

Student Assaulted By Classmate Cannot Sue School District for Violation Of Constitutional Rights

Articles August 13, 2018

D.M. by Sottosanti-Mack v. Easton Area Sch. Dist., CV 17-1553, 2017 WL 6557560 (E.D. Pa. Dec. 22, 2017). District Court for the Eastern District of Pennsylvania dismisses § 1983 claim that school district violated student's constitutional right to bodily integrity under the Due Process clause of the Fourteenth Amendment when it failed to prevent a fifth-grader from being assaulted by another fifth-grader.

Background

The Plaintiff and Defendant were fifth grade students in the Easton Area School District ("School District"). In January 2014, the Defendant punched Plaintiff and another fifth grade student in their chests when they told Defendant that he should stop teasing a younger student who suffered from autism. In April 2014, the Defendant demanded that Plaintiff give him a pencil. When Plaintiff refused, Defendant seized Plaintiff's pencil and jabbed him in the cheek. A written report memorializing both incidents was submitted to school district administrative personnel.

The Plaintiff asserted multiple claims against the Defendant and one against the School District. The claim against the School District alleged a violation of the constitutional right to bodily integrity pursuant to 42 U.S.C. § 1983.

Discussion

To state a claim under 42 U.S.C. § 1983, a plaintiff must show that the defendant "acting under the color of state law, deprived him of a right secured by the Constitution or the laws of the United States." Generally, the Fourteenth Amendment's Due Process clause does not impose a duty on the state to protect. However, two exceptions to this general rule are: (a) the "special relationship" exception and (b) the "state-created danger" exception. *Morse v. Lower Merion School Dist.*, 132 F. 3d 902, 907 (3d Cir. 1997).

The Court found that Plaintiffs failed to demonstrate that either exception is applicable. The court easily dismissed the "special relationship" claim because the Third Circuit has consistently held that a compulsory school attendance does not create a special relationship between a school and its students. *D.R. v. Middle Bucks Area Vocational Tech. Sch.*, 972 F.2d 1364, 1369 (3d Cir. 1992) (en banc) cert. denied, 506 U.S. 1118 (1996).

The Court examined the "state-created danger" exception more carefully, but also found that it did not apply. Under this exception, a plaintiff must allege: 1) the harm ultimately caused was foreseeable and fairly direct; 2) a state actor acted with a degree of culpability that shocks the conscience; 3) a relationship between the state and the plaintiff existed; and 4) a state actor affirmatively used his or her authority in a way that created a danger to the citizen or that rendered the citizen more vulnerable to danger than had the state not acted at all. *Henry v. City of Erie*, 728 F.3d 275, 282 (3d Cir. 2013).

The Court found that Plaintiff sufficiently alleged that relationship existed between the School District and Plaintiff and therefore satisfied the third requirement. The relationship requirement of the state-created danger analysis "contemplates some contact such that the plaintiff was a foreseeable victim of the defendant's acts in a tort sense." A victim is not foreseeable and the relationship element is not satisfied when the state actor creates a threat only to the general population. The relationship element is satisfied, however, "if the plaintiff was a member of a discrete class of persons subjected to the potential harm brought about by the state's actions." Because the Defendant was a threat to fellow students (as opposed to the public at large), the Court found that a relationship existed between the School District and

Plaintiff.

While the Court found that a relationship existed between the School District and Plaintiff, the Court found that Plaintiff failed to meet any of the other requirements to sustain a claim. The Court found that Plaintiffs failed to sufficiently allege that the harm was foreseeable because alleged prior attacks by the Defendant were sporadic in time and place and used different methods. Harm is not foreseeable when there was no prior contact, violence, or threats exchanged between the plaintiff and defendants. In this case, the Court found that the harm was not foreseeable because alleged prior attacks by the Defendant were sporadic in time and place and used different methods. Even if the harm were foreseeable, the Court found that Plaintiffs failed to plead that the harm was a “fairly direct” result of the School District’s affirmative acts.

The Court also found that the School District did not act with a degree of culpability that shocked the conscience. This standard requires a “willingness to ignore a foreseeable danger or risk.” As set forth above, the Court found that the danger was not foreseeable. Even if the risk of harm were foreseeable, the Court found that the School District did not act with deliberate indifference to Plaintiff’s safety because it reported both incidents and did not conceal the attacks.

Finally, the Court found that Plaintiff failed to demonstrate that the School District affirmatively used its authority in a way that created a danger to Plaintiff or that rendered Plaintiff more vulnerable to danger than had the School District not acted at all. This fourth requirement requires “an allegation and subsequent showing that state authority was affirmatively exercised.” In other words, it is the misuse of state authority rather than a failure to use it that can violate the Due Process Clause. The Court found that the School District’s failure to enforce a disciplinary policy (i.e., suspend or expel the student for the January 2014 act) is not the equivalent of an affirmative act.

Therefore, the Court dismissed Plaintiff’s claims against the School District.

PRACTICAL ADVICE

While the Fourteenth Amendment usually does not impose a duty upon school districts to protect their students from harm by third parties, including other students, a school district may owe such a duty if it creates a dangerous environment under the “state-created” danger exception.

In this case, the School District acted properly and the exception did not apply. However, when school districts create or permit a dangerous environment to exist, the exception will apply. The Court cited to *Gremo v. Karlin*, 363 F. Supp. 2d 771, 782 (E.D. Pa. 2005), as an example of a “state-created danger.” In that case, a high school student was attacked by approximately fifteen students when they threw a garment over his head and repeatedly punched and kicked him. The court found that the school district was aware of repeated actual attacks and knew of violent incidents by the same group of students that repeatedly occurred in the same manner, and in the same locations. Moreover, the school district concealed the attacks and failed to address the unmonitored common areas that were commonly the sites of the attacks. In such circumstances, school districts create a dangerous environment and owe a duty to protect students from third party attacks.

School districts should work with their administrators and solicitors to ensure that all incidents of violence are properly reported and that their schools remain a safe environment for their students.

For additional information, contact Chris Voltz.