

**STATE OF LOUISIANA  
COURT OF APPEAL, THIRD CIRCUIT**

**25-184**

**TINA REED, INDIVIDUALLY AND AS NATURAL TUTRIX OF HER  
MINOR SON, TRENTEZ GILCHRIST**

**V.**

**LAFAYETTE PARISH SCHOOL BOARD**

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**APPEAL FROM THE  
FIFTEENTH JUDICIAL DISTRICT COURT  
PARISH OF LAFAYETTE, NO. 20213188, DIVISION D  
HONORABLE ROYALE L. COLBERT, DISTRICT JUDGE**

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**LEDRIKKA J. THIERRY  
JUDGE**

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Court composed of Jonathan W. Perry, Sharon Darville Wilson, and Ledricka J. Thierry, Judges.

**REVERSED AND REMANDED.**

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**THIERRY, Judge.**

A student at Acadiana High School was injured during an after-school joyriding incident in the campus parking lot and filed a lawsuit against the Lafayette Parish School Board (“LPSB”). LPSB filed a motion for summary judgment, asserting that Acadiana High School provided reasonable supervision such that LPSB was entitled to judgment as a matter of law. The trial court granted LPSB’s motion for summary judgment, and Plaintiffs appealed. For the reasons that follow, we reverse and remand.

**FACTS AND PROCEDURAL HISTORY**

On November 12, 2020, Trentez Gilchrist (“Gilchrist”), a freshman at Acadiana High School, was injured while sitting on the trunk of a car in motion. The car belonged to a former student of Acadiana High School, who drove onto campus to deliver a pair of basketball shoes to a member of the Acadiana High School basketball team. The driver of the car at the time of the incident was Ty’Vin Zeno (“Zeno”), a student and member of the Acadiana High School football team.

After football practice ended, Zeno entered the car on the driver’s side. Gilchrist, a freshman at Acadiana High School, sat on the hood of the car while Zeno drove recklessly around the school campus. Zeno reached speeds of forty miles per hour, causing Gilchrist to be thrown off the car and sustain serious injuries, including a traumatic brain injury.

At the time of the incident, COVID-19 affected school schedules, and Acadiana High School ended at 1:35 p.m. that day. Pursuant to video footage, the incident occurred approximately two hours after dismissal between 3:48 p.m. and 3:53 p.m.

Plaintiffs, Tina Reed and her son, Trentez Gilchrist,<sup>1</sup> filed a petition for damages, alleging, *inter alia*, that LPSB was negligent and failed to exercise reasonable supervision of its students. LPSB subsequently filed a motion for summary judgment, arguing that the incident was not foreseeable and was caused by the recklessness of the students involved. Plaintiffs opposed the motion for summary judgment and alleged that several material facts were in dispute.

The trial court granted Defendant's motion for summary judgment after finding no genuine issues of material fact. Plaintiffs appeal.

### **ASSIGNMENT OF ERROR**

Plaintiffs allege the following assignment of error on appeal: "The trial court legally erred in holding, pursuant to LA. CODE CIV. PROC. art. 966, that there was no genuine issue of material fact as to whether the School Board could be held liable for Appellants' damages under Louisiana's duty-risk analysis."

### **LAW AND ANALYSIS**

An appellate court reviews a judgment denying or granting a summary judgment under the *de novo* standard of review, using the same criteria as the trial court in evaluating the merits of the summary judgment. *Perry v. Rhodes*, 20-109 (La.App. 3 Cir. 9/30/20), 304 So.3d 1036.

Louisiana Code of Civil Procedure Article 966 sets forth the law on summary judgment and explains that "[t]he summary judgment procedure is designed to secure the just, speedy, and inexpensive determination of every action[.]" La.Code Civ.P. art. 966(A)(2). If the motion for summary judgment and "supporting

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<sup>1</sup> Tina Reed originally filed the petition for damages individually and on behalf of her son, Trentez Gilchrist, who was a minor at the time. When Gilchrist reached the full age of majority, she filed a supplemental petition for damages naming Trentez Gilchrist as a plaintiff.

documents show that there is no genuine issue as to material fact,” then “the mover is entitled to judgment as a matter of law.” La.Code Civ.P. art. 966(A)(3). If any doubt exists regarding the existence of a material issue of fact, the matter “must be resolved against granting the motion and in favor of trial on the merits.” *Suire v. Lafayette City-Parish Consol. Gov’t*, 04-1459, 04-1460, 04-1466, p. 12 (La. 4/12/05), 907 So.2d 37, 48. Importantly, courts are not permitted to weigh the evidence or make credibility determinations when considering the genuineness of an issue. *Id.*

The burden rests on the mover. La.Code Civ.P. art. 966(D)(1). If, however, the mover will not bear the burden of proof at trial, then the mover is not required to negate all essential elements of the adverse party’s claim. *Id.* Rather, the mover need only “point out to the court the absence of factual support for one or more elements essential to the adverse party’s claim, action, or defense.” *Id.* The adverse party, in order to defeat the granting of summary judgment, must either prove the existence of a genuine issue of material fact, or prove that the mover is not entitled to judgment as a matter of law. *Id.*

When the liability of a school board is at issue, the plaintiff must prove (1) negligence in providing supervision; (2) a causal connection between the lack of supervision and the incident; and (3) foreseeability of the risk of unreasonable injury. *Wallmuth v. Rapides Par. Sch. Board*, 01-1779 (La. 4/3/02), 813 So.2d 341.

