

IOWA STATE DEPARTMENT
OF PUBLIC INSTRUCTION

(Cite as 1 D.P.I. App. Dec. 280)

In re Scott Anderson	:	
	:	
Scott Anderson, Appellant	:	
	:	DECISION
v.	:	
	:	
Iowa High School Athletic Association,	:	
Appellee	:	[Admin. Doc. 462]

The above entitled matter was heard on October 11, 1978, by a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Dr. Donald Cox, associate superintendent, instruction and professional education branch; and Mr. Gayle Obrecht, chief, administration and finance. Scott Anderson was not present but was represented by his brother, Ross Anderson, and Attorney Richard N. Carlson. The Board of Control (hereinafter Board) of the Iowa High School Athletic Association (hereinafter Association) was not present or represented. This appeal was taken from a decision of the Board related to Scott's athletic eligibility under the provisions of Departmental Rule 670--9.17, Iowa Administrative Code. The Appellant is appealing a decision of the Board regarding his athletic eligibility.

I.
Findings of Fact

The Hearing Panel finds that it and the State Board of Public Instruction have jurisdiction over the parties and subject matter.

Scott Anderson is a fifteen-year-old sophomore currently attending high school in Ames, Iowa. He resides with his twenty-four-year-old brother, Ross, and Ross' wife in Ames. Prior to August of this year, Scott was a resident of the Decorah Community School District (hereinafter District) and attended its schools.

In March, 1978, Scott was discovered to have marijuana in his locker at the District's Junior High School. He was subsequently disciplined by school authorities and also placed under the jurisdiction of the legal system which resulted in his being placed on probation. This event precipitated a family clash which had been brewing for several months. According to the testimony of Ross Anderson, their parents had apparently noticed a changed attitude in Scott shortly after he took a late hours part-time job. They noticed some minor behavior problems and lowered grades, but apparently had no indication that Scott was involved with marijuana. The discovery of the marijuana in Scott's school locker and the resulting actions taken against Scott were an apparent shock to the family relations between Scott and the other family members, especially his parents. Ross testified that their parents are "very religious" and

"conservative." The family came to consider Scott rebellious, harsh and defiant and felt that his use of marijuana continued. Ross and other family members attempted to counsel Scott to change his new ways, but he resisted change.

In August, Scott's parents called Ross and said there had been a heated family argument over Scott's continued use of marijuana. Scott was apparently on the verge of engaging in violent acts against his parents. Ross returned to his family's home and tried to talk with his younger brother. He found that he had to "rough up" his brother to get him to talk to him. After the "counseling," Scott remained defiant toward his parents and said that he would not change. His parents told him that if he was not willing to live under their rules that he should go live somewhere else, such as with Ross.

Scott then moved to Ames with Ross and his wife and enrolled in the Ames Community School District before the first day of the school year. He went out for football and currently participates in practice, but does not compete in competitions. A tuition guardianship was established through the District Court naming Ross as the guardian, and Scott attends school tuition free as a resident of the Ames District.

Scott, through his brother, Ross, requested that the Board grant him eligibility for athletics at Ames High School. After reviewing the situation the Board, by letter dated September 27, 1978, notified Ross that it decided to "comply with" the Transfer Rule of the Department of Public Instruction and deny eligibility for eighteen weeks.

Ross testified that his brother appears to be happy to be at his home in Ames, that he is obedient and does not appear to despise him. Scott is active in church and school activities and has made new friends. Ross does not believe that Scott has been involved in any drug abuse since coming to Ames. He feels that Scott has made good improvement emotionally and socially. Ross testified he has not received financial aid from his parents in the support of Scott and has no plans to obtain financial aid from them in the future. Scott has apparently received some occasional spending money from his parents.

The Board received letters of support for Scott and verification of the circumstances from two of his former teachers, the District's football coach and athletic director, and the Chief County Probation Officer. Those letters tend to verify the family situation and were unanimous in their view that it was in Scott's best interest to participate in athletics in Ames. There is no evidence in the record of recruitment or other objectionable actions which are contrary to the spirit of the Transfer Rule.

II.

