

**BEFORE THE INDIANA  
CASE REVIEW PANEL**

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| <b>In The Matter B.W.</b>                            | ) |                             |
| <b>Petitioner,</b>                                   | ) |                             |
|  | ) |                             |
| <b>and</b>   | ) |                             |
|  | ) | <b>CAUSE NO. 161219-159</b> |
| <b>The Indiana High School Athletic Association,</b> | ) |                             |
| <b>Respondent.</b>                                   | ) |                             |
|  | ) |                             |
| <b>Review Conducted Pursuant to Ind. Code</b>        | ) |                             |
| <b>§ 20-26-14 <i>et seq.</i></b>                     | ) |                             |

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

**PROCEDURAL HISTORY**

On or about August 17, 2016, B.W.'s ("Petitioner") parents completed the student portion of an Indiana High School Athletic Association ("IHSAA") Athletic Transfer Report ("Transfer Report"). The Transfer Report requested that the IHSAA make an athletic eligibility determination for the 2016–2017 school year relating to the Petitioner's transfer. On August 23, 2016, Muncie Central High School ("Muncie Central"), the sending school, completed its portion of the Transfer Report. The receiving school, Daleville High School ("Daleville") completed its portion of the Transfer Report on August 24, 2016.

On August 24, 2016, the IHSAA Commissioner determined that Petitioner's transfer was a Rule 20-2 violation and ruled Petitioner had no eligibility for 365 days from enrollment at the receiving school. The Petitioner appealed the Commissioner's determination to the IHSAA Review Committee ("Review Committee").

The IHSAA sent a letter to Petitioner acknowledging receipt of Petitioner's request for appeal and set the matter for a hearing before the Review Committee for November 4, 2016. Following the evidence presented at the November 4, 2016 hearing, the Review Committee issued its ruling on November 21, 2016, upholding the decision of the Commissioner declaring that according to Rule 20-2 & 19-4, Petitioner was athletically ineligible for 365 days following his enrollment at Daleville. Additionally, the Review Committee found a violation of Rule 17-7.4 and which also made the Petitioner athletically ineligible for 365 days following his enrollment at Daleville.

On December 19, 2016, the Petitioner appealed the Review Committee's decision to the Indiana Case Review Panel ("Panel"), and the Panel notified the parties that it would review the decision during a Panel meeting. The Panel requested and received the record from the IHSAA on January 4, 2017<sup>1</sup>. On January 18, 2017, the Panel held a meeting,<sup>2</sup> and based on a review of the record and applicable rules and laws, the Panel made the following Findings of Fact and Conclusions of Law.

### FINDINGS OF FACT

The Panel finds the following facts to be true and relevant to its decision.

1. Petitioner, a junior, lives with his father in Yorktown, Indiana. Petitioner attended Muncie Central for his freshman – sophomore years. While at Muncie Central, during his freshman (2014-15) and sophomore year (2015-16) he played varsity wrestling. He played junior varsity baseball his freshman year as well. He last participated athletically at Muncie Central on February 6, 2016.
2. The Petitioner lived in the Muncie Central district with his mother during his freshman-sophomore years. Muncie Central was the public school which served his mother's residence. At some point, the Petitioner began living with his father and eventually, in the fall of 2016, a court granted the Petitioner's father physical custody of the Petitioner. On August 2, 2016, the Petitioner was enrolled in Daleville, which serves his father's residence in Yorktown, Indiana.
3. Petitioner transferred with a corresponding change of residence by his father to a new district or territory. The Petitioner did begin living with his father at some point, by agreement of his parents, prior to a court granting actual physical custody to the father.
4. On August 17, 2016, Petitioner's parents completed the Transfer Report and the Petitioner indicated his parents were divorced and the reason for the transfer was because he "moved from mother to live with father, which resides in the Daleville District."
5. After the wrestling season at Muncie Central, in February/March 2016, the Petitioner began wrestling with a club team in the off season. The Petitioner was eventually coached by Troy Delaney, who was a club wrestling coach as well as a high school wrestling coach. The Petitioner was coached by Mr. Delaney at the Alexandria Club

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<sup>1</sup>Upon review of the record from the IHSAA, a Panel member determined that the record contained a document for different student athlete. The Panel requested the appropriate record pertaining to the Petitioner in this proceeding. There was no explanation from the IHSAA why the record was incomplete or if the wrong information was also given to the Review Committee for their consideration. The Panel is concerned a certified record contains information from another student athlete in the Petitioner's case.

<sup>2</sup>The following members participated in the meeting: Kelly Bauder (Chairperson), Mr. Chris Lancaster, Mr. Glenn Johnson, Mr. Keith Pempek and Mr. Chuck Weisenbach, and Ms. Mary Quinn.

during the spring and summer of 2016. In previous years, the Petitioner had participated in an off season club wrestling program with the Muncie Central coaching staff. Muncie Central learned the Petitioner was wrestling with the Alexandria Club and were surprised when he did not return to their school or wrestling program.

