MEMORANDUM DECISION

ATTORNEYS FOR APPELLANTS

Michael J. Jasaitis
Ryan A. Deutmeyer
Austgen Kuiper Jasaitis P.C.
Crown Point, Indiana

ATTORNEYS FOR APPELLEE
THE CASE REVIEW PANEL, BY ITS ADMINISTRATOR, THE INDIANA DEPARTMENT OF EDUCATION

Theodore E. Rokita
Attorney General

Frances Barrow
Deputy Attorney General
Indianapolis, Indiana

ATTORNEY FOR APPELLEE
INDIANA HIGH SCHOOL ATHLETIC ASSOCIATION

Lewis S. Wooton
Wooton Hoy, LLC
Greenfield, Indiana

IN THE
COURT OF APPEALS OF INDIANA

Rick Daniels, as Parent of Josh Daniels, and Josh Daniels,

Appellants-Plaintiffs,

v.

The Case Review Panel, by its Administrator, The Indiana Department of Education, Indiana High School Athletic Association, and Duneland School Corporation,

Appellees-Defendants

October 29, 2021

Court of Appeals Case No. 21A-MI-430

Interlocutory Appeal from the Porter Superior Court

The Honorable Jeffrey W. Clymer, Special Judge

Trial Court Cause No. 64D02-2101-MI-838

Crone, Judge.

Case Summary

[1] This case involves a high school wrestler who, upon transferring to another school during October of his senior year, was found ineligible to compete by the Indiana High School Athletic Association (IHSAA). The IHSAA's ineligibility decision was upheld following the student-athlete's request for review by an independent Case Review Panel (CRP). The student-athlete and his parent sought judicial review of the CRP's decision by way of a complaint seeking a temporary restraining order, motion for a preliminary and permanent

injunction, and declaratory judgment in the trial court. The trial court granted a temporary restraining order prohibiting the IHSAA from restricting the student-athlete's participation in the sectional wrestling tournament; however, following a hearing, the trial court denied the request for a preliminary injunction. Rick Daniels, as parent of Josh Daniels, and Josh Daniels now bring this interlocutory appeal of the trial court's order denying their request for a preliminary injunction. Concluding that this case is now moot, we remand to the trial court with instructions to dismiss.

Facts and Procedural History

[2] Prior to October 21, 2020, Josh, a student-athlete, lived in Schererville with his mother. Josh attended Lake Central High School during his freshman (2017-18), sophomore (2018-19), junior (2019-20), and first part of his senior (2020-21) year. While at Lake Central, Josh participated on the varsity wrestling team during his freshman and junior years. He did not participate during his sophomore year by his own choice. In October 2020, Josh moved from his mother's Schererville home to his father Rick's "just-rented" apartment in Burns Harbor, which is in the Chesterton school district. Appealed Order at 3. Josh's move was considered "a bonafide [sic] move" between divorced parents pursuant to IHSAA Rule 19-6.1. Appellants' App. Vol. 2 at 52.

[3] Rick enrolled Josh in Chesterton High School, and, on November 4, 2020, Rick completed an IHSAA transfer report (the Transfer Report) indicating that Josh was moving in with his father within the Chesterton school district and was seeking full athletic eligibility. Pursuant to the IHSAA transfer rule, a student

transferring schools with a corresponding bona fide change of residence by the parents will generally get full eligibility; however, if it appears that the student transferred for "primarily" athletic reasons or as the result of undue influence, the student will have no eligibility for one year following the student's enrollment at the new school. Appealed Order at 3.

[4] The Transfer Report was sent to Lake Central, which completed its portion of the report and opined that Josh's transfer was for primarily athletic reasons and therefore Josh should be ineligible to participate in athletics for one year. Lake Central attached a memo indicating that Rick had a conflict with the Lake Central wrestling coach and that Josh withdrew from Lake Central just prior to the wrestling season. After Lake Central completed its portion of the Transfer Report, Chesterton completed its portion and attached a memo similarly opining that Josh's transfer was for primarily athletic reasons. Chesterton also recommended that Josh be athletically ineligible for one year.

[5] Based upon the information and recommendations provided in the Transfer Report, on December 7, 2020, IHSAA Assistant Commissioner Sandra Walter ruled Josh athletically ineligible at Chesterton pursuant to IHSAA Rule 19-4. Rick disagreed with that decision and appealed to the IHSAA Review Committee. The Review Committee held a hearing on January 14, 2021.

