

Immunity Upheld for Teacher and School Officials on Parents' Claims of Student Bullying

By Ahmer Sheriff

On December 29, 2020, the Ohio Supreme Court denied the parents' motion for reconsideration, confirming its previous decision in *A.J.R. v. Lute*, issued on November 10, 2020.

During the 2015-2016 school year, A.R. was an early-entrant kindergarten student, who, according to her parents, was subjected to bullying by another student from August 2015 to March 2016. The alleged bullying consisted of name calling, teasing, leaving A.R. out of play group at school, and physical bullying. Parents claimed they made officials of the Toledo City School District, specifically the Principal, Assistant Principal, and Kindergarten Teacher, aware of the bullying on multiple occasions. In March 2016, while A.R. and the other student were sitting at the same table in class, the other student reportedly stabbed A.R. with a sharpened pencil, which resulted in a puncture wound to her face and a scrape near her neck. The family then filed a lawsuit against the District and three staff members, claiming they were more than negligent and acted with reckless and perverse disregard of a known risk that the other student would physically harm A.R.

At the trial court, District staff members demonstrated they took several steps to address parents' reports of bullying. The Principal spoke to a group of students regarding the teasing and the teasing stopped. The Principal also frequently visited A.R. during lunch, had a positive relationship with her and confirmed that she "always said that things were going okay." The Assistant Principal investigated the issues, checked in on both students periodically, and found that the two students appeared to be friendly with one another. The Kindergarten Teacher monitored A.R. and the other student and reported that if the other student had teased A.R. in the classroom, she would have intervened.

The District staff members filed a motion for summary judgment, asserting they were statutorily immune from liability because the family failed to prove the staff members acted with "malicious purpose, in bad faith, or in a wanton or reckless manner" as required to overcome immunity. The trial court agreed, granted the motion and parents appealed. The Sixth District Appellate Court ruled in favor of the family, holding there were still genuine issues of material fact regarding whether actions by District staff were reckless. As a result, summary judgment in favor of the District staff was overturned.

On appeal to the Ohio Supreme Court, the trial court's decision was upheld. The Supreme Court found there was no "known risk" the other student would cause harm to A.R. Because there was no known risk, the District staff "could not have been reckless." The facts demonstrated that school personnel "paid special attention" to A.R., thereby negating a conclusion there was a conscious, perverse disregard or indifference to the safety of A.R. at school.

School districts should regularly review their anti-bullying policies. Please contact any of the listed attorneys for any needed assistance.

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