6. Coach Delaney had been an assistant coach at Yorktown High School. In July, 2016, Coach Delaney was hired by the school board to be the head wrestling coach at Daleville.
7. Muncie Central recommended Petitioner have no eligibility for 365 days under Rule 20-2, noting there was a past link between the Petitioner and Coach Delaney. Daleville recommended Petitioner have full eligibility under rule 19-6.1(b).

### CONCLUSIONS OF LAW

1. Any Finding of Fact that may be considered a Conclusion of Law shall be so considered. Any Conclusion of Law that may be considered a Finding of Fact may be considered as such.
2. Although the IHSAA is a voluntary not-for-profit corporation and is not a public entity, its decisions with respect to student eligibility to participate in interscholastic athletic competition are considered a “state action” making the IHSAA analogous to a quasi-governmental entity. IHSAA v. Carlberg, 694 N.E.2d 222 (Ind. 1997), *reh. den.* (Ind. 1998).
3. The Panel has jurisdiction in this matter. The Panel was established to review final student eligibility decisions with respect to interscholastic athletic competition. Ind. Code § 20-26-14. The Panel has jurisdiction when a student’s parent or guardian refers the case to the Panel not later than thirty days after the date of the IHSAA decision. Ind. Code § 20-26-14-6(b). In this matter, the Review Committee rendered a final determination of student-eligibility adverse to the Petitioner on November 21, 2016, and Petitioner sought timely review on December 19, 2016.
4. The Panel may uphold, modify, or nullify the IHSAA Review Committee’s decision. (Ind. Code § 20-26-14-6(c)(3)). The Panel is not required to review the IHSAA determination *de novo*. The Panel review is similar to an appellate-level administrative review. A full hearing to recreate the record is not required.

5. The Panel reviews the IHSAA determination for arbitrariness or capriciousness. See Carlberg, 694 N.E.2d at 233. A rule or decision will be found to be arbitrary and capricious “only when it is willful and unreasonable, without consideration and in disregard of the facts or circumstances in the case, or without some basis which would lead a reasonable and honest person to the same conclusion.” Id. (citing Dep’t of Natural Resources v. Indiana Coal Council, Inc.), 542 N.E.2d 1000, 1007 (Ind. 1989).
6. The Panel finds that the Petitioner’s move with his father was a bonafide move under Rule 19-5. There was a lot of discussion at the Review Committee hearing and in the decision of the Review Committee regarding the timing of the move and when custody was changed between parents. The Review Committee found there was a violation of Rule 17-7.4 for providing false information. The Panel does not believe there is actual evidence that the Petitioner or his parents lied. The Petitioner and his family explained he had lived with his father previously, but his parents began the process of switching legal custody to the father. The Petitioner and his father moved into the new residence that is in the Daleville district on June 15, 2016. There was not sufficient evidence presented to establish that the Petitioner or his family intentionally provided false information. The Petitioner’s parents were merely in the process of establishing legal custody modification and the Petitioner’s father moved with the Petitioner into the Daleville district prior to this being finalized by the court.
7. There was also not sufficient evidence under Rule 20-2 to establish there was undue influence. The IHSAA enacted Rule 20-2 to prohibit recruiting of student athletes. The past link Rule in 20-2, as written, would prohibit any student from ever moving to a school where any person may have coached them at school or in club participation. This rule holds students responsible for grown-up’s decisions that he/she can have no input or influence over. There was no evidence in the record that Coach Delaney in any way recruited or used undue influence to get the Petitioner to Daleville. There is no evidence the Petitioner or his family had any influence whatsoever on Daleville’s decision to hire Coach Delaney. While the Panel agrees Rule 20-2 is a necessary rule to prevent recruitment of students, as it is written, it would prevent students who ever had contact in club sports to participate if a both the coach and the student ever switched schools, regardless of any undue influence or recruitment. The Rule, as written, unfairly punishes student athletes who participate in club sports who subsequently have parents who move or transfer to another district. Therefore, the IHSAA failed to prove a violation of Rule 20-2, and with a bonafide change residence, the Petitioner would be fully eligible to participate in athletics at Daleville.

**ORDER**

The Panel finds by a vote of 5-1 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner is NULLIFIED. The Petitioner has full athletic eligibility as of January 18, 2017 at the receiving school, provided he is academically eligible and meets all other eligibility rules.

DATE: \_\_\_\_\_

1/23/17

  
\_\_\_\_\_  
Kelly M. Bauder, Interim Chairperson  
Case Review Panel

**APPEAL RIGHT**

Any party aggrieved by the decision of the Case Review Panel has forty-five days from receipt of this written decision to seek judicial review in a civil court with jurisdiction, as provided by Ind. Code § 20-26-14-7.