

JUAN GRILES, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
NEW JERSEY STATE : DECISION
INTERSCHOLASTIC :
ATHLETIC ASSOCIATION, :
RESPONDENT. :

SYNOPSIS

Petitioner appealed the decision of the Executive Committee of the New Jersey State Interscholastic Athletic Association (NJSIAA), suspending him from coaching at any NJSIAA school for two years and fining him \$1000.00 for violation of the Association’s Recruitment Rule. Petitioner contended, *inter alia*, that he was not afforded the requisite due process before the NJSIAA, and that both the decision of the Executive Committee and the underlying decision of the Controversies Committee were arbitrary, capricious and unreasonable.

The NJSIAA contended, *inter alia*, that: the petitioner was provided with full and fair due process; the decision of the Executive Committee was not arbitrary and capricious, as there was sufficient evidence in the record that petitioner violated recruitment rules when he used his basketball contacts to help enroll multiple international students at Paterson’s Eastside High School who had little or no connection to Paterson, and provided housing and food for those students who were members of Eastside’s basketball team; and it is a violation of NJSIAA rules to make “any effort to proselytize, pressure, urge or entice a student to enroll in or transfer to a school for athletic purposes.” The NJSIAA emphasized that its decision is entitled to wide deference, and should be affirmed by the Commissioner.

The Commissioner upheld the NJSIAA’s decision and dismissed the petition, finding, *inter alia*, that petitioner did not meet his burden so as to entitle him to prevail on appeal. In so deciding, the Commissioner – who may not substitute her judgment for that of the NJSIAA on appeal – noted that the ban on athletic recruitment does not require a showing that the players received an athletic advantage or that they provided an actual athletic advantage to the basketball team, but simply that the players enrolled in the Paterson School District for an athletic reason. There being ample evidence that this was the case herein, the Commissioner found that the Executive Committee’s ruling that petitioner violated NJSIAA’s Recruitment Rule was not arbitrary, capricious or unreasonable.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.
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For Petitioner, Juan Griles, Alfred F. Maurice, Esq.

For Respondent, New Jersey State Interscholastic Athletic Association, Michael W. Herbert, Esq.

This case involves an appeal of a decision of the New Jersey State Interscholastic Athletic Association (NJSIAA) Executive Committee, suspending the petitioner – Juan Griles – from coaching at any NJSIAA school and fining him in the amount of \$1000.00 for recruiting violations. On appeal, the petitioner argues that he was not afforded the requisite due process before the NJSIAA and that the decisions of both the Controversies Committee and the Executive Committee were arbitrary, capricious and unreasonable.

Athletic competition in New Jersey’s public schools is overseen by the NJSIAA, a voluntary, non-profit organization which promulgates the rules and regulations governing high school athletics. *See, B.C. v. Cumberland Reg. Sch. Dist.*, 220 *N.J. Super.* 214, 234 (App. Div. 1987). The NJSIAA member schools have adopted a number of eligibility rules for student athletes that have been approved by the Commissioner of Education pursuant to *N.J.S.A.* 18A:11-3, and are published in the NJSIAA Handbook. One of the eligibility rules is the Recruitment Rule, which prohibits schools – or anyone associated with the school – from engaging in any effort to “proselytize, pressure, urge or entice

a student to enroll in or transfer to a school for athletic purposes.” NJSIAA Bylaws, Article V, Section 4.D. Schools accused of recruiting are subjected to a hearing before the Controversies Committee, and face potential penalties including probation, forfeit of games and/or championship rights, suspension of players and/or coaches, and fines of up to \$1000.00 per party. NJSIAA Bylaws, Article X, Penalties.

On February 6, 2017, New Jersey Advanced Media published an article regarding multiple international students who were living with the petitioner and playing on the Eastside High School basketball team, which was coached by the petitioner. Further reports also surfaced regarding potential recruitment violations regarding players on the Eastside High School girls basketball team. These allegations led to the Paterson School District’s (Paterson) voluntary withdrawal from the 2017 State Championship Tournament, and the suspension and/or termination of many employees. Paterson also retained former New Jersey Supreme Court Justice John Wallace to conduct an internal investigation of the boys and girls basketball programs. Justice Wallace issued a report detailing numerous violations of District policies and NJSIAA rules on the part of various coaches and administrators at Eastside High School.