[6] During the hearing, Josh stated that at a November 2019 practice at Lake Central, he was wrestling with the coach and was rendered unconscious for thirty to sixty seconds. Josh stated that after that event the coach did not send

him to the trainer and told him and his teammates not to tell anyone what happened. Rick learned about this "knock-out" event in February 2020 but did not mention anything to school administration at the time. *Id*. at 6. Evidence was also presented that Rick had a longstanding dislike of the Lake Central wrestling coach, had unsuccessfully tried himself to become a part of the Lake Central wrestling program on numerous occasions, had gotten into a physical altercation with the wrestling coach in January 2020,[1] and had attempted to get the coach fired. Rick's aversion to the Lake Central wrestling coach was so strong that Josh did not wrestle his sophomore year. Additional evidence indicated that Chesterton had a historically strong wrestling program that needed a wrestler in Josh's 126-pound weight class. The record further demonstrated that Josh moved to Rick's newly rented apartment after the beginning of the school year but right before the start of wrestling season. Following the hearing, the Review Committee issued its extensive and detailed decision on January 25, 2021, concluding that Josh's transfer to Chesterton was primarily motivated by athletics and therefore violated IHSAA Rule 19-4.

[7] Rick and Josh referred the Review Committee's decision to the CRP as provided by Indiana Code Section 20-26-14-6.[2] On January 27, 2021, the CRP

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[1] As a result of this incident, the Lake Central athletic director sent Rick a letter regarding his inappropriate conduct and restricted Rick's future conduct vis-à-vis the Lake Central wrestling program.

[2] Indiana Code Section 20-26-14-6 provides in pertinent part:

> (a) The association must establish a case review panel that meets the following requirements:
>
> (1) The panel has nine (9) members.

conducted a review of the Review Committee's decision, as well as a review of supplemental material submitted by Rick and Josh in support of reversal of that decision. The following day, the CRP issued its findings of fact, conclusions thereon, and ruling which provided in relevant part: "The Panel finds by a vote of 6-1 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner is UPHELD. The Petitioner has no eligibility at the receiving school until October 21, 2021." Appellants' App. Vol. 2 at 55. Rick and Josh immediately filed a complaint in the trial court seeking a temporary restraining order, preliminary and permanent injunction, judicial review of the decision of the CRP, and a declaratory judgment.

[8] On January 29, 2021, the trial court held a hearing on Rick and Josh's request for a temporary restraining order and, at the conclusion of the hearing, granted a temporary restraining order permitting Josh to wrestle in the sectionals of the

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(2) The secretary of education or the secretary's designee is a member of the panel and is the chairperson of the panel.

(3) The secretary of education appoints as members of the panel persons having the following qualifications:

(A) Four (4) parents of high school students.

(B) Two (2) high school principals.

(C) Two (2) high school athletic directors.

…

(b) A student's parent who disagrees with a decision of the association concerning the application or interpretation of a rule of the association to the student shall have the right to do one (1) of the following:

(1) Accept the decision.

(2) Refer the case to the panel. The parent must refer the case to the panel not later than thirty (30) days after the date of the association's decision.

IHSAA wrestling tournament occurring on January 30. The trial court then set a preliminary injunction hearing for the following week. The trial court held a hearing on the request for a preliminary injunction on February 5, 2021. Following the hearing, the trial court issued extensive findings of fact, conclusions thereon, and order affirming the CRP's decision and denying Rick and Josh's request for preliminary injunction. Accordingly, Josh was found ineligible to wrestle in the regional wrestling tournament. This interlocutory appeal ensued. Josh graduated from high school in the spring of 2021.

Discussion and Decision

[9] The threshold and dispositive issue in this appeal is mootness. Our supreme court has explained the mootness doctrine as follows:

> The long-standing rule in Indiana courts has been that a case is deemed moot when no effective relief can be rendered to the parties before the court. When the controversy at issue has been ended or settled, or somehow disposed of so as to render it unnecessary to decide the question involved, the case will be dismissed.

T.W. v. St. Vincent Hosp. & Health Care Ctr., Inc., 121 N.E.3d 1039, 1042 (Ind. 2019). Indeed, an actual controversy must exist at all stages of appellate review, and if the case becomes moot at any stage, then the case is remanded with instructions to dismiss. *IHSAA, Inc. v. Durham*, 748 N.E.2d 404, 410-11 (Ind. Ct. App. 2001).

[10] It is patently obvious here that, because Josh has graduated from high school, the controversy regarding his senior-year athletic eligibility at Chesterton has ended, and there is no action the IHSAA could now take that would have any positive or adverse effect of substantial significance on Josh. *See IHSAA v. Cade*, 51 N.E.3d 1225, 1235 (Ind. Ct. App. 2016) (concluding that trial court's order granting preliminary injunction was moot as to student-athletes involved because athletic season had completed and athletes no longer had legally cognizable interest in outcome of case, as "absolutely no change in the status quo would result from any decision rendered."); *see also Jordan v. IHSAA*, 16 F.3d 785, 788 (7th Cir. 1994) (holding that lawsuit arising from preliminary injunction entered in favor of student-athlete ceased to be a controversy after athlete graduated and therefore remand for dismissal as moot was appropriate). In other words, no actual controversy still exists between these parties, which supports the dismissal of this appeal as moot.

