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W.H. v. Olympia School District

Supreme Court of Washington - June 18, 2020 - P.3d - 2020 WL 3275612

The parents of students who were sexually abused by school bus driver brought action, individually and on behalf of their children, against the school district and individual defendants, alleging the sexual abuse constituted sex discrimination in a place of public accommodation under the Washington Law Against Discrimination (WLAD).

The United States District Court for the Western District of Washington granted defendants' motions for summary judgment in part, and denied them in part. Defendants appealed. The United States Court of Appeals affirmed in part, reversed in part, and remanded. On remand, the United States District Court for the Western District of Washington certified two questions to the Washington Supreme Court in connection with the meaning of the WLAD.

The Supreme Court held that:

- School districts are subject to strict liability for discrimination by their employees in violation of the Washington Law Against Discrimination (WLAD) in places of public accommodation;
- Statute governing actions against public corporations did not control over anything in the WLAD, and did not make non-WLAD tort suits the only means of recovery against schools and other public corporations;
- To whatever extent sovereign immunity may have protected school districts from discrimination lawsuits prior to the Washington Law Against Discrimination (WLAD), the WLAD clearly abrogated that sovereign immunity; and
- "Discrimination," for purposes of a discrimination claim under the WLAD, encompasses intentional sexual misconduct, including physical abuse and assault.