

- 1 ☐ Supervision Liability
- 2 ☐ PARTIN v.
VERNON PARISH SCHOOL BOARD
343 So.2d 417 (La.App. 1977)
- 3 ☐ P, 7, fell on stump on playground, lacerated pancreas.
- 4 ☐ P: negligent supervision & allowing dangerous condition on playground.
- 5 ☐ Nothing indicating D remiss in supervision; supervising play, cautioned children re stump; again cautioned P, no reason P would not comply.
- 6 ☐ No showing D could have prevented P's contact with stump from position near see-saws.
- 7 ☐ supervision be reasonable and commensurate with the age of the children and the attendant circumstances.
- 8 ☐ No requirement supervisor, especially where play of some 90 children is being monitored, have each child under constant and unremitting scrutiny.
- 9 ☐ Stump in question did not constitute a hazardous or dangerous condition.
- 10 ☐ The stump in question was found to be an ordinary stump, squared off on top with no jagged or knife-like protrusions.
- 11 ☐ NORMAN v.

TURKEY RUN COMMUNITY SCHOOL CORP.

411 N.E.2d 614 (1980)

Supreme Court of Indiana

- 12 ☐ P, 7, 2d grade, collided with 6 yr old, morning recess, bumped heads; 10 teachers, 7-8 supervising, more than required, 188 children,
- 13 ☐ 2 teachers close, looked up, unable to warn. Trial: instantaneous, no opportunity to warn, D exercised reasonable care.
- 14 ☐ Persons entrusted with children, whose characteristics make it likely that they may do somewhat unreasonable things,
- 15 ☐ No teacher can observe every student at every instant on a playground. To look at one is to look away from another.
- 16 ☐ Even if the evidence showed that one or both teachers were looking in another direction, it would not give rise to an inference of negligence
- 17 ☐ School personnel here clearly exercised ordinary and reasonable care for the safety of the children under their authority.
- 18 ☐ unreasonable burden on supervision if negligent not observing a particular student at the precise moment a collision was imminent.
- 19 ☐ A duty to warn contemplates an opportunity to know of the danger and to have time to communicate it.
- 20 ☐ Perfect attention to this incident might not have prevented it. There were also 186 other students needing attention at the same time.

- 21 ☐ STANLEY v. BOARD OF ED.
CITY OF CHICAGO
293 N.E.2d 417 (Ill.App. 1973)
- 22 ☐ P, \$40K award, plygrd, struck on head by baseball bat, D's summer rec program,
- 23 ☐ fastpitch baseball, rubber ball, softball bats supplied by D.
- 24 ☐ D's leader, 17, responsible younger children not playing too close to older boys; handing out & setting up equipment at time.
- 25 ☐ 4 games being played, bat flew, some moved; 4 boys, 16, started game, P asked to move, moved & returned 25-30' from game; bat untaped hit bldg & P.
- 26 ☐ P: negligent supplying defective bat, failing to warn P, failing to supervise.
- 27 ☐ Whether no duty to warn P because circumstances known, appreciated & obvious.
- 28 ☐ P, 8, brother 12; known characteristics of children whether or not sufficient care for the safety of a child has been exercised.
- 29 ☐ Children cannot and do not ordinarily exercise the same degree of prudence and care for their own safety as adults
- 30 ☐ Imposes obligation of exercising more vigilance and caution than might be sufficient with respect to an adult

- 31 ☐ Conduct which might reach the standard of ordinary care with respect to an adult might, for child, amount to negligence or even gross negligence.
- 32 ☐ known characteristic of many 8-year-old boys to ignore the directions of 16-year-old boys whom they see to be but older members of the same class.
- 33 ☐ Here, conceded that it was Iversen's duty to make sure that the smaller children were not playing close to where the teenagers were playing.
- 34 ☐ Evidence Iversen, instead of supervising, was playing basketball.
- 35 ☐ Kowalczak himself testified that in his opinion perhaps 50 feet would be a safe distance between teenagers playing fast-pitching and eight-year-olds.
- 36 ☐ FAGAN v. SUMMERS
498 P.2d 1227 (1972)
Supreme Court of Wyoming
- 37 ☐ P, 7, noon recess, lost sight in eye, struck by rock, student threw rock, hit larger rock, bounced up & struck P.
- 38 ☐ No requirement constant and unremitting scrutiny all precise spots where every phase of play activities is being pursued;
- 39 ☐ A teacher cannot anticipate the varied and unexpected acts which

occur daily in any about the school premises.

