

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION

R.T., by and through J.T. and
E.T.; J.T.; E.T.,

Plaintiffs,

v.

FAYETTE COUNTY SCHOOL
DISTRICT,

Defendant.

CIVIL ACTION FILE

NO. 3:21-cv-116-TCB

ORDER

This case comes before the Court on Defendant Fayette County School District's unopposed motion [67] for judgment on the administrative record.¹ Plaintiffs R.T., J.T., and E.T did not respond to Defendant's motion.

¹ Also before the Court is Defendant's motion [66] for leave to file excess pages. Because Defendant filed its motion for judgment within the page limit and before the Court could rule on its motion for leave, that motion [66] will be denied as moot.

I. Background

This case arises from an administrative law judge's (the "ALJ") finding that Plaintiffs are not entitled to reimbursement for private school placement and tuition under the Individuals with Disabilities Education Act ("IDEA"). The ALJ's decision came after a five-day virtual hearing in January 2021.

The ALJ specifically held that (1) Defendant had offered R.T. a free appropriate public education ("FAPE"); (2) R.T. was not eligible for services under the IDEA; and (3) because Defendant offered R.T. a FAPE, Plaintiffs are not entitled to reimbursement for private schooling.

On May 27, 2021, the ALJ issued her final order, denying Plaintiffs their requested relief. On July 23, Plaintiffs filed this action, seeking a *de novo* review of the ALJ's decision.

On November 19, Plaintiffs filed a motion to allow additional evidence and to supplement the administrative record under IDEA, specifically 20 U.S.C. § 1415(i)(2)(A). Plaintiffs sought to supplement the administrative record with evidence proffered but not admitted at

the administrative hearing and evidence that Defendant violated Plaintiffs' right to a fair trial. The Court granted in part Plaintiffs' request and admitted several additional items into the record.

On September 28, 2022, Defendant filed its motion [67] for judgment on the administrative record. It asks the Court to fully uphold the ALJ's findings and grant judgment in its favor. Plaintiffs did not respond to the motion.

II. Legal Standard

“Any party aggrieved by the findings and decision made” in an administrative proceeding “shall have the right to bring a civil action” 20 U.S.C. § 1415(i)(2)(A). In any such action, the Court shall “receive the records of the administrative proceedings” and “shall hear additional evidence at the request of a party.” 20 U.S.C.

§ 1415(i)(2)(C)(i)–(ii).

“After reviewing all the evidence, the . . . Court may grant relief without a trial by issuing . . . a ‘judgment on the record.’” *R.L. v. Miami-Dade Cnty. Sch. Bd.*, 757 F.3d 1173, 1178 (11th Cir. 2014) (quoting *Loren F. v. Atlanta Indep. Sch. Sys.*, 349 F.3d 1309, 1313 (11th Cir.

2003)). The Court “may issue a judgment on the record based on the preponderance of the evidence, even when facts are in dispute.” *Id.* (internal quotation omitted) (citing *Loren F.*, 349 F.3d at 1313).

The Court must give “‘due weight’ to the ALJ decision and ‘must be careful not to substitute its judgment for that of the state educational authorities.’” *Id.* (quoting *Walker Cnty. Sch. Dist. v. Bennett*, 203 F.3d 1293, 1297 (11th Cir. 2000)). “But the ALJ is not entitled to blind deference. The . . . Court is free to accept the ALJ’s conclusions that are supported by the record and reject those that are not.” *Id.* (citing *Loren F.*, 349 F.3d at 1314.).

III. Discussion

A. FAPE

To receive reimbursement associated with the placement of R.T. in a private school, Plaintiffs are required to prove that she was entitled to special education services, that Defendant failed to provide her a FAPE, and that her selected private school was “proper” under IDEA. *See Florence Cnty. Sch. Dist. Four v. Carter*, 510 U.S. 7, 15 (1993). The ALJ found that Plaintiffs failed to meet their burden and that Defendant

had offered R.T. a FAPE. Specifically, she held that R.T. was not eligible under IDEA because she did not require special education services. Further, she found that Plaintiffs were not entitled to reimbursement because—as shown largely through R.T.’s high achievement in school—Defendant had provided R.T. with a FAPE. Finally, any procedural errors committed by Defendant did not cause sufficient educational harm to constitute an IDEA violation.

