

EXHIBIT 5  
DATE 2-7-05  
HB 438

## The Cody Greiser Story: A Work in Progress

by Jim Marks

From the Editor: The following article is reprinted from The Observer, Spring/Summer, 1997, a publication of the Montana Association for the Blind (MAB), an affiliate of the National Federation of the Blind.

Some of our long-time readers may remember an article about Cody which appeared in Future Reflections several years ago. At that time his parents were trying to get the services they needed in his local school district so he could start kindergarten with his peers and neighbors. With the help of the NFB, they found a qualified teacher and everything was great—for a while.

But, as the saying goes, nothing stays the same. Changes in the family, a move to another town, a teacher retires—any one or more of these circumstances can change a blind child's services overnight—for better or worse. The only thing that remains constant is the need for vigilance, and the need for the ongoing support and information available from an organization such as the National Federation of the Blind. Here is the latest chapter in the saga of one blind child's precarious journey through the educational system:

### Special Report from the Montana Association for the Blind

The following in-depth report is offered to members, parents of blind children, and other advocates. The struggle for blind children to receive decent educations in Montana in skills such as Braille literacy and orientation and mobility has, in a sense, just begun. Cody's story, and the commitment of his parents, Marty Greiser of Dillon and Nancy Taylor of Polson, may hold lessons and encouragement for other parents in Montana. It is an important story for us all, and surely no one but us, the organized blind of Montana, are likely to tell it.

What you are about to read was gathered from interviews with some of the parties involved, observations of legal proceedings, and reviews of relevant documents.

#### \* INTRODUCTION

Cody Greiser, who is blind, lives in Polson, Montana, with his mom, step-dad, and sisters. His dad is Marty Greiser of Dillon, a long time member of the Montana Association for the Blind and Secretary of the National Organization of Parents of Blind Children, a Division of the National Federation of the Blind. Cody is ten years old and will be going into the fifth grade this fall at Polson's Cherry Valley Elementary School.

Recently, Cody found himself involved in a struggle for his literacy and his right to live with his family. It's hard to believe, but Cherry Valley School officials tried to take Cody away from his folks by forcing a placement in the Montana School for the Deaf and Blind

(MSDB) in Great Falls. Although an administrative judge gave the family a favorable decision following the April 1, 1997, hearing in Polson, the struggle is far from over.

#### \* THE FAMILY'S POSITION

Cody's parents, Nancy Taylor and Marty Greiser, want their son to learn how to read and write within his neighborhood school. They do not want to take Cody from his home and loved ones to be placed in a residential program.

The family knows blindness is a low-incidence disability and that ignorance on the part of the school system requires them to advocate fiercely for Cody's education. They carefully weighed what was best for Cody before reaching the conclusion that Cody was better off at home than he would be at MSDB.

Finding qualified Braille instructors or aides can be difficult, the family acknowledges this. So they proposed an option to Cherry Valley officials. They asked that Cody travel once a week to Thompson Falls, a town about 50 miles from Polson, in order to receive Braille instruction from Kim Bojkovsky. Bojkovsky is a certified teacher who reads and writes Braille fluently. She taught Cody when they both lived in Dillon. And it so happens that Bojkovsky is also blind.

#### \* THE SCHOOL'S POSITION

"Some people in Polson, Montana, believe a sighted teacher can teach Braille better than a blind person," said Bob Long, Lake County Deputy Attorney and legal counsel for Cherry Valley School. He said this to one of the expert witnesses for the family during the April hearing. The witness was Joanne Wilson, President of the NFB of Louisiana and Director of the Louisiana Center for the Blind in Ruston. Wilson had just testified via telephone about the importance of having a teacher of blind children know how to read and write in Braille.

Surprisingly, the school carried the burden of proof because it was the school which wanted Cody's education plan to change. According to Elaine Meeks, Cherry Valley principal, the school couldn't find a qualified teacher for Cody, therefore making an MSDB placement necessary.

It isn't a matter of money, Meeks said. She said the school tried but failed to find a competent Braille instructor following the resignation of Cody's former aide. Meeks said the school had advertised regionally, but later explained that "regionally" meant advertising in Polson, Kalispell, and Missoula. Meeks therefore said that the school could not provide Cody with a sound education, and that MSDB was the only alternative.

Meeks rejected the family proposal to have Cody taught Braille once a week by Bojkovsky in Thompson Falls. She said such a thing would force a public school's support of a home school, adding that Cherry Valley couldn't supervise Bojkovsky

properly unless Bojkovsky was willing to travel to Polson. Due to her pregnancy and other responsibilities in Thompson Falls, Bojkovsky declined to travel.

