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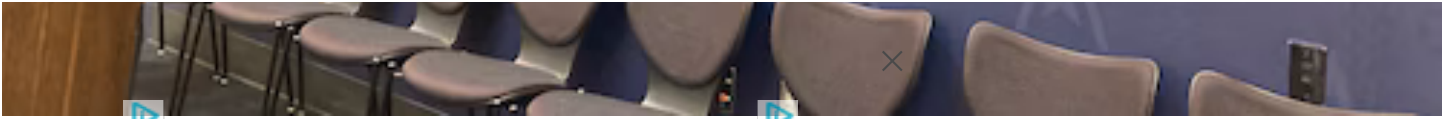
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HIGH SCHOOL SPORTS

Judge rules for AHSAA, denies claim that association discriminates against transfer

Published: Oct. 16, 2024, 3:58 p.m.





The Alabama High School Athletic Association's bona fide transfer rule survived another court challenge in Circuit Court in Montgomery. (Ben Thomas | bthomas@al.com) Ben Thomas



By **[Mike Perrin |_perrin@al.com](mailto:perrin@al.com)**

J.R. Gaines, the presiding judge of the Fifteenth Judicial Circuit Court of Alabama in Montgomery, has denied a preliminary injunction request that would have allowed a student to be immediately eligible to play sports at Marbury High School and ruled that the Alabama High School Athletic Association does not discriminate against male athletes because it does not recognize cheerleading as a sanctioned sport.

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As has been ruled previously by the Alabama Supreme Court, the judge stated in his ruling of Oct. 9, that the Circuit Court has “no jurisdiction to resolve disputes regarding eligibility under the rules of the AHSAA.”

In his original legal action, attorney Michael Kidd – on behalf of his son, sophomore Watson Kidd – sought to force the AHSAA to rule his son eligible to participate in football and baseball at Marbury despite the fact that he had not made a bona fide move into the school district after transferring from Prattville High School. Kidd argued that the Autauga County Board of Education allows residents of the county to attend whichever school they choose, the bona fide move was irrelevant. Autauga County Board of Education Superintendent Lyman Woodfin testified, on Sept. 19, that the board “maintains school zoning.”

Kidd also claimed that since cheerleaders – mostly female in the AHSAA – compete in regional and state championship events that they should also be required to meet the bona fide move rule. The AHSAA does not require cheerleaders to meet that requirement because cheerleading is not a sanctioned association sport. The AHSAA argued and the judge agreed that under its rules cheerleading is “a support group for all interscholastic teams within the school. Because cheerleading is not a sanctioned sport, the AHSAA’s athletic eligibility rules do not apply. Further, the AHSAA has a process for sanctioning a sport, but its member schools have not approved sanctioning cheerleading as a sport.”

The ruling said that the plaintiff could only receive relief via an injunction if it was shown that “(1) without the injunction the plaintiff would suffer immediate and irreparable harm; (2) the plaintiff has no adequate remedy at law; (3) the plaintiff has at least a reasonable chance of success on the ultimate merits of the case; and (4) the hardship imposed on the defendant by the injunction would not unreasonably outweigh the benefits accruing to the plaintiff.”

The ruling also said, “There is no evidence whatsoever that the AHSAA has intentionally sought to discriminate against Watson Kidd and male athletes by not sanctioning cheerleading as a sport. ... The undisputed evidence is that boys sports and girls sports receive equal treatment by the AHSAA. The

fact that cheerleading is not an AHSAA sanctioned sport and, thus, not subject to the same rules applicable to both boys and girls sports, does not violate Title IX.”

The plaintiff’s argument also included testimony that Kidd said showed that eligibility rules were arbitrary – that some appeals were approved while others were denied. “The Court finds that the Plaintiff has failed to present clear and convincing evidence that the AHSAA has acted in an arbitrary manner in applying its rules in other eligibility cases involving different persons, different facts, and different rules.”

The judge also pointed out that the younger Kidd was, under AHSAA rules, only ineligible for varsity sports for his 10th-grade year and he could participate in junior varsity sports during that time.

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