
Gloucester County Welfare Board v. "C.R."
Cite as 2 *N.J.A.R.* 14

**GLOUCESTER COUNTY
WELFARE BOARD,**

Petitioner

v.

"C.R.",

Respondent.

Decided March 20, 1980

Initial Decision

SYNOPSIS

The respondent appealed from the termination of assistance under the Aid to Families With Dependent Children (AFDC) program by a local county welfare board.

The administrative law judge found that the father of the respondent's child regularly visited her home, assisted in the support of the child and enjoyed a stable relationship with the respondent and her child. Accordingly, the judge concluded that the father was not continuously absent from the home as required by *N.J.A.C.* 10:81-3.17(c)5-6 and thus the respondent was not entitled to continued assistance.

BERNARD GOLDBERG, ALJ:

Respondent challenged the administrative determination of the Gloucester County Welfare Board in terminating assistance under the Aid to Families with Dependent Children (AFDC) program pursuant to *N.J.A.C.* 10:81-2.7; 10:81-2.7(d) and 10:81-3.7(c)6. The matter was transmitted to the Office of Administrative Law pursuant to *N.J.S.A.* 52:14F-1 *et seq.*

Respondent requested a hearing on February 19, 1980. After notice to all parties, a hearing was held on March 17, 1980 at the Gloucester County Administrative Building, Woodbury, New Jersey before Administrative Law Judge Bernard Goldberg. At issue is the administrative decision by the agency terminating AFDC because it alleges the eligible child is not deprived of the parental support and care of either parent. The agency relies on *N.J.A.C.* 10:81-2.7, which declares that deprivation of parental support can result from "death, incapacity or continued absence of one or both natural parents from the home." Since neither parent is dead nor incapacitated, continuing absence provides the basis for the adverse action

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and the sole issue to be determined at this hearing. *N.J.A.C.* 10:81-2.7(d) defines continued absence as deprivation of parental support and care when:

It interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child; and the known or indefinite duration of the absence precludes the parent's performance of his/her function in planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and he/she may have left only recently or some time previously.

The agency further cites *N.J.A.C.* 10:81-3.7(c)6 in support of its action. This regulation permits application of the term "continuous absence" for unmarried parents living apart only in those situations where there is no evidence of a continuing relationship between the absent parent and the child.

Testimony revealed that during a home visit the agency investigator found the father in the home. Respondent offered that the relationship among them (herself, child and the child's father) was stable. The child's father visits the child, age 15 1/2 months, every day and does regularly contribute \$35 per week for the baby's support as ordered by the courts. Respondent also reported that he helps care for the child.

Based upon the foregoing, I FIND:

1. The father of petitioner's child visits the home every day.
2. The father of the child provides care and support on a regular basis.
3. Respondent reports that the father's relationship with her and the child is stable.
4. The child's father was seen in the home by an agency representative in December 1979.

Based upon the facts adduced at the hearing and the regulations previously cited, I **CONCLUDE** that the child is not deprived of parental support and care as the father is determined not continuously absent from the home. Therefore, the action of the Gloucester County Welfare Board terminating AFDC is **AFFIRMED**.

I hereby **FILE** my Initial Decision with **G. THOMAS RITI, DIRECTOR OF THE DIVISION OF PUBLIC WELFARE**, for consideration.

After reviewing this Initial Decision, the Department of
Human Services on April 3, 1980 issued the following Final
Decision

The Initial Decision in the matter, dated April 3, 1980, is accepted and incorporated herein. The action terminating assistance is affirmed.