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D. v. W Chester Area Sch

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REPORTED - NOT PRECEDENTIAL

THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 01-1775

NICOLE D., A MINOR BY HER PARENTS AND NEXT FRIENDS; SHELLY
D. F.; JOHN M., NICOLE D., INDIVIDUALLY AND ON HER OWN
BEHALF,

Appellants

v.

THE WEST CHESTER AREA SCHOOL DISTRICT

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

(D.C. Civil No. 00-cv-03480)
District Judge: The Honorable Harvey Bartle, III

ARGUED JANUARY 22, 2002

BEFORE: NYGAARD and STAPLETON, Circuit Judges,
and CAPUTO, District Judge.

(Filed: February 4, 2002)

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MEMORANDUM OPINION OF THE COURT

NYGAARD, Circuit Judge.

This appeal is from an order of the District Court which affirmed a decision by a Pennsylvania Special Education Appeals Panel. Appellants allege as error the issues listed in paragraph I, taken verbatim from their brief. Because we conclude that the District Court did not err, we will affirm.

I.

The allegations of error asserted by appellants are as follows:

1. Did the lower court err in finding that Nicole was not an eligible student under either the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973?
2. Did the lower court err in failing to reimburse Nicole's parents for tuition paid to a private school and related expenses, after the school district failed to provide her with special education and related services?
3. Did the lower court abuse its discretion in refusing to admit additional evidence in support of Nicole's claims?

II.

The facts and procedural history of this case are well known to the parties and the court, and it is not necessary that we restate them here. The court has heard oral argument on the issues presented to us in this appeal. The reasons why we write an opinion of the court are threefold: to instruct the District Court, to educate and inform the attorneys and parties, and to explain our decision. None of these reasons are presented here. We use a Memorandum Opinion in cases such as this, in which a published opinion is rendered unnecessary because the opinion has no institutional or precedential value. See United States Court of Appeals for the Third Circuit, Internal Operating Procedure (I.O.P.) 5.2. Under the usual circumstances when we affirm by Memorandum Opinion and Judgment, we "briefly set[] forth the reasons supporting the court's decision...." I.O.P. 5.4. In this case, however, we have concluded that neither a full memorandum explanation nor a published opinion is indicated because of the very extensive and thorough opinion filed by Judge Bartle of the District Court. Judge Bartle's opinion

adequately explains and fully supports its order and refutes the appellant's allegations of error. Hence, we believe it wholly unnecessary to further opine, or offer additional explanations and reasons to those given by the District Court, why we will affirm. It is a sufficient explanation to say that, essentially for the reasons given by the District Court in its opinion dated the 19th day of March, 2001, we will affirm.

III.

In sum, for this reason, we will affirm the order of the District Court dated March 19, 2001.

TO THE CLERK:

Please file the foregoing opinion.

/s/ Richard L. Nygaard
Circuit Judge

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JUDGMENT

This cause came to be heard on the record from the United States District Court for the Eastern District of Pennsylvania and was argued by counsel on January 22, 2002.

On consideration whereof, it is now here ORDERED AND ADJUDGED by this Court that the order of the said District Court entered on March 19, 2001, be, and the same is hereby affirmed.

Costs taxed against appellant.

All of the above in accordance with the opinion of this Court.

ATTEST:

Clerk

Dated: 4 February 2002