transfer rule held constitutional as rationally related to valid, legitimate state purpose of deterring recruiting); and Menke v. Ohio H.S. Athl. Assn., 441 N.E.2d 620, 2 Ohio App. 3d 244 (1981) (similar transfer eligibility rule held constitutional; injunction denied). But see Anderson v. Indiana H.S. Athl. Assn., 699 F.2d 719 (S.D. Ind. 1988) (similar rule held arbitrary and capricious).

This hearing panel's conclusion may seem to be predictable (the rule at issue is, after all, a rule of the Department of Education), but it appears to us that the transfer rule, especially in consideration of the number and type of exceptions, is not overbroad and is fair and reasonable. It reflects the presumption that changes of residence without accompanying parental changes in residence are, as a general rule, grounds for loss of eligibility. Yet it allows the athlete to provide valid reasons unrelated to athletics to rebut the presumption that the change was made for athletic reasons. Moreover, the penalty is for only one semester, 90 school days, rather than a full year. (Compare Iowa Code subsection 282.18 (9th unnumbered paragraph) (Supp. 1989).)

The rule empowers the decion-maker to consider all available information in order to make a determination that essentially comes down to the intent of the student, what was in his or her mind. Appellant complains of the absence of objective, articulable criteria used by Mr. Saggau in reaching the decision that Mr. Joseph is ineligible. We think that so long as Mr. Saggau is aware of the purpose of the rule, and he clearly is, and so long as he endeavors to get as much information as possible to determine what the student's motivation was for the relocation, he does not have to objectify any criteria for making the decision. His decision must be reasonable given the rule's language and purpose and the facts of a given case. How does one ever determine intent in any fact-finding context? It is always a matter of circumstantial evidence, at least to some extent.

In this case we have the assertion by Appellant that he left Tampa, Florida, for Sioux City, Iowa in the middle of the first semester of his senior year in high school because

1. The crime rate in Tampa is high, and the violence of his particular high school has caused or resulted in 6-9 recent deaths, and

2. He did not know that his former school in St. Croix was restored to full educational program status.

In contrast to those asserted reasons, other evidence indicates that

1. Appellant was never subjected to any crime nor intimidated by the environment in Tampa sufficiently to cause him to report the situation to school officials or the police.

2. Appellant's 13 year-old sister remained in Tampa.

3. Appellant states that it wasn't all schools in Tampa that are crime and drug-ridden (in response) to a query about why his younger sister remained in such an environment), yet he did not pursue a transfer to another school in Tampa that did not have such a high drug rate or crime-infested reputation.

4. Appellant has no relatives or friends in Sioux City with whom he could live.

5. There is no history or assertion that Appellant and his parents, or Appellant and his aunt and uncle in Tampa had any material relationship problems.

6. Appellant is 19 years old and as such is ineligible for sanctioned athletics in his home territory of St. Croix and in his most recent temporary home in Tampa, Florida. He is, however, eligible to play in Iowa until his 20th birthday, which means until next July.

7. Appellant was in telephone contact with only the basketball coach at Sioux City West High School, and that is the school boundary in which his residence, unknown in advance of his arrival, happened to lie.

Frankly, except for Appellant's bare assertion that his primary reason for moving to Iowa after starting his senior year was for the quality of education and to be near one friend, the facts speak for themselves. And the facts belie Appellant's position that his move to Iowa was not principally for the purpose of athletic competition.

While a great deal of testimony and evidence concerned Appellant's initial move from St. Croix to Tampa, that move is not at issue here; that move and its affect on his eligibility was for Florida to resolve. Florida apparently resolved it in favor of his eligibility, a ruling with which we could potentially agree due to the circumstances in St. Croix. However, at issue in Iowa is his relocation from Tampa, Florida. We fail to see how the quality of life in one high school in Tampa is grounds for an exception to ineligibility under the transfer rule, even considering Appellant's age of majority. There simply is too much evidence, albeit circumstantial, that he was interested in coming to Iowa, and was perhaps even recruited to come to West High specifically, for the primary purpose of playing basketball. This situation fits squarely into the circumstance the rule was designed to deter.

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

III.
Decision

For the foregoing reasons the decision of the Board of Control of the Iowa High School Athletic Association made on December 12, 1990, denying eligibility for 90 school days to Appellant Robert Joseph is hereby affirmed.

1-10-91
DATE

RON McGAUVRAN, PRESIDENT
STATE BOARD OF EDUCATION

December 27, 1990
DATE

DAVID H. BECHTEL, SPECIAL ASSISTANT
TO THE DIRECTOR
AND PRESIDING OFFICER