The ALJ held—and the Court agrees—that R.T.’s disability did not adversely affect her academic performance and, therefore, she does not require special education. *See Durbrow v. Cobb Cnty. Sch. Dist.*, 887 F.3d 1182, 1193 (11th Cir. 2018).

R.T. achieved good grades, met grade level standards on statewide assessments, and was reading at a seventh-grade level while in fourth grade. She achieved this without specialized education. Indeed, none of R.T.’s teachers recommended that she receive specialized instruction.

Because R.T. has made sufficient—and even impressive—educational progress without specialized instruction, the Court finds that her disability has not “adversely affect[ed] her academic

performance. 20 U.S.C. § 1401(3)(A)(ii). Accordingly, she is not entitled to a FAPE—though she was nevertheless provided one by Defendant. Additionally, R.T. does not qualify under the IDEA as a student with a disability. The Court will uphold the ALJ’s findings with respect to R.T.’s eligibility under the IDEA.²

B. Hearing Irregularities

Much of the argument surrounding Plaintiffs’ appeal of the ALJ’s ruling has been focused on alleged improprieties that occurred during the final hearing before the ALJ.

Plaintiffs allege that Defendant’s corporate representative was improperly present with witnesses during their testimony, that she handed documents to the witnesses while they testified, and that witnesses were not sequestered. Further, Plaintiffs argued that the

² The Court also upholds the ALJ’s findings with respect to the IDEA procedure followed by Defendant. The ALJ found that the evaluations conducted were sufficient and the Court has seen no evidence to the contrary. Further, the ALJ held—and the Court agrees—that any procedural errors by Defendant did not constitute a per se violation of the IDEA warranting a finding that a FAPE was not provided. Because Plaintiffs failed to show “actual educational harm” as a result of the alleged procedural defects, the Court will not disturb the finding that Defendant sufficiently offered R.T. a FAPE even in light of potential procedural shortcomings.

ALJ's failure to admit a transcript from a prior meeting between the parties was a prejudicial error and grounds for reversal.

Plaintiffs bear the burden of showing a prejudicial error. *See Chavez v. Bd. of Educ. Of Tularosa Mun. Schs.*, No. CIV.05-0380 JB/RLP, 2009 WL 1299644, at *4 (D.N.M. Feb. 23, 2009) (“In considering a motion for a new trial on the grounds of prejudicial error, the alleged trial court errors must be clearly erroneous, as well as prejudicial and must have affected the substantial rights of the parties.” (quotation omitted)).

Having entirely failed to respond to Defendant's motion for judgment on the administrative record, Plaintiffs have not met their burden of proof and are not entitled to a new hearing.

Accordingly, the Court finds that any procedural errors at the final hearing were harmless, and it will uphold the ALJ's decision.

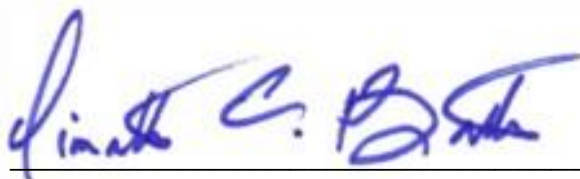
IV. Conclusion

For the foregoing reasons, Defendant's motion [67] for judgment on the administrative record is granted.³ The decision of the ALJ is

³ Additionally, Defendant's motion [66] for excess pages is denied as moot.

upheld, and the Clerk is directed to enter judgment in favor of Defendant and close this case.

IT IS SO ORDERED this 28th day of October, 2022.

A handwritten signature in blue ink, appearing to read "Timothy C. Batten, Sr.", written over a horizontal line.

Timothy C. Batten, Sr.
Chief United States District Judge