The NJSIAA reviewed the report and determined that a hearing should be held before the NJSIAA Controversies Committee regarding the potential violation of NJSIAA rules. Following a hearing where testimony was taken, the Controversies Committee found that the petitioner violated NJSIAA’s Recruitment Rule.¹ Specifically, the Controversies Committee found that the petitioner, through his basketball contacts, helped to enroll students at Eastside High School who had little to no connection with Paterson, and that the petitioner provided housing and food for those students who were members of the basketball team. As a result, the petitioner engaged in an effort to “proselytize, pressure, urge, or entice a student to enroll in or transfer to a school for athletic purposes.” NJSIAA

¹ The Controversies Committee also found that Paterson and Ray Lyde, Jr. – the girls basketball coach – violated NJSIAA rules and imposed penalties on both Paterson and Coach Lyde. Those findings and penalties are not the subject of this appeal.

Bylaws, Article V, Section 4.D. On August 3, 2017, the petitioner appealed the decision of the Controversies Committee to the Executive Committee. Following a hearing on September 13, 2017 before the Executive Committee, during which counsel for the petitioner presented oral argument in support of his appeal, the Executive Committee unanimously affirmed the decision of the Controversies Committee.

On September 28, 2017, the petitioner filed a petition with the Commissioner of Education challenging the decision of the NJSIAA. On appeal, the petitioner maintains that he was not afforded the requisite due process before the NJSIAA. First, the hearing was held before the Controversies Committee on June 13, 2017 and counsel for the petitioner did not receive notice of the hearing until June 7, 2017, less than a week before the hearing date. Additionally, the petitioner argues that he never had the opportunity to review the evidence against him in advance of the hearing before the Controversies Committee; therefore, he had no ability to present a defense or otherwise present evidence on his behalf. The petitioner also contends that the Executive Committee undertook no deliberation prior to rubber stamping the decision of the Controversies Committee.

In addition to the lack of due process, the petitioner argues that the decision of both Committees finding that the petitioner engaged in recruiting was arbitrary, capricious and unreasonable. The residence of all of the students who lived with the petitioner was completely lawful and had nothing to do with their eligibility to play basketball. Furthermore, no athletic advantage was gained by the basketball program based upon the enrollment of the students and in fact their roles on the varsity and junior varsity teams were de minimus. Moreover, the Controversies Committee found that the petitioner engaged in recruiting, despite Justice Wallace finding in his report that the petitioner was not seeking athletic advantage but instead was acting as a humanitarian. Finally, the punishment that the petitioner

received was twice the penalty received by the girls basketball coach for ostensibly the same alleged offense. As a result, the petitioner argues that the NJSIAA's decision should be overturned.

In reply, the NJSIAA maintains that the Executive Committee's decision was not arbitrary, capricious or unreasonable and is entitled wide deference. The NJSIAA argues that the petitioner was provided with full and fair due process. Prior to the hearing before the Controversies Committee, the petitioner was given the opportunity to submit documentary evidence or sworn statements. The petitioner also could have presented testimony at the hearing but he chose not to appear. Significantly, petitioner did not object to the notice he received for the June 13, 2017 hearing at any time prior to the hearing. Additionally, the petitioner was permitted to appeal the Controversies Committee's decision to the Executive Committee. In that appeal, the petitioner submitted a brief in support of his position, which was provided to all of the members of the Executive Committee prior to the meeting. Counsel for the petitioner presented oral argument to the committee members, which was fully considered by the Executive Committee. Therefore, the NJSIAA provided the petitioner with substantial and fair due process.

The NJSIAA also contends that the decision of the Controversies Committee which was upheld by the Executive Committee was supported by sufficient evidence and should not be overturned by the Commissioner. It is a violation of NJSIAA rules to make "any effort to proselytize, pressure, urge or entice a student to enroll in or transfer to a school for athletic purposes." NJSIAA Bylaws, Article V, Section 4.D. This includes providing any form of monetary assistance to a student to enable that student to enroll at school for athletic purposes. In this case, the petitioner had multiple students living in his home who also became members of the basketball team that he coached. Many of the students had no connection to Paterson, and came there solely for the purposes of enrolling at Eastside High School. The evidence also showed that all of the students' journeys to Paterson were

facilitated through contacts the petitioner made in the basketball world. Moreover, none of the students who joined the basketball team for the 2016-2017 school year had transfer forms completed until after the media reports were released.

