points of view

Will lesson be how to get around rules?

Judith Doner Berne

A SENIOR PARTNER in a law firm which represents school districts has manipulated the system for four years to have his child attend school in a district other than where he lives.

Daniel Clark, a senior partner in the Birmingham law firm of Clark, Hardy, Lewis, Pollard and Page, has taken the Bloomfield Hills Schools to court to allow his son to finish his senior year at Andover.

A Bloomfield Township resident who lives within the Birmingham school district, he cites three failed plans to purchase homes within the Bloomfield Hills boundaries since 1988.

The Clarks pay tuition to have their son attend Andover. Bloomfield Hills allows non-residents to pay tuition if their parent or guardians are building a home or have signed final papers to purchase a home within the district and will move in before the end of the semester.

Somehow, the Clarks have been able to pull off the "we're buying a house" scenario since their son was in eighth grade. The Bloomfield Hills Schools, who say they investigate about one residency claim per week, definitely didn't stay on top of this one.

IT APPARENTLY took until the fall of 1989 for the matter to come to the attention of Bloomfield Hills Superintendent W. Robert Docking. Docking met with Daniel Clark and the two eventually signed a legal agreement allowing Clark's son to finish his junior year. It also made enrollment for his senior year contingent on he and his parents becoming permanent residents of the district.

So, his parents kept their Bloomfield Township home but rented an apartment within the Bloomfield Hills district. The school system expelled the 17-year-old high school senior when a private investigator determined that the family spent very little time at the apartment.

Earlier this month, Oakland County Circuit Judge John O'Brien allowed him to stay on at Andover pending a Dec. 12 hearing on the case.

It's called working the system — and who is better able to work it than an attorney whose firm specializes in representing school districts, including Birmingham, where his son would have attended, and Southfield, where the school district just a year ago filed criminal charges against Annette Evans-Lee, a mother whom they claimed falsified documents to allow her daughter to attend Southfield rather than Detroit schools.

Evans-Lee, who still has not come to trial, didn't do a smart thing, a wise thing, a legal thing. But she did a very human thing; she tried to get a better, safer education for her child.

THAT ISSUE has to do with why people have to resort to lies to get a quality education for their children. It tells us and the Michigan Legislature one more time that the inequities in our schools, which foster and preserve the inequities in life, come back to haunt us.

There's no such issue in the Clarks' case. They live within one of the best school systems in the state. At the tuition they pay to attend Bloomfield Hills schools, about $8,300 a year, they could afford private school.

"There are a whole lot of people who would like to come (to school) here," Docking says. "You need to be consistent with the policy."

If matters of law are considered, the court must rule in favor of the school system. It is hard to believe that the Clarks' attempts to move into the district could be foiled three times or that having the financial ability to rent a second "home" to comply in name but not substance with the district's requirements should be allowed to fly.

It's unfortunate that a high school senior may not be able to graduate with his classmates. It would be even more unfortunate if he learned that rules only apply to those without the means and wiles to dodge them.

Judith Doner Berne is assistant managing editor of the Oakland County editions of the Observer & Eccentric Newspapers.

Judicial decisions can be strange, lengthy

Tim Richard

MICHIGAN'S SUPREME Court has a two-man, ultra-left wing.

Justices Michael Cavanagh, re-elected Nov. 6, and Dennis Archer can be counted on to stick together on behalf of a criminal defendant. Sometimes they are joined by other justices.

The result can be strange, as in the case of People v. Lisa Ann Hall, 24, who was convicted in 1986 of conspiracy to deliver cocaine between two ounces and a half-pound.

LIVONIA POLICE conducted a drug investigation that led to Hall's Dearborn home. Dearborn and Livonia police made the bust.

First step, of course, is a district court pretrial examination to determine whether (1) a crime has been committed and, (2)there's reason to believe the accused committed it.

Dearborn District Judge Virginia Sobotka made an error. She admitted testimony by police who quoted two of Hall's co-conspirators. That's "hearsay" and shouldn't have been admitted. It was important to the case.

Sobotka bound Hall over for circuit court trial.

Later the co-conspirators pleaded guilty and testified against Hall in her Wayne Circuit Court trial. Hall was convicted after a three week, errorless trial before Judge Charles Farmer, who put her on probation for life.

Nope, said the Court of Appeals, the pretrial error compels automatic reversal of the trial conviction.

Prosecutor John O'Hair appealed to the state Supreme Court.

THE SUPREME Court in September ruled 4-3 against Hall. The majority opinion, penned by Justice Robert Griffin, pointed to state law saying a conviction shall not be reversed where error is harmless.

He cited a U.S. Supreme Court decision telling appellate judges to "consider the trial record as a whole and to ignore errors that are harmless."

To most of us, that's common sense.

THE DISSENT by Cavanagh, joined by Archer and swing vote Charles Levin, was sarcastic, even by left-wing standards.

Cavanagh accused the majority of "whimsically and waywardly" messing up a fundamental stage in the criminal process.

Next Cavanagh suggested circuit judges will ignore defense motions to quash cases on the grounds of error if the prosecutor promises to cure the error at trial. "That is the next step in the slippery slope."

He summed it up: "Where there is no other admissible evidence sufficient to bind over the defendant, I believe that such an improper bindover creates a travesty of justice and thwarts the purpose of the preliminary examination."

IN CAVANAGH'S thinking, the rights of the accused are of overwhelming importance. But let's flip back to Griffin's majority opinion for a different set of values:

"To require automatic reversal of an otherwise valid conviction for an error which is harmless constitutes an inexcusable waste of judicial resources and contorts the preliminary examination screening process so as to protect the guilty rather than the innocent."

Griffin quoted U.S. Chief Justice William Rehnquist: "The reversal of a conviction entails substantial social costs: it forces jurors, witnesses, courts, the prosecution and other defendants to expend further time, energy, and other resources to repeat a trial that has already once taken place; victims may be asked to relive their disturbing experiences."

Some of you may like Cavanagh's brand of justice. You're entitled to your opinion. Just know what kind of leftist politics you're getting.

Footnote: The case isn't over. The high court returned it to the Court of Appeals to determine whether the admission of hearsay evidence really was "harmless error."

Four damn years, and we still don't know if the people or Lisa Hall won.

Tim Richard writes regularly on the local implications of state and regional issues.

SINK OR SWIM?

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know your government

Looking for information about state government? The League of Women Voters has a toll-free telephone service (1-800-292-5823) that may be helpful.

The league's Citizen Information Center in Lansing offers to help people find out about such things as pending legislation, the state constitution, election laws, voting regulations or tax information.

The telephone is answered from 10:30 a.m. to 3:30 p.m. weekdays.

The telephone service is paid for by the league's education fund. The League of Women Voters is a non-profit organization that works to keep voters interested and informed about governmental issues.

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