

EDU #10227-98
C # 69-99
SB # 22-99

D.R., on behalf of minor children, J.R. :
AND J.R., :
 :
PETITIONER-APPELLANT, :
 :
V. : STATE BOARD OF EDUCATION
 :
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF EWING, MERCER :
COUNTY, :
 :
RESPONDENT-RESPONDENT. :
_____ :

Decided by the Commissioner of Education, March 10, 1999

Decision on motion by the Commissioner of Education, May 4, 1999

For the Petitioner-Appellant, D.R., pro se

For the Respondent-Respondent, John G. Dyer, III, Esq.

On March 10, 1999, the Commissioner of Education adopted the recommended decision of an administrative law judge (“ALJ”) and granted the Ewing Board’s motion to dismiss the petition in this matter. The Commissioner agreed with the ALJ that D.R. (hereinafter “appellant”) had failed to file his petition, which challenged the Ewing Board’s determination that his children were not entitled to a free public education in the district, in a timely manner pursuant to N.J.S.A. 18A:38-1b(2).¹

On April 7, 1999, the appellant, acting pro se, filed a notice of appeal with the State Board of Education.

¹ We note that the appellant did not respond to the Ewing Board’s motion to dismiss his petition.

On May 4, 1999, the Commissioner, noting his concern that appellant's children not be penalized with a disruption in the continuity of their education during the pendency of his appeal, granted the appellant's motion for a stay of the Commissioner's decision pending a determination by the State Board.

Pursuant to N.J.A.C. 6:2-1.11(a), the appellant's brief in support of his appeal to the State Board was due on April 27, 1999, 20 days after he filed his notice of appeal. Appellant was notified of that deadline in a letter dated April 14, 1999 from the Director of the State Board Appeals Office. Appellant, however, failed to file a brief by that date. By letter dated April 28, 1999, the Director of the State Board Appeals Office notified appellant of his failure to file a brief and informed him that this matter was being referred to the Legal Committee of the State Board for consideration of his failure to perfect the appeal.

Appellant has still failed to file a brief in support of his appeal, more than two months after the deadline for such filing. Nor has he offered any explanation for his failure to file or requested an extension of time for such filing. As a result, we dismiss the appeal in this matter for failure to perfect. N.J.A.C. 6:2-1.12(a). See Paszamant v. Board of Education of the Borough of Highland Park, decided by the State Board, April 1, 1992, aff'd, Docket #A-4812-91-3 (App. Div. 1993).

July 7, 1999

Date of mailing _____