- 40 ☐ Where the time between an act of a student and injury to a fellow student is so short that the teacher has no opportunity to prevent injury,
- 41 ☐ it cannot be said that negligence of the teacher is a proximate cause of the injury.
- 42 ☐ We have found no case, however, which holds rocks on the ground to be a dangerous and defective condition. Left on the ground, a rock will hurt no one.
- 43 ☐ Injury was clearly caused by the intervening act of a third person-the boy who picked up and threw the rock.
- 44 ☐ Some such missiles could doubtless be found upon any school grounds; even if assume defective, must est. proximate cause was the defect.
- 45 ☐ Proximate cause of P's injury was the act of his fellow student in throwing a rock, not D's failure to maintain the playground in a safe condition.
- 46 ☐ Failure to Supervise School Playground Merry-Go-Round

Rollins v.

Concordia Parish School Board

La.App. 1985

- 47 ☐ P, 9 yrs old, 4th grade, fractured leg
fell off merry-go-round during P.E. class
40 students in class,
- 48 ☐ girls on playground equipment
boys playing basketball 15 ft away
- 49 ☐ substitute teacher, Green, supervising class
walking between 2 groups
- 50 ☐ Green observed
merry-go-round spinning "too fast"
recognizing danger told girls to slow down & get off
- 51 ☐ heard 2 boys arguing over basketball, left girls
Green turned away from rapidly spinning merry-go-round
- 52 ☐ walked 20 ft away,
heard girls yell Lisa hurt
- 53 ☐ Trial court found School negligent
in not properly supervising playground activities
- 54 ☐ Exercise reasonable supervision
commensurate with age of children
and attendant circumstances
not insurer of safety
- 55 ☐

Green abandoned what she had determined to be a perilous situation to investigate an argument over a basketball

- 56 ☐ 2 regular classes
combined to allow one teacher a free period
- another teacher available,
could have been present to help supervise class

- 57 ☐ Green testified 30 seconds elapsed
between admonition to girls & injury

- 58 ☐ didn't know if boys were actually fighting or just hollering
walking to basketball court, never reached boys

- 59 ☐ Instead of making sure children heeded
her warnings

- 60 ☐ Green abandoned observed perilous situation
- to deal with another situation not urgent or perilous

- 61 ☐ Rapid speed of merry-go-round
& Green ordering girls to get off
without making sure children stopped & got off
- reasonably foreseeable injury would occur

- 62 ☐ Trial court could reasonably find

inadequate supervision
especially in light of fact
another teacher was available,
but not used, to supervise class

63 ☐ Playground Supervision in Fall from Monkey Bars

Collins v.
Bossier Parish School Board
La.App. 1985

64 ☐ P injured in fall during kindergarten recess

fall caused by another boy
wrapping legs around P

65 ☐ Playground half size of football field
duty teacher assigned to supervise approx. 100 children during recess

66 ☐ At beginning of school year
& during Gym classes
children told how to use playground equipment

67 ☐ instructed only one child at a time on horizontal bars

when violation observed,
teacher reprimands child immediately

68 ☐ At time of injury,
teacher preventing several children from throwing dirt at one another

- 69 ☐ teacher did not see Eugene fall
if observed, would have instantly reprimanded child wrapping legs
around P
- 70 ☐ No evidence more teachers on duty would have prevented incident
- 71 ☐ constant supervision of all students
is not required
- virtually impossible,
absent "ball and chain"
- 72 ☐ Disabled Athlete Fatally Injured Enroute to Gym
- Foster
v.
Houston General
Insurance Co.
La.App. 1982
- 73 ☐ Foster, 17, school for mentally retarded
- IQ 52; mental age 7 yrs. 4 mos.
- 74 ☐ Member of Special Olympics basketball team at school
- 75 ☐ practice sessions during regular P.E. classes

