IN THE COURT OF APPEALS OF IOWA

No. 0-731 / 00-154
Filed March 28, 2001

WILLIAM MARTIN, ALIX MARTIN, and SCOTT MARTIN,
Petitioners-Appellants,

vs.

MARSHALLTOWN COMMUNITY SCHOOL DISTRICT and IOWA STATE BOARD OF EDUCATION,
Respondents-Appellees

FILED
MAR 28 2001
CLERK SUPREME COURT

Appeal from the Iowa District Court for Marshall County, William J. Pattinson, Judge.

The petitioners appeal from a district court ruling on judicial review affirming the department of education's decision prohibiting Scott Martin from participating in extra-curricular activities at his high school for violating the school district's good conduct policy. **AFFIRMED. APPEAL DISMISSED.**

Barry S. Kaplan of Fairall, Fairall, Kaplan, Hoglan & Condon, Marshalltown, for appellants.

John B. Grier of Cartwright, Druker & Ryden, Marshalltown, for appellee school district.

Thomas J. Miller, Attorney General, and Christie J. Scase, Assistant Attorney General, for appellee Iowa State Board of Education.

Considered by Hayden, P.J., Habhab,S. J. , and R. Peterson, S.J.*
*Senior judges assigned by order pursuant to Iowa Code section 602.9206 (1999).

HAYDEN, P.J.

William, Alix and Scott Martin appeal from the district court's dismissal of their petition for judicial review of a decision rendered by the Iowa State Board of Education on January 14, 1999. We affirm.

Scott Martin (Scott) was one of twenty-six Marshalltown High School (MHS) students who traveled to Germany from June 7, 1998, through June 30, 1998. The purpose of the trip was to provide German language students with an experience with the German people and culture. Each student paid $2,100 to Ed-Ventures to go on this trip.

Robert Brinkman, a German teacher at MHS, arranged the trip. It was his ninth trip he had arranged through Ed-Ventures. He was paid by the company to chaperone and help make arrangements for the trip. He was not paid by MHS. Mr. Brinkman held two meetings with parents and students before the trip. He advised the students they could not drink or use drugs in Germany. If they did, they would be punished under the student's good conduct policy. The student good conduct policy recites in relevant parts as follows:

> Participants in extra-curricular activities occupy leadership position, represent the school and the community and depict its character, all of which brings additional expectations and responsibilities. While the regular curricular program is a right afforded to each student, participation in the extra-curricular program is a privilege, and as such, carries certain expectations beyond those found in the normal, class room situation.

Scott participated in extra-curricular programs of cross-country track and played soccer for MHS.

Standard number two of the good conduct code is as follows:

> The student shall at all times abstain from the consumption, possession, control, acquisition, delivery or transportation of beer,

> alcoholic beverages, or any controlled substances as defined in the Iowa Code, as amended.

Mr. Brinkman obtained approval from the school district board for the trip for insurance purposes as he had done in previous years. The school district board's policy requires prior approval of all out-of-state school related trips. The school district claims the operation of the good conduct policy is not limited to school sponsored events and the status of the trip is irrelevant.

Several of the students while in Germany drank beer. Scott admitted to drinking beer. This was his third violation of the good conduct policy within one year. He was suspended from participating in all extra-curricular activities for one full year. In Germany it is legal to drink beer at the age of sixteen. Scott was seventeen years old at the time.

The administrative law judge and the State Board of Education affirmed the board of directors of the Marshalltown Community School District decision. The Martin's petitioned for judicial review in the district court for Marshall county, Iowa. On January 7, 2000, the district court determined Marshalltown Community School District did not act unreasonably in precluding Scott from extra-curricular activities for a twelve month period and dismissed the petition for judicial review.

The Martins appealed the district court's decision to the Iowa Supreme Court and it has been transferred to this court for appellate decision.

