Howard Racer Suffers Legal Blow

Teen Wants Points In Wheelchair Events to Count

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The 18-year-old Howard County wheelchair athlete who has waged a two-year fight for inclusion in high school track meets learned yesterday that she had been dealt her first significant legal setback.

In a decision he described as "extraordinarily close," U.S. District Judge Andre M. Davis denied Atholton High School junior Tatyana McFadden's request to have wheelchair races at the Maryland public schools championships count in team standings. The state athletic association's policy toward wheelchair racers might be unfair, Davis suggested, but it's not unlawful.

"I was disappointed, but I think we've come a really long way," McFadden said. "I'm not going to give up this fight. The state's not going to win that easily."

Over the past two years, McFadden's struggle to count equally in meets against able-bodied runners has divided the track community. Some think McFadden, a Paralympian, is being treated unfairly while others believe she has a strong case.

Davis let stand the Maryland Public Secondary Schools Athletic Association's plan to run as many as 12 events for wheelchair racers at the state championships May 24 through 26 without affecting team scoring. Wheelchair athletes may participate in as many as four events and win individual state titles, but McFadden wanted those events to count toward teams' totals.

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community. Some think McFadden, a Paralympian, is being mistreated; others believe that, by treating McFadden equally and awarding her points in four races held with essentially no opposition, Maryland would create unbalanced competition.

Davis danced between those two ideas in his 18-page ruling issued by e-mail Saturday. He complimented McFadden for her advocacy, and he implored Maryland to conduct a "deliberate and comprehensive evaluation" into the best method for scoring wheelchair racers. But, in the end, Davis concluded that Maryland had not violated the Americans With Disabilities Act.

So yesterday, when both parties read Davis's ruling, each expressed some sense of vindication.

"We've done a lot of work to make this whole thing fair," said Ned Sparks, executive director of the MPSSAA. "I'm glad they think we're headed in the right direction with this whole thing."

Said Lauren Young, the McFaddens' attorney: "We're a little bit disappointed, but we're also encouraged. The judge made it pretty clear he wants headway made. He doesn't want Maryland to sit on this. That's pretty significant."

McFadden said she will decide this week whether she will compete in the Maryland 2A South Region meet, a qualifier for the state championship, Thursday. Her primary desire, she said, is to feel like part of the team during the postseason.

"I'll definitely be there to support my team," McFadden said. "I don't know if I'll be competing."

In a hearing Wednesday, state officials argued that the MPSSAA does not need to count McFadden's points because of what Maryland calls the "40 percent rule." Sparks said the state often does not count events -- diving and pole vault, for instance -- that are offered by fewer than 40 percent of state schools. This season, 12 of Maryland's 186 schools -- fewer than 7 percent -- offered wheelchair racing.

State officials also outlined an extended event schedule for wheelchair racing at this year's regional and state championships. For the first time this season, Maryland will offer events for wheelchair racers, but so far, only McFadden and one other student have signed up, Sparks said.

"I'd feel better if we had more people competing," Sparks said. "Right now, there just really isn't enough interest. I hope we get more. But with only two athletes, you can't count that yet."

For McFadden, Saturday's ruling marked the most severe setback in her crusade to compete against able-bodied runners. Through litigation and dozens of meetings with administrators, she had steadily gained entry into the Maryland track community -- even as coaches, runners and some of her teammates spoke out against her. She won a lawsuit last year, forcing Howard to add a wheelchair division and award McFadden points for her wins.

McFadden's mother, Debbie McFadden, also said she was unsure what the next step would be.

"She needs to think about what she wants," she said of her
daughter. "But I really wouldn't blame her after all this if she just said, 'Okay. Enough is enough.' "