Conclusions of Law

The Department of Public Instruction's eleven paragraph rule regarding eligibility of transfer students is found at 670--9.15(6), Iowa Administrative Code. Here follows portions of that rule which we feel are most relevant to the situation currently before us:

9.15(6) 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 eighteen weeks of school, exclusive of summer enrollment.

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 existence of necessary conditions has been validated by the principal of the school from whence the student transfers, 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 period of ten school days, unless there has been a like change of residence on the part of the student's parents. [emphasis added]

* * * * *

There is nothing in the record to indicate which of the specific provisions of the Transfer Rule were considered by the Board. The Association's letter to Ross Anderson merely stated that the Board decided to comply with Transfer Rule 9.15(6) and thereby denied Scott's request for immediate eligibility in the District. If the Board's consideration and decision were directed at the first two unnumbered paragraphs of the rule quoted above, we would likely be in agreement with the Board's decision. On the other hand, if the Board's consideration and decision were directed to quoted paragraph a., we are inclined to disagree.

The Attorney for the Appellant raised before us a novel argument which may not have been considered by the Board in its deliberations. That argument was that since there is apparently no clear definition of the phrase "broken home conditions," the meaning of that phrase could be extended to include a situation where a child is alienated from his family and goes elsewhere to make his or her residence. Our independent research has verified the lack of a clear definition of the phrase "broken home," and after due consideration and deliberation, we are in general agreement with an expansive definition of the phrase. 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 of situations which we think appropriate for such consideration are 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. We feel that the circumstances surrounding this appeal clearly fall into the last example, and for the purposes of Rule 670--9.15(6), they should be considered when determining the eligibility of Scott Anderson. This does not mean to say that situations of alienation with accompanying circumstances of recruitment or other equally objectionable action at which the Transfer Rule is directed would have a similar result.

While in light of the foregoing, it may be appropriate for us to return the matter to the Board for further consideration, we feel it in the best interest of all concerned to proceed on to the merits ourselves. Appeals of eligibility decisions are considered de novo, (anew, afresh), and with the football season nearly half gone, time is of the essence.

We feel that under the facts presented to us that Scott Anderson was sufficiently alienated from his parents to consider the situation one of "broken home" condition under

the rules of this Department and that Scott be considered eligible for interscholastic athletics competition under the Transfer Rule of the Department of Public Instruction. There is no evidence in the Record to indicate that recruitment or other equally objectionable actions were present in the circumstances before us which cause us to believe that either the letter or the spirit of the Transfer Rule will be violated by this decision.

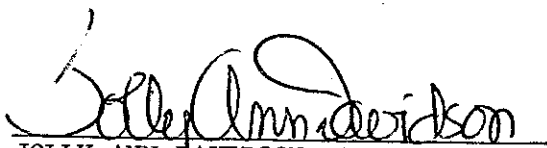
While the record does contain several verifications of the broken home condition from District staff members, including the football coach and athletic director, we are unable to determine whether or not the District's High School Principal has verified the existence of broken home conditions as required by 670--9.15(6), paragraph a. We feel that Scott should become eligible for interscholastic athletics at such time as the District's High School Principal verifies the existing "broken home conditions" as already verified in the record by other District staff members.

III.
Decision

The decision of the Executive Board of the Iowa High School Athletic Association in the matter of Scott Anderson's eligibility for interscholastic athletics is hereby overruled to the extent that Scott Anderson may become eligible for athletic competition upon verification of the "broken home conditions" as discussed in this decision.

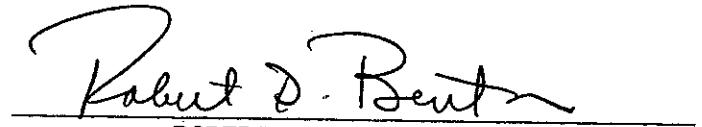
October 20, 1978

DATE


JOLLY ANN DAVIDSON, PRESIDENT
STATE BOARD OF PUBLIC INSTRUCTION

October 18, 1978

DATE


ROBERT D. BENTON, Ed.D.
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
AND
PRESIDING OFFICER