Scope of Review

Our scope of review is to correct errors of law. The district court, exercising the power of judicial review conferred by Iowa Code section 17A.19 (1997) is itself functioning in an appellate capacity to correct errors of law, as

specified in section 17A.19(8). *Jackson County Public Hosp. v. Public Employment Relations Bd.*, 280 N.W.2d 426, 429 (Iowa 1979). Thus, when this court reviews a decision of a district court rendered pursuant to section 17A.19, the sole question is whether the district court correctly applied the law. *Id.* In order to make that determination this court applies the standards of section 17A.19(8) to the agency action to determine whether this court's conclusions are the same as those of the district court. *Id.* at 429-30.

Mootness

When Scott testified at the November 1998 Administrative hearing he was an eighteen-year-old senior at MHS. At that hearing, MHS principal Jerry Stephens testified Scott was an excellent student. This court, like the district court feels safe in assuming Scott graduated in May of 1999. The school district argues any decision by this court cannot effect Scott's education or extra-curricular activities at Marshalltown High School. Therefore, this is a classic case of mootness. We agree.

The court will generally dismiss an appeal when the decision will have no practical legal effect upon the existing controversy. *Christiansen v. Iowa Dist. Court,* 578 N.W.2d 675, 679 (Iowa 1998). Scott has graduated from Marshalltown High School. Any decision by this court would have no legal effect upon his ability to participate in extra-curricular activities at the high school. This appeal is moot.

The Martins argue MHS's good conduct policy as it was applied to Scott is unreasonable. Even though this appeal is moot, we address their argument.

Scott understood the good conduct policy would apply to his conduct while on this trip. This was made clear to him before he left the United States. He also knew the good conduct policy prohibited him from consuming alcoholic beverages in violation of that policy would constitute his third offense within twelve months. In addition he knew the penalty for a third offense within twelve months was suspension for one full year of extra-curricular activities. He knew all of this before he decided to consume beer in Germany during the trip.

We observe Scott submitted himself to the authority of the school district and its good conduct policy before leaving on the trip. He participated in the trip knowing he was subject to the rules of the school district.

1997 Iowa Code section 279.8 recites in part as follows:

> The board shall make rules for its own government and that of the directors, officers, employees, teachers and pupils,. . . .

Section 279.9 entitled Use of tobacco, alcoholic beverages, or controlled substances, provides:

> The rules shall prohibit the use of tobacco and the use or possession of alcoholic liquor, wine, or beer or any controlled substance as defined in Section 124.101, subsection 5, by any student of the schools and the board may suspend or expel a student for a violation of a rule under this section.

The case of *Bunger v. Iowa High School Athletic Ass'n,* 197 N.W.2d 555, 564 (Iowa 1972), acknowledged standout students in athletics play a somewhat different role from the rank and file. Leadership brings additional responsibility. These student leaders are looked up to and emulated. They represent the school and depict it's character. We can not fault a school board for expecting somewhat more of them as to eligibility for their extra-curricular activities.

The *Bunger* court stated:

> We have no doubt that school authorities may make a football player ineligible if he drinks beer during football season. No doubt such authorities may do likewise if the player drinks beer at other times during the school year or if he then possesses, acquires, delivers, or transports beer. Probably a player shown to have actually violated beer laws during summer vacation, whether convicted in criminal court or not, can be rendered ineligible by school rules. All of these situations have direct bearing on the operation of the school . . . .

Bunger, 197 N.W.2d at 564.

We determine the good conduct policy that prohibited the use of drugs or alcohol by Scott during the Summer of 1998 while he was in Germany is a reasonable exercise of the school board's authority.

Before leaving the United States on the trip to Germany Scott knew the good conduct policy would be in effect and he would be prohibited from consuming alcoholic beverages. He also knew if he consumed alcoholic beverages in violation of the good conduct policy it would constitute his third offense within twelve months. He was aware of the penalty for a third offense within twelve months was suspension for one full year. Scott knew all this before he decided to drink beer in Germany.

It was not unreasonable for the Marshalltown Community School District to suspend Scott from extra-curricular activities for twelve months. Scott had been punished for consuming alcoholic beverage twice before. We conclude MHS's good conduct policy applies to Scott in this case.

We affirm the district court and this appeal is dismissed. Costs are assessed to the appellants.

AFFIRMED. APPEAL DISMISSED.