indoor gym in use by Jr. high
practice on outdoor dirt court

76 ☐ Gym teacher arranged for use of municipal indoor gym

teachers Grant & Gray planned to take team during lunch

77 ☐ 3 blocks to gym, short distance decided to walk

rather than seek transportation from school board

78 ☐ Neither teacher had taken team to gym

had only used park gym once before for picnic

79 ☐ Gray gathered team, 10 or 11 boys

informed Grant teaching math class, ready to go to gym

80 ☐ Grant instructed them to wait until finished teaching class

81 ☐ Gray used time to instruct youngsters about safety precautions
particularly directed at street crossing

82 ☐ Grant still not finished;
team became increasingly "fidgety"

83 ☐ Gray advised Grant take team to Park alone

Grant agreed, would follow

in her car

- 84 ☐ Gray departed on planned route, 5 or 6 boys ran ahead

disregarded admonitions of Gray & crossed street to park

- 85 ☐ Gray returned to other 5, including Foster

lined up at street waiting to cross
traffic backed up

- 86 ☐ Foster ran between 2 stopped cars
saw car coming, stopped & slipped

run over by oncoming car
died 3 days later

- 87 ☐ Trial: Grant negligent supervision, instruction, choice of route, failure to provide transportation

entered judgment for plaintiff

- 88 ☐ Issue: nature of duty owed by teachers to student for trip to park

- 89 ☐ Foster risk factors
poor auditory ability,
short attention span,
difficulty in following instructions

limited experience in coping with heavy traffic

- 90 ☐ General duty:
conduct classes so as not to expose students to
unreasonable risk of injury

- 91 ☐ duty more onerous when students mentally retarded

- 92 ☐ No duty of continuous supervision on campus

duty of closer supervision than campus
when walking trip across street with heavy traffic

- 93 ☐ Duty to have adequate number of supervisory personnel accompany
team

assure youths kept under control
& protected from hazards
traveling to & from park

- 94 ☐ Duty of close supervision over students at all times

particularly when in vicinity of moving vehicles

- 95 ☐ Duty to choose safest walking route from school to park

route along which students exposed to fewest traffic hazards

- 96 ☐ Issue: whether teachers should have foreseen likelihood

adolescent with mental age of 7 or 8 might act impulsively

as Foster did under circumstances

- 97 ☐ Teachers should have anticipated or foreseen likelihood

Foster would act impulsively under circumstances

- 98 ☐ Youths understanding excited about excursion off campus to practice basketball

extended wait heightened nervous tension

- 99 ☐ Situation difficult to control
youths physical energy matched chronological age

but, self-control & judgment of much younger children

- 100 ☐ Foster's limited attention span, perception & understanding
limited effect of oral instructions prior to trip

- 101 ☐ Given foreseeable risk of injury,
teachers breached duty

- 102 ☐ group not accompanied by sufficient number of supervisory personnel

would have prevented break up of team running across street

- 103 ☐ experience teaches presence adequate adult supervision

tends to curb proclivity of immature youngsters to act impulsively

protect them against their own folly

104 ☐ Written Standard Not Followed in Golf Mishap

Brahatcek v.

Millard School District

Neb. 1979

105 ☐ David, 9th grade, 14 yrs
died after being struck in head by golf club during P.E. class

106 ☐ 2 groups hitting "wiffle balls" to opposite walls of gym

107 ☐ student teacher helping another student away from David

108 ☐ teacher supervising girls,
would have supervised entire class

if saw Haley devoting attention to one student

109 ☐ Haley told not to spend too much time with one student

110 ☐ Pane, principal, written instructions for mandatory golf class
specifically set forth manner of instruction

develop golf skills with co-equal consideration of safe instruction

111 ☐ Written rules of instruction
described physical arrangement for golf activity

teachers followed quite different arrangement

- 112 ☐ Payne testified golf instruction to be provided according to school's written rules

Liability for instructor's lack of supervision

- 113 ☐ lack of supervision must be proximate cause of injury

Lack of supervision was proximate cause of death

- 114 ☐ 9th grader had never swung golf club
conducted indoors in close quarters
physical arrangement contrary to rules

