

Bond Case Briefs

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Jones v. Logan County Board of Education

Supreme Court of Appeals of West Virginia - November 17, 2022 - S.E.2d - 2022 WL 17038200

Former middle school student brought action against county board of education, alleging that board's employees were aware that he was severely bullied by his classmates, but took no action to stop it, and asserting various claims including negligence.

The Circuit Court granted board's motion to dismiss for failure to state a claim. Student appealed as to negligence claim.

The Supreme Court of Appeals held that:

- Board was not entitled to immunity from negligence claim under the Tort Claims Act;
- Student sufficiently alleged duty, as an element of negligence claim; and
- Student sufficiently alleged proximate cause, as an element of negligence claim.

County board of education failed to assert before circuit court that any statutory exception applied to limit its liability for injury caused by negligence of board's employees, and thus board was not entitled to immunity under the Tort Claims Act from former middle school student's negligence claim alleging that board's employees did not respond when he was severely bullied by classmates, where student's allegations were not based on employees' intentional acts and related to negligence occurring on school grounds.

Assertion of former middle school student that he had reported to principal that he had been choked with a rope by another pupil sufficiently alleged that it was foreseeable to principal that his affirmative inaction would expose student to a high risk of harm from bullies' misconduct, and thus that principal had a duty of protection or supervision, as required for student to state a negligence claim against county board of education, based on board's employees' failure to respond when student was severely bullied by his classmates, even though harm to student was a result of intentional misconduct by a third party; choking incident was a far more serious act than student's prior alleged instances of bullying.

Former middle school student sufficiently alleged that principal's failure to respond when he was bullied was the proximate cause of his injuries, as required for student to state a negligence claim against county board of education, by alleging that principal, as board's employee, had known for almost three years that student was being bullied and had told student's mother that it would be addressed, that student told principal that another pupil had choked him with a rope with enough force to leave red welts on his neck, that principal did not notify mother of choking incident, and that student was attacked days later, at which time he was punched in the face and knocked unconscious, notwithstanding board's contention that bullies' actions were a superseding cause of student's injuries.