[11] However, "Indiana recognizes a public interest exception to the mootness doctrine, which may be invoked when the issue involves a question of great public importance which is likely to recur." *T.W.*, 121 N.E.3d at 1042 (citation omitted). Josh and Rick do not argue that the specific athletic eligibility determination here is an issue of great public importance or one that is likely to recur. Instead, they maintain that the issue of great public importance presented by this case is "the proper standard of review to be utilized by a trial court when reviewing a [CRP] decision." Reply Br. at 5. While Josh and Rick

contend that this issue is in need of judicial clarification, we disagree. In other words, just because they say it is so, does not make it so.

[12] The proper standard of review to be utilized by a trial court when reviewing a CRP decision was clearly and unambiguously set out by our legislature more than ten years ago. Specifically, Indiana Code Section 20-26-14-7 provides in relevant part:

> (a) If the association or the parent who referred a case to the panel under section 6(b)(2) of this chapter disagrees with the decision of the panel, the association or the parent may file a legal action to review the panel's decision.
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> (b) An action must be filed under subsection (a) with a court with jurisdiction not later than forty-five (45) days after the panel issues its decision under section 6(c) of this chapter.
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> (c) In an action brought under this section, the court may reverse the panel's decision if the court, upon its own review of the facts and issues involved in the decision and the applicable rule of the association, determines that the decision of the panel, or the decision of the association upheld by the panel, is:
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> (1) not a fair and logical interpretation or application of the association's rule;
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> (2) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
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> (3) contrary to a constitutional right, power, privilege, or immunity;

> (4) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
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> (5) without observance of procedure required by law; or
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> (6) unsupported by substantial evidence.
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> (d) The court reviewing a panel decision under this section may do any of the following:
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> (1) Affirm the panel's decision.
>
> (2) Modify the panel's decision.
>
> (3) Reverse the panel's decision and remand the action to the panel for action directed by the court.

[13] The statute clearly authorizes the trial court to review the facts and issues involved in the CRP's decision and the applicable IHSAA rule, and to affirm, modify, or reverse the decision on *any one* of the six specific grounds outlined above. Contrary to Josh and Rick's urging, this standard of review is *not* a de novo standard of review.[3] Rather, it is what it is: namely, a legislatively

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[3] We note that although the statutory standard of review is not de novo, it is also not akin to the extraordinarily deferential standard of review requiring a finding that the decision of the CRP, or the decision of the IHSAA upheld by the CRP, is arbitrary or capricious in order to invalidate it. *See IHSAA v. Watson*, 938 N.E.2d 672, 680 (Ind. 2010) (citing *IHSAA v. Carlberg*, 694 N.E.2d. 222, 230-31 (Ind. 1997), and reiterating then-existing rule that courts apply arbitrary and capricious standard to review IHSAA decisions). Significantly, *Watson*, unlike any eligibility case coming after it, including this one, involved direct judicial review by a trial court (and then the appellate courts) of an IHSAA eligibility determination; however, while *Watson* was pending on appeal, our legislature modified the statutory review scheme. As explained by Justice Dickson in his dissenting opinion in *Watson*, a 2010 legislative amendment made the CRP process, which was previously an optional procedure for aggrieved parents and student-athletes, a mandatory step that

promulgated specific and limited standard of review. As we find the statutory language unambiguous, we are not persuaded that this case falls within the public interest exception to the mootness doctrine. Accordingly, we decline Josh and Rick's invitation to address the merits of the trial court's order here, and we remand with instructions to dismiss this case as moot.

[14] Remanded.

Bailey, J., and Pyle, J., concur.

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provides an "independent" review of IHSAA decisions. *Watson*, 938 N.E.2d at 683 (Dickson, J., dissenting). The mandatory CRP process essentially "stripped" the IHSAA of "its previous power to make unilateral student athletic eligibility determinations[.]" *Id*. As part of that independent review process, the CRP is "empower[ed] to make determinations de novo." *See id.* (citing Ind. Code § 20-26-14-6(c)(1), which authorizes the CRP to "[c]ollect testimony and information on the case"). Josh and Rick attempt to conflate the "de novo nature" of the CRP's review function with that of a trial court. *See id.* (noting that "the trial court is not reviewing the basis of the IHSAA's ruling but rather that of the independent case review panel."). As we stated above, the trial court's standard of review is clearly and unambiguously set out in Indiana Code Section 20-26-14-7. Our examination of the entirety of the record here, including the trial court's findings of fact and conclusions thereon, indicates that the trial court indeed applied the proper statutory standard of review. *See* Appealed Order at 12 ("[T]his Court finds applying IC 20-26-14-7 to the evidence it must deny the plaintiffs' request for preliminary injunction.").