

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WOOD COUNTY

North Baltimore Local Schools

Court of Appeals No. WD-12-001

Appellee

Trial Court No. 11-CV-I-01228

v.

Jerry Todd

DECISION AND JUDGMENT

Appellant

Decided: June 21, 2013

* * * * *

Paul A. Dobson, Wood County Prosecuting Attorney, and
Carrie Leathers, Assistant Prosecuting Attorney, for appellee.

Jerry W. Todd, pro se.

* * * * *

SINGER, P.J.

{¶ 1} Appellant, Jerry W. Todd, appeals from the December 6, 2011 judgment of the Bowling Green Municipal Court, Small Claims Division, which overruled appellant's objections to the magistrate's decision finding appellant liable for fees owed appellee,

North Baltimore Local Schools, in the amount of \$226, plus interest. Because we find the trial court did not err, we affirm.

{¶ 2} On appeal, appellant asserts the following single assignment of error:

The lower court erred in the following interpretations of law.

Point I.

That R.C. 3317.06 is inapplicable to this case.

Point II.

That R.C. 3313.642 allows the school to charge fees for any and every purpose.

{¶ 3} Appellee filed a small claims action against appellant for \$226 in unpaid school fees incurred between 2004 and 2009. These “fees” included the cost of workbooks, class fees, assignment notebooks, activity fees, and progress books. On November 1, 2011, the magistrate found in favor of appellee. The magistrate found that the local school board established fees in open session at the beginning of each school year. The board also provided a procedure for waiver of the fees if a student was eligible for the federal free lunch program. Appellant testified his son was eligible for the federal program and submitted a pay stub for September through October 2011. However, the magistrate found that this single pay stub did not establish that the student was eligible for the federal program from 2004 through 2009. The magistrate further found R.C. 3317.06 and 113.03 were inapplicable. The magistrate found R.C. 3313.642(A) permits

the establishment of the types of fees involved in this case and granted judgment to appellee.

{¶ 4} Appellant filed objections and on December 6, 2011, the court overruled the objections and adopted the magistrate's decision. Appellant sought an appeal from the decision.

{¶ 5} Appellant first argues that the trial court erred in interpreting R.C. 3313.48, 3313.642(C), and 3329.06.

{¶ 6} Determinations of questions of law made by any lower court are subject to independent appellate review. R.C. 2505.01, 2505.02, and *Ohio Bell Tel. Co. v. Pub. Util. Comm.*, 64 Ohio St.3d 145, 147, 593 N.E.2d 286 (1992).

{¶ 7} Despite the broad language of R.C. 3313.48, which provides that a board of education shall provide free education, and R.C. 3329.06, which requires that the board furnish textbooks and electronic textbooks free of charge, R.C. 3313.642(A) specifically provides that a board of education is not required to furnish, free of charge, materials used in the course of instruction. R.C. 3313.642(C) addresses the authority of the school board to create a schedule of fees for materials used in a course of instruction. Because the statutes requiring the board of education to provide free, public education and the statutes which permit the board of education to charge pupils for consumable materials used in the course of instruction are irreconcilable, we must construe the statutes so that the specific statute controls over the general statute. R.C. 1.51 and *Davis v. State Personnel Bd. of Rev.*, 64 Ohio St.2d 102, 105, 413 N.E.2d 816 (1980). The Ohio

Supreme Court has construed the statutes at issue in this same manner. *State ex rel. Massie v. Gahanna-Jefferson Pub. Schools Bd. of Edn.*, 76 Ohio St.3d 584, 669 N.E.2d 839 (1996).

{¶ 8} Appellant also argues that textbooks include consumable workbooks and assignment books under R.C. 3317.06(A)(1) and, therefore, we should reconsider the basis for the *Massie* holding.

{¶ 9} R.C. 3317.06 addresses the limitations on the uses of state money distributed to local school districts for pupils attending chartered nonpublic elementary or high school in the district. Such money is to be used to purchase textbooks for loan to pupils attending nonpublic schools. R.C. 3317.06(A)(1) defines “textbook” explicitly for the purposes of this section as “any book or book substitute that a pupil uses as a consumable or nonconsumable text, text substitute, or text supplement in a particular class or program in the school the pupil regularly attends.” Because the General Assembly has specifically limited the definition of “textbook” for the purposes of R.C. 3317.06, it cannot be construed to define “textbook” as used in other statutory provisions.

{¶ 10} We conclude that the trial court did not err as a matter of law by finding that appellant can be charged the specified school fees in this case. Appellant’s assignment of error is found not well-taken.

{¶ 11} Having found that the trial court did not commit error prejudicial to appellant, the judgment of the Bowling Green Municipal Court, Small Claims Division,

is affirmed. Appellant is ordered to pay the court costs of this appeal pursuant to App.R.

24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Arlene Singer, P.J.

JUDGE

Thomas J. Osowik, J.

JUDGE

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.

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