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SUPREME COURT DECISION MAKES LAWYER A CELEBRITY

Case eases education for handicapped children

BY ALAN COOPER
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Peter W.D. Wright, a sole practitioner with a law office in Henrico County, became a legal celebrity overnight.

His moment of glory, a unanimous U.S. Supreme Court opinion on Tuesday that made it easier for handicapped children to get an appropriate education, had a small cloud over it. The case came down the same day that the Supreme Court decided a major sexual harassment case.

The harassment case made the front page of almost every paper in the country. Wright's case was inside, but he was overwhelmed by the response to it nevertheless.

So overwhelmed, in fact, that he put a two-minute recording on his law office telephone briefly explaining the case and advising those interested in the Individuals with Disabilities Education Act where they could call for additional information.

The message told anyone who wanted to talk to him about the case to leave a telephone number where he or she could be reached in the evening.

A major part of Wright's practice is representing parents who believe that local school boards are not giving their handicapped children an appropriate education. The federal law requires the school system to pay for such an education at a private school if the school system does not offer a program that meets the child's needs.

Wright, 47, came by his interest in the subject naturally. He suffered from an attention deficit disorder and learning disabilities in language and math. Medication and intensive one-on-one therapy every day when he was a third grader helped him overcome the disabilities, but his treatment was at his parents' expense because it came before the federal law was enacted in 1975.

The case before the Supreme Court

involved Shannon Carter, a high school student in Florence County, S.C., who had a language disability similar to Wright's.

She was functionally illiterate at age 16, and the school system proposed giving her three hours a week of personal instruction with a goal of helping her make four months of progress during the school year.

Her parents found that suggestion unacceptable and placed her in the private Trident Academy in Mount Pleasant, S.C., where she received much the same therapy Wright had gotten more than 30 years earlier.

Shannon progressed rapidly at the school and received a diploma in three years.

Her parents sued to recover the \$35,700 they spent for the special education program.

The school system contended that it shouldn't have to pay because the state had not approved Trident Academy for special education and because some of its teachers were not certified to teach in the state. The school is accredited by the Southern Association of Colleges and Schools.

The Carters were represented at first by David Burlington, a lawyer for a federally funded agency that provides representation for the handicapped. Burlington won a ruling in the trial court that the Carters were entitled to be reimbursed even if Trident had not been approved by the school district and did not meet state standards.

A few days after the trial judge's ruling, Wright was in South Carolina speaking to a group of parents of handicapped children. The Carters were in the audience and had heard Wright speak on the law a few years earlier in North Carolina.

Wright asked him to assist on the appeal. Burlington wrote the brief for the 4th U.S. Circuit Court of Appeals, but Wright took over and argued the case there after Burlington was appointed a hearing officer for the Social Security Administration.

Wright prevailed in the 4th Circuit in an opinion

by Judge J. Harvie Wilkinson III that conflicted with a decision by a federal appellate court in New York. That court had held that a private placement cannot be appropriate if the school does not meet state standards.

The Supreme Court agreed to hear the case to resolve the conflict between the two courts.

Wright said he immersed himself in the case for 10 days preceding the argument before the Supreme Court on Oct. 6. He said he twice reread the case record and all relevant court opinions. He even acquired a tape recording of 23 oral arguments that had been presented to the court in noteworthy cases.

The argument itself was "the absolute ultimate experience for an attorney. It gets no better than that. I can't tell you the high that I had. It lasted for a week and a half."

He said he was very impressed by the response of the court to his argument. "They knew the case inside and out."

Seventeen states, the National School Boards Association and the National League of Cities filed briefs in favor of the school system. The federal departments of Justice and Education supported Shannon.

Shortly after Wright's argument, Justice Sandra Day O'Connor issued the opinion affirming the lower court rulings.

Wright predicted that the practical result of the decision will be that school systems will be more cautious about offering only one alternative for handicapped children and "drawing a line in the sand."

O'Connor's opinion is consistent with the law's thrust of providing a continuum of possible responses to a child's handicap, he said.

He acknowledges that the states and school boards are probably right in concluding that the ruling "will cost more money now. But it will have a significant positive impact in children getting out of school able to read, write and do arithmetic."



GETTING THE MESSAGE. The response to Peter W.D. Wright's case was overwhelming.

The balance of Wright's practice consists largely of work in juvenile court and domestic relations, including serving as a mediator in divorce cases.

Representation of handicapped children is "not a lucrative area at all," he said.

Parents who seek legal help tend to be already "financially stretched out" by the expense of hiring mental health professionals to help their children.

The federal law provides for the payment of attorneys' fees to parents if they prevail. But school systems seldom pay attorneys' fees because most cases are settled under an agreement that does not provide for them.

As a result, Wright said, he frequently winds up getting less than his full fee.

He recalled one case in which he put in \$25,000 worth of work to win an out-of-state placement only to have the parents decide not to take advantage of the decision because the child became homesick.