

Wootton Student Eligible in 5th Year

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Judge Rules for Lacrosse Player

By Katherine Shaver
Washington Post Staff Writer

A Wootton High School student may play in his school's last four boys' lacrosse matches after a Montgomery County judge ruled yesterday that a school system eligibility rule discriminated against him based on his learning disability.

Christopher Smink, a senior goalkeeper at the Rockville school, is in his 10th semester of high school, and county rules prohibit students from competing in sports for more than eight semesters. Smink had to repeat ninth grade after struggling with Attention Deficit/Hyperactivity Disorder, Smink's lawyer, Steven Van Grack, told Montgomery Circuit Court Judge S. Michael Pincus.

Therefore, Van Grack argued, the Montgomery school system's eligibility rule discriminated against Smink because of his learning disability. That, the judge agreed, violated the federal Americans with Disabilities Act and the school system's own anti-discrimination policies.

The judge's decision is believed to be one of the first court rulings in Maryland to address whether high schools must give "reasonable accommodation" to students in athletics based on Attention Deficit Disorder as a disability, lawyers in the case said.

"A person with a disability such as Mr. Smink," Pincus said during yesterday's hearing, "should be accommodated simply by letting him put on a uniform and play a few lacrosse games."

Pincus did not hear any evidence and merely granted Smink a 10-day restraining order, prohibiting the school system from enforcing the eight-semester rule against him until after Wootton's last regular season lacrosse match next week. The restraining order pertains only to this case, lawyers from both sides said.

Smink will have to go to court again to seek another order if he wants to compete in the postseason. His father, Douglas Smink, said Christopher plans to do that.

Patrick L. Clancy, a private lawyer for Montgomery schools, argued that Smink had not yet exhausted his administrative appeals. Clancy said the student did not prove that his ADD was serious enough to qualify as a disability under the federal law or that it was a disorder, rather than other factors, that led to his poor grades. The eight-semester rule, Clancy said, was designed to prevent students from gaining an unfair physical advantage over other students.

"If you have someone in their fifth year of high school, they've got a competitive edge there," Clancy said. "It's important in high school events to at least have the perception of fairness."

Clancy said after the hearing that the school system has not yet decided whether to ask for another hearing to argue against the restraining order.

After hearing the judge's decision, Smink hugged Van Grack and Jeff Southmayd, another lawyer on the case, whose son, Jeff, is captain of the Wootton lacrosse team.

Douglas Smink says he took his son's case to court because they grew frustrated with the school system's appeal process.

"We ran into one road block after another," Douglas Smink said. "They seemed to be saying, 'We don't need to follow the Americans with Disabilities Act until the court makes us do it.'"

Wootton is 6-2 this season and Smink - a part-time starter last season - is not expected to immediately assume a starting role. He was ineligible for part of last season because of poor grades and has not been practicing the past several months, Douglas Smirk said.

Lacrosse is "one of the few things that he's been able to do at school that distinguishes him from the mass of other students," his father said.

Smink withdrew from Wootton after failing several classes his freshman year and transferred to Bullis, where he was forced to repeat ninth grade. Two years later, he transferred back to Wootton for his junior year.

Douglas Smink said Christopher's grades are good enough this year to join the team again. His son was unavailable to comment yesterday afternoon. He'd already gone off to lacrosse practice.

Notebook

Wootton Player Again Wins Ruling

By KATHARINE SHAYER
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A Montgomery County judge yesterday extended an order requiring the school system to suspend its eligibility requirements because of a Wootton boys lacrosse player's learning disability. The order makes Christopher Smink, a senior goalkeeper, eligible for the playoffs.

Smink was allowed to compete in the last four lacrosse matches of the regular season after the same judge ruled last week that the school system's "eight-semester rule" discriminated against Smink based on his Attention Deficit/Hyperactivity Disorder.

County rules prohibit students from competing in sports for more than eight semesters. One of Smink's lawyers, Steven Van Grack, argued that Smink had to take 10 semesters because he had to repeat ninth grade because of his learning disability. Therefore, Smink's ineligibility under the eight-semester rule, Van Grack said, violated the federal Americans with Disabilities Act.

Montgomery Circuit Court Judge S. Michael PinCUS, who had granted Smink a 10-day restraining order against the school system's rules, extended that order yesterday until May 24, Van Grack said. That Maryland state tournament's semifinals are May 19-20 and the finals are May 24. The school system's lawyer, Patrick L. Clancy, did not object, Van Grack said.

Clancy did not return a phone call seeking comment. The judge's rulings pertain only to Smink's case, lawyers in the case have said.