IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 93-7641
Summary Calendar

BONNIE ANN F. b/n/f
JOHN R. and KAREN A. F.,

Plaintiff-Appellant,

versus

CALALLEN INDEPENDENT SCHOOL
DISTRICT,

Defendant-Appellee.

Appeal from the United States District Court for the
Southern District of Texas
(C 91 259)

(November 11, 1994)

Before Judges KING, JOLLY, and DeMOSS, Circuit Judges.

PER CURIAM:[*]

This appeal requires us to consider primarily whether the parents of Bonnie Ann F., a hearing disabled child resident in the Calallen Independent School District, are entitled to be reimbursed for educational costs when they unilaterally placed their daughter in an alternate educational program for nine weeks. The district

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[*]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 Pursuant to that Rule, the court has determined that this opinion should not be published.

court made extensive findings of fact, so we need not repeat them here. Bonnie Ann F. v. Calallen Indep. Sch. Dist., 835 F.Supp. 340 (S.D. Tex. 1993). We affirm.

I

Reduced to its essence, Bonnie's parents argue that the school district violated the Individuals with Disabilities Education Act (the "IDEA"), 20 U.S.C. § 1400 et. seq., Texas law, and the federal Constitution, by failing to remove Bonnie immediately from an environment in which signed language is used.

In this respect, Bonnie's parents argue, the plan fails to satisfy the requirements of the IDEA and the underlying Texas law in that it did not provide the least restrictive environment; it did not offer a continuum of alternative placements; and it did not meet the state standard. We find no merit in these arguments.

Bonnie's parents do not dispute that, except for the three-month transition period at issue in this appeal, her educational plan satisfied the requirements of IDEA and the underlying Texas law. Instead, their argument springs from the allegation that, once having determined that Bonnie should enter an aural/oral program to end her use of signed language, the school district had the responsibility to see that Bonnie immediately cease all exposure in school to signed language. However, neither the IDEA nor the applicable Texas law imposes such a requirement. Accordingly, we hold that the plan is consistent with the IDEA.

In the light of our conclusion that the plan satisfies the IDEA, Bonnie's parents must point to clear error in the district court's conclusion that the school district's plan was appropriate and that she benefitted (or would have benefitted) from her program. We bear in mind that we are considering here a nine-week transitional period. Having reviewed the record and considered the arguments, we find no error. We therefore agree with the district court that Bonnie's parents are not entitled to reimbursement under the IDEA.

We agree as well that Bonnie's parents failed to state a claim under the Equal Protection Clause of the Fourteenth Amendment. With no citation to supporting authority, they argue that the school district violated Bonnie's constitutional rights when it failed to remove her from a program in which sign language was used. We find no merit in the argument. Accordingly, we affirm the district court's judgment with respect to Bonnie's constitutional claims.

II

Bonnie's parents also contest the district court's award of sanctions against them. The school district moved for sanctions against Bonnie's parents or their attorney for failing to provide the school district with copies of documents they filed with the court, for unilaterally altering the jointly-submitted pretrial order without notice or approval of the school district, and for submitting additional evidence in violation of court order.

Neither they nor their attorney responded to the motion. In accordance with its local rule, the court took that lack of response as indicating no opposition and entered the sanctions against "plaintiff, or plaintiff's counsel."[1]

It is axiomatic that issues not raised before the trial court cannot be raised for the first time on appeal. Bonnie's parents did not contest the entry of sanctions in the district court, and they do not complain of a lack of notice. Accordingly, we deem their opposition waived. See, e.g., Abbott v. Equity Group, 2 F.3d 613, 627 n.50 (5th Cir. 1993), cert. denied sub nom. Turnbull v. Home Ins. Co., ___ U.S. ___, 114 S.Ct. 1219 (1994).

III

We AFFIRM the judgment of the district court in all respects.[2]

A F F I R M E D.

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[1]The plaintiff's counsel is not a party to this appeal and has not appealed the order of sanctions.

[2]Pending before us are two motions by the school district to strike the brief and reply brief submitted by Bonnie's parents. On their pro se appeal, they continue to refer to the material they submitted after trial. In the light of our disposition of this case, we dismiss those motions as moot. Our consideration of this case was limited to material that is properly part of the record on appeal.