



MISSOURI APPELLATE COURT HOLDS THAT PARENTS CAN BE LIABLE FOR INJURIES THEIR CHILD INFLECTS ON OTHERS AT SCHOOL

Desiree Ridgell v. Mark & Karen McDermott, --S.W.3d -- ,
2014 WL 1456389, Mo.App. E.D., April 15, 2014 (No. ED100402)

In a case of first impression, the Missouri Eastern District Court of Appeals held that a plaintiff injured while assisting a special education student stated a cause of action for negligent parental supervision against the student's parents even though the parents were not on the school grounds at the time of the incident in question. *Desiree Ridgell v. Mark & Karen McDermott*, --S.W.3d -- 2014WL1456389, *4 (Mo. App. E.D. April 15, 2014)

Plaintiff alleged that she was acting as a teacher's assistant in a special education classroom in which defendants' son was a student. She further alleged that defendants were aware of several violent outbursts their son had at school resulting in injuries to others but chose -- in the face of this knowledge -- not to begin their son on potentially preventative measures, including hospitalization, mood-altering medications, counseling, and behavior modification training. On the day of the incident in question, the student wrestled plaintiff to the floor. When coworkers assisted plaintiff, they failed to restrain him, and he kicked plaintiff, causing her to fall and injure her head on a nearby desk. Plaintiff alleged the incident caused her multiple injuries and lost wages.

Defendants were not on the school's grounds and knew nothing of this incident until after it occurred. The trial court granted defendants' motion to dismiss under Rule 74.01(b) for failure to state a claim. On appeal, the Court reversed, holding that plaintiff successfully pled the existence of all essential elements of a claim for negligent supervision. Of greatest import was the holding that plaintiff successfully pled that parents had a legal duty to use ordinary care to protect the plaintiff against unreasonable risks of harm from their son.

The Court reasoned that parents are not generally liable for the torts of their minor children merely by virtue of their status as parents, but an exception to this general rule exists where "parents have knowledge of their child's dangerous propensities but nonetheless fail to act reasonably in attempting to restrain the child from injuring another." *Id.*, citing *Stonger ex rel. Stonger v. Riggs*, 21 S.W.3d 18, 21 (Mo. App. W.D. 2000) and *Nat'l Dairy Prod. Corp. v. Freschi*, 393 S.W.3d 48, 54 (Mo. App. E.D. 1965). The Court held that plaintiff sufficiently alleged facts to bring this case within this exception, because plaintiff alleged that the student had committed prior violent acts against her and others, and the parents knew about these prior incidents. In addition, plaintiff sufficiently alleged that the parents failed to "act reasonably in attempting to restrain their child from injuring another" because the parents supposedly failed to "obtain, administer, or permit others to administer medication . . . that would have prevented or modified his violent behavior," among other things. *Id.*, *3.

Notably, the Court recognized the potential, critical importance of the fact that the parents were not on the school grounds at the time of the incident in question and that the school presumably accepted their son's placement at the school with full knowledge of his behavioral difficulties. The Court therefore recognized that the facts of the school's acceptance of custody and control of the student would probably impact the scope of the parents' duty to control him at the time of the incident. *Id.*, n. 4. Nonetheless, the Court did not comment on the sufficiency of plaintiff's evidence to support her claims against the parents and instead limited its holding to the sufficiency of the allegations to state a claim.



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