IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Nos. 92-8647 & 93-8003

ANDREWS INDEPENDENT SCHOOL DISTRICT,

Plaintiff-Appellee,

versus

JEB M. b/n/f RONALD & MARY M.,

Defendants-Appellants.

Appeal from the United States District Court
for the Western District of Texas
(92-CV-058)

(March 22, 1994)

Before HIGGINBOTHAM and DUHé, Circuit Judges, and STAGG[*], District Judge.

PER CURIAM:[**]

Jeb M. is a thirteen year-old child who suffers from multiple disabilities. He qualifies for special education services under the Individuals with Disabilities Education Act. For many years, Jeb M. received adequate education from the Andrews Independent

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[*]District Judge of the Western District of Louisiana, sitting by designation.

[**]Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

School District. After his teacher of several years retired at the end of the 1988-89 school year, however, his behavior deteriorated. He began acting uncooperatively, even violently. He would have "accidents" despite the fact that he had been toilet trained, and on at least one occasion removed his clothes during a school recess. The school implemented corporal punishment, with the parents' permission, to address these problems but to no avail. Indeed, Jeb M.'s condition worsened in response to physical sanctions.

Frustrated with the program Andrews I.S.D. provided, Jeb M.'s parents made the unilateral decision to enroll him in a private school, the Developmental Disabilities Center. Although Jeb M. made educational progress, the D.D.C. possessed several significant defects. Many of the teachers at the school were not certified by the state, for example, and Jeb M. was among exclusively disabled students, whereas the IDEA mandates that he be integrated into an environment with non-disabled students to the greatest extent practical.

After removing Jeb M. from the public school system, the parents sought reimbursement before a state hearing officer for the cost of Jeb M.'s private education. The hearing officer found placement at Andrews I.S.D. inappropriate, and placement at the D.D.C. appropriate. The hearing officer therefore ordered reimbursement of the costs of Jeb M.'s private placement dating back not quite to its inception and lasting until Jeb M. can be transferred without harm to him to a public school.

The school district appealed to the United States District Court for the Western District of Texas. The district court reversed, denying the parents reimbursement and, separately, denying them compensation for costs and attorney's fees. The court acknowledged, however, that Andrews I.S.D. had been an inappropriate placement. The parents now appeal.

After the decision of the district court, the United States Supreme Court, in an unanimous opinion, changed the law on which the district court had relied in denying reimbursement to the parents for the cost of the private placement. The district court had concluded that Jeb M. was not entitled to reimbursement because the state had not approved the Developmental Disabilities Center. In Florence County Sch. Dist. Four v. Carter, 114 S.Ct. 361, 1993 U.S. Lexis 7154, 126 L. Ed. 2d 284 (11-9-93), the Court concluded that a federal court may order reimbursement for parents who unilaterally withdraw their child from a public school that provides an education that does not meet all of the state standards; that the private placement need not have been approved by the state. Given the basis of the district court ruling and Carter, the district court should reconsider its refusal to grant reimbursement.

We, therefore, REVERSE the judgment below, and REMAND the case to the district court to determine the appropriateness of an award of reimbursement.

REVERSED and REMANDED.