The Controversies Committee noted that it was unconvinced by the conclusion of Justice Wallace regarding athletic recruitment because Justice Wallace erroneously focused on whether the petitioner was attempting to gain an athletic advantage by enrolling the students. The proper inquiry for purposes of the Recruitment Rule is whether the petitioner engaged “any effort to proselytize, pressure, urge or entice a student to enroll in or transfer to a school for athletic purposes.” NJSIAA Bylaws, Article V, Section 4.D. Providing housing for students who became members of his basketball team clearly meets the definition of recruitment. Finally, as a coach for a NJSIAA member school who violated NJSIAA’s rules, the petitioner was subject to the penalties enumerated in Article X, which specifically include suspension and the imposition of fines. Therefore, the Commissioner should affirm the decision of the Executive Committee and dismiss the petition in its entirety.

It is well-established that the Commissioner’s scope of review in matters involving NJSIAA decisions, including determinations made by the Executive Committee, is appellate in nature. *N.J.S.A.* 18A:11-3; *Board of Education of the City of Camden v. NJSIAA*, 92 *N.J.A.R.* 2d (EDU) 182, 188. A petitioner seeking to overturn a decision of the NJSIAA bears the burden of proof. *Id.* As such, the Commissioner may not overturn an action by the NJSIAA in applying its rules, absent a demonstration by the petitioner that it applied such rules in a patently arbitrary, capricious or unreasonable manner.² See *N.J.A.C.* 6A:3-7.5(a)(2); see also *B.C. v. Cumberland Regional School District*, 220 *N.J. Super.* 214, 231-232 (App. Div. 1987); *Kopera v. West Orange Board of Education*, 60 *N.J. Super.* 288, 297 (App. Div. 1960). Moreover, “where there is room for two opinions, action is

² Arbitrary and capricious means “willful and unreasoning action, without consideration and in disregard of circumstances.” *Bayshore Sew. Co. v. Dep’t of Env’t. Protection*, 122 *N.J. Super.* 184, 199-200 (Ch. Div. 1973), *aff’d* 131 *N.J. Super.* 37 (App. Div. 1974) (citations omitted).

not arbitrary or capricious when exercised honestly and upon due consideration.” Bayshore, *supra*, at 199-200. Therefore, the Commissioner may not substitute her own judgment for that of the NJSIAA, where due process has been provided and where there is sufficient credible evidence in the record to serve as a basis for the decision reached by the NJSIAA. *N.J.A.C. 6A:3-7.5(a)(1); Dam Jin Koh and Hong Jun Kim v. NJSIAA*, 1987 *S.L.D.* 259.

Upon consideration of the record and in light of the prescribed standard of review, the Commissioner finds that the petitioner has not met his burden on appeal. As a threshold matter, the petitioner was afforded adequate due process before the NJSIAA. The petitioner was provided notice of the hearing through his counsel, and he was given the opportunity to testify and present evidence at the hearing before the Controversies Committee. The petitioner opted instead not to attend the hearing, and did not even submit evidence or sworn statements for the Committee’s consideration. Petitioner did exercise his right to appeal the decision of the Controversies Committee to the Executive Committee and was he provided with due process before the Executive Committee. Counsel for the petitioner submitted a position paper to the Executive Committee and provided oral argument before that Committee, all of which were considered by its members before a decision on the appeal was rendered.

Further, the Commissioner cannot find that the NJSIAA applied its rules in a patently arbitrary or unreasonable manner when it found that the petitioner violated the Recruitment Rule. It is undisputed that the petitioner had multiple students living in his home who also became members of the basketball team that he coached. Many of the students had no connection to Paterson; their arrival in Paterson was facilitated through contacts the petitioner made in the basketball world; and they came to Paterson solely for the purpose of enrolling at Eastside High School. Moreover, none of the students who joined the basketball team for the 2016-2017 school year had transfer forms completed until after

the media reports regarding the circumstances of their living situation were released.³ Importantly, the ban on athletic recruitment does not require a showing that the players received an athletic advantage or that they provided an actual athletic advantage to the basketball team, but simply that the players enrolled in the Paterson School District for an athletic reason. There is ample evidence in the record to demonstrate that the decision of the Executive Committee – finding that the petitioner violated the Recruitment Rule – was not arbitrary, capricious or unreasonable. Likewise, the penalty imposed on the petitioner for violation of the NJSIAA’s rules was not arbitrary, capricious or unreasonable.

Accordingly, the NJSIAA’s decision is upheld and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.⁴

COMMISSIONER OF EDUCATION

Date of Decision: December 18, 2017

Date of Mailing: December 18, 2017

³ The petitioner concedes that he is not intimate with the NJSIAA rules and relied on the administration to make eligibility determinations.

⁴ Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Superior Court, Appellate Division.