Meeks denied the family's request to have Cherry Valley purchase Braille production equipment. The family wanted the school to acquire a computer Braille translation software program and a computer Braille embosser. Asserting the decision wasn't based on money, Meeks said the school's denial of technology purchases was due to the school's belief Cody's Braille skills had not advanced far enough to warrant the purchase.

#### \* WHAT THE EXPERTS SAID

Testimony was also given by two groups of experts. Speaking on behalf of Cherry Valley Schools were the MSDB principal and two MSDB outreach staff members. Speaking for the family were three members of the National Federation of the Blind (the Montana Association for the Blind is the NFB affiliate of Montana).

The MSDB experts said, in Cody's case, their institution was a more appropriate placement than Cherry Valley School. They said the MSDB outreach services couldn't compensate for the lack of a qualified teacher or aide in Polson. So it was their opinion that MSDB's residential program would serve Cody the best. They dismissed the family's requests for Braille production equipment as well, saying that the equipment was expensive and no panacea.

MSDB Principal Bill Davis conceded the hardship of placing a child in a residential school. He said the parents had to consider the long-term benefits of a good education over the short-term benefits of keeping Cody at home.

During the hearing, the quality of education at MSDB wasn't fully discussed. Davis said most of the blind children at MSDB had multiple disabilities. Cody is only blind, and may not find as many peers in MSDB as he has in Polson.

Beyond the formalities of the administrative courts, the family expresses strong concerns about the quality of the MSDB education. They point out how MSDB had to be sued only a few short years ago when another family wanted their blind child taught Braille. Moreover, the Greiser family questions the credibility of the MSDB staff. They wonder aloud about the ability of MSDB staff to read and write Braille fluently, and about the abilities of staff in other blindness skills. Notably, one of the MSDB experts testifying against the family had never even met Cody. As time goes on, fewer and fewer blind children opt for a residential program. Instead, schools like MSDB become institutions for children with multiple disabilities, and blindness skills often take a back seat to other matters of disability.

Testifying for the family were Joanne Wilson of Louisiana, Denise Mackenstadt of Washington, and Kim Bojkovsky of Thompson Falls.

Wilson said Cherry Valley School hadn't tried hard enough to find a qualified Braille teacher. She testified about several options that Cherry Valley could have undertaken in order to get someone qualified involved in Cody's education. When she was asked about what was best for Cody, Cherry Valley or MSDB, she said it was a heavy decision which could only be made by the family. However, she said, the Individuals with Disabilities Education Act requires education to take place in the least restrictive environment. She said she didn't know which school had the better educational program, but that placement at MSDB probably wouldn't be the least restrictive environment mandated by law.

Mackenstadt, a teacher's aide in a Bothell, Washington, public school, said it was her job to assist with Braille instruction and blindness skills in a mainstream school setting. She explained how well the education of blind children can work when the school possessed an inclusive, can-do attitude about teaching blind children. And she also reinforced the doubt about whether Cherry Valley School had done all it could. She added to Wilson's testimony regarding places to find or train qualified Braille instructors.

Bojkovsky talked about what she had done with Cody when she was his teacher in Dillon and about what she could do for him in the future. She said the once a week time would be adequate, but not ideal. And the adequate instruction which allows Cody to remain at home is far better than putting him in any residential program, she said.

#### \* WHAT THE JUDGE DECIDED

Dennis Loveless, the Montana Hearings Officer for the Office of Public Instruction, decided mostly in favor of the family. He wrote: "Analysis of all the factors apparent in this case indicate that the continued education of Cody Greiser at Cherry Valley School under the program proposed by the parents would take advantage of appropriate available resources in the least restrictive setting." Besides endorsing the family's wishes to have Cody remain at Cherry Valley School with one day per week instruction with Bojkovsky, Loveless also decided that Cherry Valley should acquire Braille production technology. He decided not to reimburse the family for legal fees and not to order any additional evaluations of the competency of Cherry Valley or MSDB staff.

It is deeply ironic that Cherry Valley School incurs no legal expenses as they were represented by the Lake County Attorney's office. Even more ironic is the unspoken yet undeniable fact that only those who spoke on behalf of the family read and write Braille well.

#### \* IT AIN'T OVER

Even though the Loveless decision is clear, Marty Greiser reports that Cherry Valley School refuses to send Cody to Bojkovsky because they have hired a Braille aide. The school claims the employment of the aide makes the Loveless decision largely irrelevant. The family asked to review the credentials of this aide, but no documents have been forthcoming. In addition, school officials denied the family's request to begin purchasing technology items until Cody's teachers come back to work this fall. In spite of the

triumph in administrative court, it looks as though more court action is likely. It's a cinch more advocacy is imperative.