- 115 ☐ Question whether adequate instruction regarding use of golf club

prior to commencement of class
in which injury occurred

- 116 ☐ Teaching procedure outlines
by regular instructor
not followed by student teacher

student teacher not properly informed of procedure

- 117 ☐ Trial court could reasonably find
ineffective observation & attention by student teacher

and, ordinary care or supervision would have prevented incident

118 ☐ Whether action of other student
efficient intervening cause of injury

whether reasonably foreseeable consequence
of negligent supervision

119 ☐ no question of foreseeability,
proper supervision would have prevented death

120 ☐ Whether David guilty of contributory negligence

121 ☐ fail to exercise ordinary care & prudence to avoid obvious danger
capable of understanding and discretion

122 ☐ Whether minor, 14 yrs
sufficient knowledge, discretion, & appreciation of danger
question of fact for jury

123 ☐ whether defense of contributory negligence

Trial court could reasonably find
David not guilty of contributory negligence

124 ☐ City Park Fatality Caused by Light Pole

Glorioso v.
Young Men's Christian Association of Jackson
Miss. 1989

- 125 ☐ Seth, 9, fell & crushed by pole in city park
(18.5', 1490 lbs)
- 126 ☐ 24 yr old YMCA counsellor took 19 children to park to play baseball
after game began playing with pole near van, on flat ground, near slope
- 127 ☐ Grindstaff, Y employee, promised ice cream cone
to child who could stay on pole the longest
after 10 mins, Y idea to shake pole & move it
- 128 ☐ Adult could not move pole alone, asked help of children
leaning against van with feet against pole
forced pole to move from indentation
- 129 ☐ Children jumped from pole to high side
Seth ran down hill,
tried to leap over pole
caught foot, fell, and was crushed
- 130 ☐ P alleged Y employee should have known
conduct created unreasonably dangerous condition
- 131 ☐ Contributory Negligence on part of Minors
minor between 7 and 14 yrs presumed not to have sufficient discretion
to be guilty of contributory negligence
- 132 ☐ presumption rebuttable by D
showing exceptional capacity

- 133 ☐ Invitee on municipal property
exercise ordinary & reasonable care to ensure property safe
duty to warn of known dangerous conditions
- 134 ☐ Grindstaff's act of dislodging pole
was independent, intervening cause
- 135 ☐ Failure to Supervise Scout on Wilderness Hike
McGarr v. Boy Scouts of America
Md.App. 1988
- 136 ☐ P, 11, injured in fall from precipice into partially frozen stream
- 137 ☐ "New Scout" no instruction or training in overnight camping
simply bring warm clothes & certain camping gear
- 138 ☐ Supervisor told P and other scout to go get firewood, no instruction
- 139 ☐ P heard water was curious, slid down slope holding onto trees
15 - 40 ft cliff not visible, tree broke fell over cliff
- 140 ☐ P: supervisor negligent failure to familiarize self with area & give proper
supervision
- trial court dismissed claim based on contributory negligence &
assumption of risk
- 141 ☐ Standard of child of like age, intelligence & experience

capacity of particular child to appreciate risk & form reasonable judgment

142 ☐ Inexperienced scouts, first overnight camping trip

no special training or instruction in hiking
did not see sufficient danger to deter sliding down hill

143 ☐ Scout leader duty to take reasonable precautions for P's safety

in addition to general duty for supervision of child

144 ☐ Scout Handbook specified "rigorous" health & safety program standards

145 ☐ Continued vigilance is necessary... do not expose them to unnecessary risks

adequate supervision through verbal & visual communication is essential

146 ☐ Leader acknowledged preparation necessary before camping in mountains

147 ☐ did not survey area, did not have topo map

did not consult anyone about immediate area

148 ☐ Leader thought sketch map from ranger was sufficient

"did not intend to take any extended tours of back country"

149 ☐ Leader knew about precipice
"unless looking for it.... could not spot" cliff as it really existed

150 ☐ Reasonable jury could find Leader negligent

151 ☐ upon returning from hike instructed boys to gather firewood

without any direction where to go, or not to go
without any warnings, without any supervision

152 ☐