SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1048-21

A.T.,[1] on behalf of minor children K.T. and P.T.,

Petitioner-Appellant,

v.

BOARD OF EDUCATION OF THE TOWNSHIP OF SPARTA, SUSSEX COUNTY,

Respondent-Respondent.

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Submitted March 20, 2023 – Decided March 24, 2023

Before Judges Haas and Gooden Brown.

On appeal from the New Jersey Commissioner of Education, Docket No. 2-1/21.

Law Offices of George T. Daggett, attorney for appellant (George T. Daggett, on the briefs).

Schenck, Price, Smith & King, LLP, attorneys for respondent Board of Education of the Township of Sparta (Marc H. Zitomer, of counsel and on the brief; Christopher J. Sedefian, on the brief).

[1] We use initials to protect the confidentiality of appellant's minor children.

Matthew J. Platkin, Attorney General, attorney for respondent Commissioner of Education (Sadia Ahsanuddin, Deputy Attorney General, on the statement in lieu of brief).

PER CURIAM

Appellant A.T. appeals the October 28, 2021 final decision of the Commissioner of Education, adopting the initial decision of the Administrative Law Judge (ALJ), and concluding that A.T. was not domiciled in Sparta Township from September 2019 to January 2021. Therefore, the Commissioner found that A.T.'s minor children, K.T. and P.T., were not eligible to receive a free public education in the Sparta Township School District (District) during that time period. We affirm.

The ALJ found the following facts after conducting a one-day administrative hearing. From 2017 until June 2019, A.T., her spouse, and the two children lived in Garfield with A.T.'s mother. On August 27, 2018, A.T.'s spouse bought a house in Sparta. Prior to this purchase, an inspection report revealed there were "material defects in the home." As a result, A.T. and her family never moved into the Sparta home. They continued to live in Garfield.[2]

[2] Later, from November 2020 until April 2021, the family lived in the home of a friend in Oak Ridge. They then returned to A.T.'s mother's home in Garfield

Nevertheless, A.T. sent an email to the District's Superintendent on September 18, 2019, inquiring whether her children could attend the District's schools free of charge until renovations were completed at the Sparta house. A.T. claimed the renovations for the Sparta home would be completed by January 2020. The Superintendent sent a letter to A.T. and told her the children could attend the District's schools. However, if the family did not move into the District by January 3, 2020, the District would charge the family tuition for both children. The family did not move into the Sparta home.

In November 2020, the District wrote to A.T. to ask where she and the children were domiciled. A.T. did not respond to the letter. The District then sent an investigator to the Sparta home and discovered the front door was "boarded up" and there were "construction materials limiting access to the back porch."

On November 13, 2020, the District's attorney sent a letter to A.T. notifying her there would be a residency hearing on November 19, 2020 to determine the children's enrollment status. A.T. did not attend the hearing, but submitted "a position statement" prepared by A.T.'s attorney. Based upon the

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from April to August 2021. The Sparta home was still not habitable by the time of the June 25, 2021 hearing.

evidence presented, the District determined that A.T. and her family were "not domiciled in Sparta and still ha[d] not moved into the home [they purchased,] which is still undergoing extensive renovations." The District advised A.T. that she owed the District over $30,000 for the children's tuition.

On January 3, 2021, A.T. withdrew one of the children from the District and asked for a hearing concerning the District's decision. The Commissioner referred the matter to the Office of Administrative Law (OAL) for hearing. A.T. then withdrew her other child from the District.

Prior to the June 25, 2021 OAL hearing, A.T. claimed for the first time that she and her family moved to Sparta, and became "homeless" when they learned the house needed extensive renovations. Accordingly, A.T. claimed that Sparta was responsible for providing a free education to her children. The District's "homeless liaison" met with A.T. and promptly determined that the family was never "homeless" because they lived in Garfield with A.T.'s mother both before and after they purchased the uninhabitable Sparta home, and then voluntarily lived for a period of time with friends in Oak Ridge before returning to their Garfield residence.

Following the OAL hearing, the ALJ rendered an extensive initial decision. The ALJ concluded that A.T. and her family were never domiciled in

the District and were not "homeless" from the District or from anywhere else. The ALJ found that A.T.'s testimony "did not hang together or make sense in light of many factors . . . ." A.T. was simply not credible. Because the family never lived in Sparta, the District was not required to provide A.T.'s children with a free education. The ALJ stated:

> I [conclude] that [A.T.'s family's] purchase of [the] house during the period of domicile in Garfield cannot be used to bootstrap either a temporary relocation away from Sparta or homelessness. The home construction has apparently continued, on but mostly off, without completion, for the three years since it was purchased by [A.T.] and her husband. In fact, only after the hearing was [A.T.] meeting with an architect to draw up the needed structural renovations. This is not the case of [a] temporary relocation away from one's abode due to fire, storms[,] or other natural disasters; rather [A.T.] and her spouse purchased an unsafe and largely uninhabitable house, as evidenced by the fact that they did not live in [it] after the closing in August 2018 and until they were trying to register their children in school.

A.T. filed exceptions to the ALJ's initial decision. The Commissioner considered and rejected them in her October 28, 2021 final decision. The Commissioner adopted the ALJ's findings of fact and conclusions of law and concluded A.T. and the children never lived in Sparta. Accordingly, A.T. was required to pay tuition for the time period the children were not eligible to attend school in the District. This appeal followed.

On appeal, A.T. challenges the Commissioner's factual findings and asserts that she and the family lived in Sparta and became homeless when they were unable to reside in the home because it was uninhabitable. Based on our review of the record and applicable law, we are not persuaded by A.T.'s contention, and affirm substantially for the reasons articulated by the Commissioner. We add the following brief comments.

Our standard of review of administrative determinations by the Commissioner is limited. "[W]e will not reverse the determination of an administrative agency unless it is arbitrary, capricious or unreasonable, or is not supported by substantial credible evidence in the record as a whole." Kaprow v. Bd. of Educ. of Berkeley Twp., 131 N.J. 572, 591 (1993) (citing Dennery v. Bd. of Educ., 131 N.J. 626, 641 (1993)). We limit our review "to a determination of whether the [Commissioner's] decision is 'unreasonable, unsupported by the record or violative of the legislative will.'" D.L. v. Bd. of Educ. of Princeton Reg'l Sch. Dist., 366 N.J. Super. 269, 273 (App. Div. 2004) (quoting Capodilupo v. Bd. of Educ. of W. Orange, 218 N.J. Super. 510, 515 (App. Div. 1987)).

We are not bound by an administrative agency's legal opinions. Levine v. State Dep't of Transp., 338 N.J. Super. 28, 32 (App. Div. 2001) (citing G.S. v. Dep't of Human Servs., Div. of Youth & Family Servs., 157 N.J. 161, 170

(1999)). Nonetheless, administrative decisions are cloaked with a "strong presumption of reasonableness." Newark v. Natural Res. Council, 82 N.J. 530, 539 (1980). Additionally, the "agency's interpretation of statutes and regulations within its implementing and enforcing responsibility is ordinarily entitled to our deference." Wnuck v. N.J. Div. of Motor Vehicles, 337 N.J. Super. 52, 56 (App. Div. 2001) (citing In re Progressive Cas. Ins. Co., 307 N.J. Super. 93, 102 (App. Div. 1997)).

Applying these standards, we discern no grounds to overturn the Commissioner's well-reasoned decision. The salient factual findings of this case were firmly supported by the record and, in light of the governing law, the Commissioner's legal conclusions are unassailable.

Affirmed.