

McCoy v. Board of Education, Columbus City Schools 2013 WL 538953 (6th Circuit Court of Appeals – Ohio).

February 13, 2013

Summary

In this case, the Federal Court of Appeals for Ohio determined that a school could not be held liable for the sexual misconduct of a teacher with a student given the school's lack of knowledge of the events and its appropriate handling of the claims. Moreover, qualified immunity will protect a school official as long as the acts undertaken in the specific situation are objectively reasonable in light of clearly established constitutional rights.

Background

A fourth-grade teacher employed by Columbus City Schools was involved in several incidents of alleged impropriety with children. The principal at the school investigated and subsequently issued a letter directing the teacher not to touch the children in any manner given the determination that the touching was innocuous. The teacher eventually transferred to another school in the district.

At the new school, children began to report allegations of improper touching by the teacher but the investigation revealed nothing improper. Another student subsequently came forward and additional investigation resulted in the teacher receiving a ten year prison sentence. One of the victims brought suit and alleged the school board and the principal violated Title IX due to their failure to ward off the molestation which prevented the plaintiff from receiving an education. The plaintiff also alleged the principal was not entitled to qualified immunity.

Holding

The Appellate Court found that the plaintiff could not establish the school and principal were deliberately indifferent to the plaintiff's situation and could not establish that the school or principal had sufficient notice of the teacher's conduct to warrant action such that qualified immunity did not protect the principal from liability.

Deliberate indifference can be found in cases where officials of an entity with authority to take corrective action, having been advised of a Constitutional or statutory violation, decide not to remedy the violation. For liability to attach, the response of the official to allegations of a violation must be *unreasonable* in light of the known circumstances. In this case, the court found the school and principal's response to the allegations against the teacher were reasonable given that the initial allegations of touching were either determined innocuous and/or

inconclusive. Accordingly, letters directing the teacher to avoid contact were appropriate and considered a proportionate response in light of the known facts. Thus, the Appellate Court determined the school and principal did not act with deliberate indifference towards the claims of the plaintiff.

The plaintiff argued, however, that the failure of the school board to have an actual policy in place to address such claims represented an “official policy” or “custom” of deliberate indifference to such claims. The Appellate Court likewise rejected this argument. It found the board’s failure to have a policy in place was not a conscious or deliberate act despite its knowledge and the board was not aware of any need to have a policy in place. The Appellate Court found that the board’s lack of knowledge of the molestation, or the need for a policy to curb molestation, was fatal to the plaintiff’s claim.

Finally, the Appellate Court addressed the principal’s entitlement to qualified immunity. A school official is entitled to qualified immunity when performing discretionary functions and will not be liable for injuries resulting from discretionary acts. However, a school official will lose the qualified immunity if it unreasonably performs such discretionary functions knowing such performance would violate a clear Constitution or statutory right. Here, the principal had no substantiated knowledge or suspicion that the teacher was engaging in sexual misconduct. Accordingly, the principal had no knowledge his conduct in sending letters to the teacher, rather than outright suspension and dismissal of the teacher, would allow the molestation to continue. Accordingly, he was entitled to qualified immunity.

Learning Point: This case is important because the “deliberate indifference” standard requires something more than simple inactivity. Schools will be liable if they consciously or systemically ignore bona fide allegations in an unreasonable manner such that injury results. Moreover, the Appellate Court made it clear that determining the liability of a school or school official cannot be based on the knowledge gained in hindsight. Instead, the liability is determined by analyzing whether the actions (or inactions) were unreasonable so as to rise to the level of deliberate indifference at the time of the alleged conduct.

Schools should be vigilant and pro-active when it comes to these type of allegations. However, the Appellate Court also cautioned, schools must apply a proportionate response in light of known information to ensure it does not violate the rights of the accused.