



November 4, 2004

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***EDUCATION LAW CENTER WINS LANDMARK DECISION:
JUDGES QUESTIONS WHETHER CHILD WITH SCHOOL
PROBLEMS BELONGS IN THE COURTS AT ALL***

(Philadelphia) – A three-judge panel in Pennsylvania Superior court has ruled that a child with disabilities who was put under court supervision for missing school may not belong there. Some school districts refer children in Pennsylvania to the child welfare system for minor school problems, and many wind up in foster care. This decision creates a statewide legal precedent that could help these families.

ELC took up the case to make sure that information about a child's disabilities is considered by juvenile court judges. An earlier (Juvenile Court) judge had ruled that the family could not introduce evidence that C.T.'s disabilities were responsible for her poor school attendance, or that her local school district had failed to do an adequate job of meeting her special needs. But Superior Court Judge Phyllis Beck stated that this information should have been admitted since it is relevant to whether the child's poor school attendance was "without justification," the standard for determining whether the child was "dependent" (required court supervision).

Cumberland County attorney Phillip Drumheiser handled the case in Juvenile Court, while ELC attorney Kelly Darr handled the appeal. Said Drumheiser: "I am delighted for the family and I hope that this victory will help not just this child but children all over Pennsylvania." ELC's Darr added: "We're pleased that the court recognized that the educational needs of children with disabilities are the job of the school system. The court system is not equipped to deal with this kind of problem."

The Court noted that the schools, not the courts, are the “vehicle for resolving these specialized and sensitive issues.” The girl suffers from Asperger’s syndrome as well as anxiety, panic attacks, depression, and obsessive-compulsive disorder, and takes multiple medications to treat these disorders. The Court also singled out the Snyder Court District Attorney’s office for choosing to aggressively pursue the case, quoting from a 1991 Superior Court decision: “The purpose of juvenile proceedings is to seek treatment, reformation and rehabilitation, and not to punish.” At one point, the District Attorney had suggested that a probation officer go to the child’s house and “pull her out of bed each morning.” This case is one of several pursued by the Education Law Center in an effort to ensure that children with disabilities are not inappropriately placed into foster care.

The Education Law Center (ELC) is a state-wide legal advocacy group dedicated to ensuring that all of Pennsylvania's children have access to a good public education. ELC publishes scores of materials for parents, advocates and students (many available on its web site: www.elc-pa.org) and operates a Help Line for families and advocates.

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