

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 97-2788

Richard Breen, a Minor, by and through *
his Next Friend Linda Breen; Frank *
Breen; Linda Breen, *

Plaintiffs - Appellants, *

v. *

St. Charles R-VI School District; Mark *
Keen; J. Larry Milan; Jerry E. Reese; *
Marta Baier; Jean Meyer; Gary Lacey; *
Wayne Oetting; Diane Rallo; Missouri *
Department of Elementary and *
Secondary Education; Robert E. *
Bartman; John Heskett, *

Defendants - Appellees. *

Appeal from the United States
District Court for the
Eastern District of Missouri.

[UNPUBLISHED]

Submitted: February 12, 1998
Filed: April 15, 1998

Before McMILLIAN and LOKEN, Circuit Judges, and BOGUE,* District Judge.

*The HONORABLE ANDREW W. BOGUE, United States District Judge for the District of South Dakota, sitting by designation.

PER CURIAM.

Ricky Breen is a learning disabled teenager. In February 1994, Ricky was attending public middle school in St. Charles, Missouri. School officials and Ricky's parents were involved in developing a new individualized education program (IEP) for Ricky when a controlled substance was found in his school locker. The IEP team shifted its attention to this problem. It determined that Ricky's possession of the controlled substance was a manifestation of his disability. Alternative discipline was therefore imposed, and the team continued its work on a revised IEP. Before a new IEP was implemented, Ricky's parents enrolled him in a private school and requested a due process hearing under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 *et seq.*, seeking reimbursement of his private school tuition on the ground that public school officials had failed to provide him a free appropriate public education. See 20 U.S.C. § 1415; Mo. Rev. Stat. § 162.961.

A panel convened under state law decided that the School District had offered Ricky a free appropriate public education in the least restrictive environment. A state level Review Officer affirmed. Ricky and his parents then commenced this action seeking judicial review under § 1415(e)(2) and asserting additional claims under Section 504 of the Rehabilitation Act, 29 U.S.C. § 794; 42 U.S.C. § 1983; and state law. Conducting its IDEA review in accordance with the standard of review we described in Independent Sch. Dist. No. 283 v. S.D., 88 F.3d 556, 561 (8th Cir. 1996), the district court¹ granted summary judgment for all defendants, agreeing with the panel that Ricky had been provided a free appropriate public education and rejecting various objections to the state administrative procedures. The Breens appeal, raising numerous substantive and procedural issues. After careful review of the record and consideration

¹The HONORABLE E. RICHARD WEBBER, United States District Judge for the Eastern District of Missouri.

of the parties' contentions on appeal, we affirm for the reasons stated in the district court's thorough Memorandum and Order dated May 16, 1997. See 8th Cir. Rule 47B.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.