Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-510

MAY TERM, 2004

In re K.M.	}	APPEALED FROM:
	}	Department of Education
	}	DOCKET No. 0305

In the above-entitled cause, the Clerk will enter:

The parents of K.M. appeal pro se from a Department of Education (DOE) order disallowing K.M.' s enrollment in a home study program through the end of the 2004-2005 school year. Parents claim that the administrative hearing on their home study application was unlawful and that the hearing officer' s findings and conclusions are not supported by the record. We affirm.

The facts may be summarized as follows. K.M.' s parents sought to home school K.M., now nine-years old, during the 2003-2004 school year. Parents submitted their proposed program, known as the A A BEKA@ curriculum, to DOE on July 31, 2003. DOE notified parents that it would hold a hearing on their application because the DOE Commissioner had significant doubts about mother' s ability to present the material in a manner that would provide K.M. with a minimum course of study. In response to the notice of hearing, mother filed a letter stating, among other things, that DOE lacked authority to convene the hearing and that parents' home school application was sufficient to permit them to home school K.M. Mother' s letter also referenced a DOE decision from the previous academic year that denied parents' request to home school K.M. Mother claimed that the previous order, and this Court' s affirmance of it, see In re K.M., 2002-340 (Vt. June 26, 2003), were illegal and had no evidentiary support.

The hearing on parents' home school proposal was held on October 7, 2003. Parents did not appear at the hearing and therefore they did not present any evidence in support of their proposal. DOE presented its evidence, which included filings and information related to parents' 2002-2003 home school application. The hearing officer issued her decision on October 15, 2003. She found that the evidence admitted into the record demonstrated that mother, the parent responsible for implementing the proposed home study program, A is unable to provide [K.M.] with instruction that is sufficiently organized and coherent for the student to meet age appropriate goals.@ Parents appeal from that decision.

In their briefs, parents first claim that the hearing on their home study application was illegal. We note that parents made a similar claim, which we rejected, in their previous appeal. See In re K.M., 2002-340, at 2 (Vt. June 26, 2003). The claim has no more merit now than it did in 2003. The DOE Commissioner is authorized by 16 V.S.A. ' 166b(e) to convene a hearing on a proposed home study program if the Commissioner A has information that creates a significant doubt about whether a home study program can or will provide a minimum course of study for a student who has not yet enrolled.@ Here, the Commissioner had information from parents that created significant doubt that mother could educate K.M. as contemplated by statute. Parents have not shown any illegality in convening or conducting the hearing.

Parents next claim that the findings and conclusions in the October 15 decision are without evidentiary support or are contrary to the submissions they made to DOE in support of their application. DOE argues that parents waived this claim because they did not furnish the Court with a transcript of the proceeding below.* Moreover, DOE argues, parents

have failed to demonstrate that they preserved any of the arguments they press on appeal by not participating in the DOE proceeding.

We agree with both of DOE' s contentions. The party seeking relief from this Court has the burden on appeal to demonstrate the existence of error. In re S.B.L., 150 Vt. 294, 297 (1988); Appliance Acceptance Co. v. Stevens, 121 Vt. 484, 487 (1960). If the party claims a finding or conclusion lacks evidentiary support or is contrary to the evidence, the party must provide this Court with a transcript of all evidence relevant to the finding or conclusion at issue. V.R.A.P. 10(b)(2). In addition, the appellant must show how the issues raised on appeal were preserved. V.R.A.P. 28(a)(4). These rules implement the Court' s longstanding prohibition on reviewing claims that have not been raised or ruled on by the tribunal below. Harrington v. Dep' t of Employ. & Training, 152 Vt. 446, 448 (1989).

Because parents have failed to present a claim that is susceptible to appellate review, the decision below must be affirmed. To the extent that parents' filings raise other issues, we conclude that they are inadequately briefed and we will not address them. Quazzo v. Quazzo, 136 Vt. 107, 111 (1978).

Affirmed.

BY THE COURT:

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John A. Dooley, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Denise R. Johnson, Associate Justice

Footnote

* Mother filed a letter with the Court on February 12, 2004 stating that no transcript was necessary for the appeal.