

United States Court of Appeals
For the Eighth Circuit

No. 19-1730

Michael Wofford

Plaintiff - Appellant

v.

North Little Rock School District

Defendant - Appellee

Appeal from United States District Court
for the Eastern District of Arkansas - Little Rock

Submitted: December 17, 2019

Filed: December 20, 2019

[Unpublished]

Before STRAS, WOLLMAN, and KOBES, Circuit Judges.

PER CURIAM.

Michael Wofford, parent of J.W., appeals the district court's¹ adverse judgment in his action seeking attorneys' fees under the Individuals with Disabilities Education

¹The Honorable Brian S. Miller, United States District Judge for the Eastern District of Arkansas.

Act (IDEA). Upon de novo review, we agree with the district court that Wofford was not a prevailing party entitled to fees. See Birmingham v. Omaha Sch. Dist., 298 F.3d 731, 734 (8th Cir. 2002) (standard of review); Borengasser v. Ark. State Bd. of Educ., 996 F.2d 196, 200 (8th Cir. 1993) (to succeed in action seeking attorneys' fees under IDEA, plaintiff must be prevailing party). Specifically, as the relief ordered by the hearing officer required Wofford's action, which he did not take before moving J.W. out of the district and precluding implementation of the relief, Wofford cannot be considered a prevailing party. See Drennan v. Pulaski Cty. Special Sch. Dist., 458 F.3d 755, 757 (8th Cir. 2006) (parent who succeeded on IDEA claim at administrative level was not prevailing party, because ordered relief required parent to provide records to school, but parent instead moved child to another district, and relief was not implemented).

The judgment is affirmed. See 8th Cir. R. 47B.
