

2656

JUVENILE COURT — JURISDICTION TERMINATED — CHILD IMMEDIATELY ACQUIRES LEGAL SETTLEMENT IN COUNTY OF RESIDENCE OF PARENTS—SURVIVING PARENT, PARENT HAVING CUSTODY, GUARDIAN OF MINOR—SECTIONS 1639-6, 1639-16, 3391-16 GC.

SYLLABUS:

When a Juvenile Court exercising jurisdiction over a child under the provisions of 1639-16 General Code, terminates such jurisdiction, said child by virtue of Section 1639-6 Ohio General Code, and Section 3391-16 Ohio General Code immediately acquires a legal settlement in the county of residence of the parents, surviving parent, sole parent, parent having custody awarded by a Court having jurisdiction, or guardian of the person of such minor.

Columbus, Ohio, May 28, 1953

Hon. J. H. Lamneck, Director, Department of Public Welfare
Columbus, Ohio

Dear Sir:

I am in receipt of your recent request for an opinion relative to the responsibility of counties to support dependant children now living within the territorial limits of such county. Your request reads as follows:

"A question has arisen relative to the legal settlement of children who were under the jurisdiction of the Wood County Juvenile Court, between Wood and Hancock Counties.

"Mr. and Mrs. A. and their children lived in Wood County and had a legal settlement there. She obtained a divorce from her husband in 1946, and obtained custody of her children. In 1950, her children were committed to the Wood County Department of Public Welfare for temporary care and custody. In February, 1952, Mrs. A. married a resident of Hancock County and moved to that county. In January, 1953, Mrs. A.'s children were returned to her by the Wood County Juvenile Court and its jurisdiction terminated.

"Sections 3391-16 and 1639-6 of the General Code both relate to legal settlement. It now appears that the children are again in need of assistance. We, therefore, desire your opinion on the following questions:

"First, did the children of Mrs. A. automatically acquire a legal settlement in Hancock County at the time of her marriage and removal to that county?

"Second, if they did not automatically acquire the legal settlement of the mother at the time of her marriage and removal to Hancock County, did such children immediately acquire a legal settlement in Hancock County at the time the Juvenile Court of Wood County terminated its jurisdiction and returned the children to Mrs. A. in Hancock County, or would it be necessary for these children to reside in Hancock County for a period of one year without public support before they acquired legal settlement there?"

The facts as set forth in your letter indicate that the mother and father of the children in question were divorced in Wood County in 1946 and that as a result of this divorce the custody of the children was awarded to the mother.

Subsequent to the divorce the Juvenile Court of Wood County assumed temporary care and custody of the children during the period from 1950 to January of 1953, at which date the Wood County Juvenile Court returned the children to the mother and terminated jurisdiction over the children.

Subsequent to her divorce, the mother, in February of 1952, married a Mr. A., who was a resident of Hancock County, and in February of 1952 moved to Hancock County where she has lived since that date.

Section 3391-16 of the Ohio General Code provides in part:

“* * * A woman who marries a man with a legal settlement in any county shall immediately acquire the settlement of her husband.”

It would appear, therefore, that Mrs. A., the mother of the children, acquired legal settlement in Hancock County in February of 1952, assuming the husband to have a legal settlement in that county.

In view of the fact that the mother immediately moved to Hancock County following her marriage in February of 1952, she has, in any event, resided in Hancock County for over one year without receiving public assistance, and thereby has gained legal residence in Hancock County.

In answer to your first question as to whether or not the children automatically acquired legal settlement in Hancock County at the time of Mrs. A.'s marriage, I must reply in the negative since, at that time, the children were wards of the Wood County Department of Welfare, and such department had the exclusive care and custody of the children. In January of 1953 the Wood County Juvenile Court terminated jurisdiction over the children and returned them to the home of the mother in Hancock County. At this time the legal settlement of the children reverted to the mother, who was awarded custody of the children by virtue of the 1946 divorce action. Section 1639-6 of the Ohio General Code reads as follows:

“For the purposes of this chapter, a child shall have the same residence or legal settlement as its parents, legal guardian of its person, or its custodian who stands in the relation of loco-parentis, except as otherwise provided for by statute.”

This section should be considered along with Section 3391-16, Ohio General Code, which reads in part as follows:

“The legal settlement of a minor shall be that of the parents, surviving parent, sole parent, parent having custody awarded by a court having jurisdiction or guardian of the person of such minor * * *.”

In view of the above facts I am of the opinion, and you are advised:

1. That during the period that the Juvenile Court exercised jurisdiction over the children, said children did not acquire a legal settlement outside of Wood County.

2. When the Juvenile Court terminated its jurisdiction, the children, by virtue of Section 1639-6 General Code and Section 3391-16 General Code, immediately acquired a legal settlement in Hancock County, the

county of residence of the mother who was awarded custody by the Court granting her a divorce and it is unnecessary for such children to reside in that county for a year without public support before they acquire legal settlement there.

Respectfully,

C. WILLIAM O'NEILL

Attorney General