Millis Public Schools v. M.P., 478 Mass. 767 (2018)

Summary by Katy Krywonis, CAFL Training Unit

This case is the first appellate decision to address the merits of a CRA (or CHINS) adjudication. The SJC held that M.P., who was not attending school because of her serious medical and mental health issues, was not habitually truant because she was not “willfully fail[ing] to attend school.” The SJC concluded that “a child ‘willfully fails to attend school’ when he or she acts purposefully, such that his or her behavior arises from reasons portending delinquent behavior” and “can and should be deterred” by the court. The SJC vacated the adjudication and remanded the case for dismissal.

*Facts*: M.P. (15 y.o.) was not attending school due to a combination of medical and mental health issues, including a severe bladder condition that required her to use the restroom frequently and often for hours at a time, autism, anxiety, OCD, and PTSD. M.P.’s school district filed a CRA petition alleging that she was habitually truant. It was undisputed that M.P. missed more than eight days of school in a quarter, and that most of her absences were not excused. At the conclusion of the fact finding hearing, the judge found that M.P. was habitually truant and adjudicated her a child requiring assistance. The judge defined “willful” as “acting intentionally, as opposed to accidentally or involuntarily.” She reasoned that even though M.P.’s failure to attend school was attributed to her medical and mental health issues, “they are still actions taken by the child not to attend school,” and that there was no evidence that M.P. was “home bound or unable to benefit from an education” or that she should be exempt from school. The judge decided that M.P. was receiving appropriate services and that no further services needed to be ordered at that time. M.P. remained in her parents’ custody. M.P. appealed to a single justice of the Appeals Court, who referred the case to a full panel. The SJC then transferred the case on its own motion.

*Discussion*: The purpose of the CRA statute is to deter delinquency. It provides five grounds upon which a child may be found to require assistance, including that the child is “habitually truant.” A child is “habitually truant” if they “willfully fail[] to attend school for more than eight school days in a quarter.” This truancy provision targets children who are “playing hooky” or are beyond their parents’ control. The requirement that a child’s failure to attend school be willful reflects legislative concern about why the child is absent. It contemplates purposeful conduct by the child, not merely voluntary or intentional conduct. Accordingly, “to determine whether a child has ‘willfully fail[ed] to attend school,’ the Juvenile Court judge must examine the child’s purpose or reasons for being absent, so that the judge can decide whether the student’s behavior arises from reasons portending delinquent behavior.” Doing so “allows the court to focus on whether the behavior is such that it can and should be deterred, and on whether the child’s home circumstances are such that the court should change, or place conditions on, the child’s custody arrangements.”

Here, it was undisputed that M.C.’s purpose in not attending school was to address her bladder condition and associated mental health issues. She was not “home bound per se” or exempt from school, but there was no evidence that M.P. “exhibited problems or tendencies that could lead toward juvenile delinquency.” The trial judge even acknowledged that M.P. wanted to go to school and was saddened by her inability to do so. Furthermore, there was no showing that a modification of M.C.’s custody arrangement would help improve her attendance.

The SJC went on to note that “an incorrect CRA adjudication is not without consequences,” even where there is no change in custody. For example; a CRA proceeding could affect parents’ custodial rights in the future because courts have considered CRA proceedings in subsequent care and protection cases. In addition, the CRA statute was intended to minimize children’s exposure to court, unless court involvement is necessary, to prevent the stigma and other negative consequences of premature court involvement. Yet the evidence in this case showed that the CRA worsened M.P.’s condition and increased her anxiety, stress, and sadness. The SJC further noted that “the Bureau of Special Education Appeals may have been a more appropriate venue in this case to ensure that M.P. was receiving an adequate education.”