

**IN THE COURT OF COMMON PLEAS
OF YORK COUNTY, PENNSYLVANIA**

HIAWATHA POWELL
Plaintiff/Petitioner

vs.

**SCHOOL DISTRICT OF THE CITY
OF YORK, PENNSYLVANIA**
Defendant/Respondent

: **DOCKET NO.**

Wednesday, July 8, 2009 12:47 PM

2009-SU-003344-08

: **SCHOOL BOARD APPEAL**

JUDICIAL CENTER
YORK, PA

2009 JUL - 8 PM 12:46

PETITION FOR APPEAL

AND NOW this 8th day of July, 2009, comes the Petitioner, Hiawatha Powell, by and through his attorney, Clarence E. Allen, Esquire, and files this Petition For Appeal of the June 10, 2009, decision of the School District of the City of York, Pennsylvania , and in support thereof states the following:

1.. That on June 10, 2009, the Board of School Directors of the School District of the City of York, Pennsylvania passed a Resolution declaring the school board seat of Hiawatha Powell to be vacant as a result of his removal from the school district (not residing in the school district). A copy of said resolution is attached hereto, marked as **Exhibit "A"** and made a part of this Petition.

2. That on June 10, 2009, the Board of School Directors of the School District of the City of York, Pennsylvania passed a resolution resolving that as a result of Mr. Powell's neglect or refusal to attend two consecutive regular meetings of the Board without legal excuse his position of School Director is vacant. A copy of said Resolution is attached hereto, marked as **Exhibit "B"** and made a part of this Petition.

3. That the Resolutions of the School District of the City of York, Pennsylvania board of directors is erroneous and in error as the evidence clearly established that Mr. Powell had a legal

excuse for missing two consecutive regular meetings of the school board and that his legal residence at all times relevant to this appeal was and is York, Pennsylvania.

4. That the Resolutions of the School District of the City of York, Pennsylvania are erroneous because the Board capriciously disregarded competent evidence that clearly established via substantial evidence that the Petitioner had a legal reason for not attending two consecutive regular meeting of the Board and that he has and does and all times relevant to this appeal, resided in York City, Pennsylvania..

WHEREFORE, Petitioner hereby appeals the June 10, 2009, resolutions of the School District of the City of York, Pennsylvania prays that this Honorable Court:


(A) Reverse the decision of the School District of the City of York, Pennsylvania Board of Directors.

(B) In the alternative, vacate the decision of the School District of the City of York, Pennsylvania Board of Directors and remand the case to the School Board for a new decision in conformity with the facts and law.

© Grant such other relief that This Honorable Court determines to be fair and just under the circumstances.

Respectfully submitted,

Date: July 8, 2009



Clarence E. Allen, Esquire
Attorney for Petitioner
18 S George Street - Suite 615
York, PA 17401
Telephone No. (717) 846-5873

EXHIBIT “A”

GETTLE & VELTRI

ATTORNEYS AT LAW

13 EAST MARKET STREET
YORK, PENNSYLVANIA 17401

TELEPHONE (717) 854-4899
FAX (717) 848-1603

GREGORY HAROLD GETTLE
CHRISTINA M. VELTRI

GREGORY E. GETTLE
JEFFREY A. GETTLE

June 11, 2009

Clarence E. Allen, Esquire
18 S. George St., Suite 615
York, Pennsylvania 17401

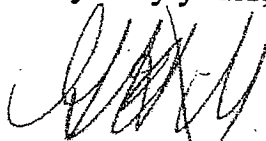
Re: Hiawatha Powell

Dear Clarence:

At a Special Meeting of the Board of School Directors of the School District of the City of York held on June 10, 2009, the Board passed the enclosed Resolutions. Both Resolutions were passed by a vote of five (5) in favor of the Resolutions and four (4) against the Resolutions.

If you have any questions, please contact me.

Very truly yours,



Gregory H. Gettle

GHG:cy

Enclosures

cc: President Jeanette Torres

Vice President Thomas Foust

Board Members

Sharon Miller, Superintendent

Mindy Wantz

RESOLVED that the School District of the City of York board of director office held by Hiawatha Powell be declared vacant as a result of Mr. Powell's removal from the school district (not residing in the school district).

EXHIBIT "B"

RESOLVED that the School District of the City of York board of director office held by Hiawatha Powell be declared vacant as a result of Mr. Powell's neglect or refusal to attend two consecutive regular meetings of the board without legal excuse.