

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

LK, *a minor, by and through his surrogate parent,*)
Melissa Henderson,)
Plaintiff,)

v.)

NORTH CAROLINA STATE BOARD OF)
EDUCATION and NORTH CAROLINA)
DEPARTMENT OF PUBLIC INSTRUCTION,)
Defendants.)

JUDGMENT

No. 5:08-CV-85-BR

Decision by Court.

This action came before Senior United States District Judge W. Earl Britt for consideration of the 18 February 2011 Memorandum and Recommendation of Magistrate Judge James E. Gates. The court ADOPTS the Memorandum and Recommendation as its own.

IT IS ORDERED, ADJUDGED AND DECREED that 1) the defendants' motion to dismiss is ALLOWED, 2) the 19 September 2007 manifestation determination, the administrative law judge's decision of 29 November 2007, and the state review officer's decision of 31 December 2007 are VACATED, 3) cross-motions by the parties for summary judgment are DENIED as MOOT, and 4) this case is DISMISSED as MOOT.

This judgment filed and entered on March 9, 2011, and served on:

- Corinna Erwin Byrd (via CM/ECF Notice of Electronic Filing)
- Lewis Pitts (via CM/ECF Notice of Electronic Filing)
- Brian R. Berman (via CM/ECF Notice of Electronic Filing)
- Joyce S. Rutledge (via CM/ECF Notice of Electronic Filing)
- Laura Ellen Crumpler (via CM/ECF Notice of Electronic Filing)
- Thomas J. Ziko (via CM/ECF Notice of Electronic Filing)

March 9, 2011

/s/ Dennis P. Iavarone
Clerk of Court