#### Negligence in Providing Supervision

The threshold question under the negligent supervision element is whether LPSB owed a duty of supervision to Gilchrist at the time of the accident.

The determination of whether a defendant owes a duty to a plaintiff is one of law. *Pinsonneault v. Merchants & Farmers Bank & Trust Co.*, 01-2217 (La. 4/3/02),

816 So.2d 270; *see also Mitchell v. Terry*, 20-527 (La.App. 3 Cir. 5/5/21), 319 So.3d 451. “The inquiry is whether the plaintiff has any law (statutory, jurisprudential, or arising from general principles of fault) to support the claim that the defendant owed him a duty.” *Farrell v. Circle K Stores, Inc.*, 22-849, p. 6 (La. 3/17/23), 359 So.3d 467, 473.

In this case, the applicable duty arises from La.Civ.Code art. 2315 under general negligence principles and La.Civ.Code art. 2320, which imposes a duty of reasonable supervision of students upon a school board. The latter article states:

Masters and employers are answerable for the damage occasioned by their servants and overseers, in the exercise of the functions in which they are employed.

Teachers and artisans are answerable for the damage caused by their scholars or apprentices, while under their superintendence.

In the above cases, responsibility only attaches, when the masters or employers, teachers and artisans, might have prevented the act which caused the damage, and have not done it.

The master is answerable for the offenses and *quasi*-offences committed by his servants, according to the rules which are explained under the title: *Of quasi-contracts, and of offenses and quasi-offenses*.

La.Civ.Code art. 2320.

The jurisprudence has interpreted La.Civ.Code art. 2320 as mandating a duty of reasonable supervision by a school board, including its agents and teachers, to its students. “The supervision required is reasonable, competent supervision appropriate to the age of the children and the attendant circumstances.” *Loupe v. Roman Catholic Church of Diocese of Baton Rouge*, 22-1153, p. 5 (La.App. 1 Cir. 4/14/23), 365 So. 3d 844, 848–49, *reh’g denied* (May 1, 2023), *writ denied sub nom. Loupe on Behalf of G.L. v. Roman Catholic Church of Diocese of Baton Rouge*, 23-758 (La. 10/10/23), 371 So.3d 458. The duty of reasonable supervision “does not

make the school or school board the insurer of the safety of the children. Constant supervision of all students is not possible or required for employees or teachers to discharge their duty to provide adequate supervision.” *Smith v. Roman Catholic Church of Archdiocese of New Orleans*, 08-181, p. 4 (La. App. 4 Cir. 11/12/08), 995 So.2d 1257, 1260, *writ denied*, 09-110 (La. 3/27/09), 5 So.3d 142.

LPSB posits that it owed no duty to Gilchrist at the time the subject incident occurred, pointing to various alleged facts, some of which are disputed by Plaintiffs. However, the question of duty is a legal one, and therefore we do not reach an analysis of the facts under this threshold question of duty. We find that the clear law imposes a duty of reasonable supervision upon LPSB to all students, including Gilchrist.

The next question is whether the duty of reasonable supervision was breached, which is a question of fact. Our review of the record reveals several disputed material facts, each of which independently defeats summary judgment on the issue of negligent supervision.

First, the extent to which LPSB failed to comply with its own policy is a genuine issue of material fact. In *D.C. v. St. Landry Parish School Board*, 00-1304 (La.App. 3 Cir. 3/7/01), 802 So.2d 19, *writ denied*, 01-981 (La. 5/25/01), 793 So.2d 169, our court held that the St. Landry Parish School Board breached its duty of reasonable supervision because it violated its own policy. Similarly, in *J.M. v. Avoyelles Parish School Board*, 08-1449 (La.App. 3 Cir. 4/1/09), 7 So.3d 105, we held that the Avoyelles Parish School Board breached the duty of reasonable supervision when it violated its established policy on sexual harassment.

LPSB’s policy regarding the supervision of students states (emphasis added):

*All personnel of the Lafayette Parish School Board should be responsible for the supervision of students during the school day and for a reasonable period of time before and after school.* Every staff member must share the responsibility of supervising students during regular class periods, while students are moving to and from the restrooms, cafeterias, other classrooms (gymnasiums) and assemblies, and before and after the school day.

Supervision outside the classroom is necessary to protect the physical safety of the students. Each principal shall be responsible for drawing up a list of supervisory duties and assigning staff members within the building to cover them. The duties specifically must include: lunch, recess, hall monitoring, bus duties as well as other duties peculiar to particular building or educational level. The number of staff members required for a particular duty or set of duties shall be determined by the principal. The principal shall assign duties equitably among all staff members.

*The School Board expects all students to be under assigned adult supervision at all times when they are in school, on school grounds, traveling under school auspices, or engaging in school-sponsored activities.* No teacher or other staff member shall leave his or her assigned group unsupervised except when arrangements have been made to take care of an emergency.

During school hours, or while engaging in school-sponsored activities, students shall be released only into the custody of parents or other authorized persons. The school administrator shall ensure that anyone who wishes to contact a student during the school day is doing so for proper reasons.

Plaintiffs reason that since Gilchrist was on school grounds at the time of the incident, adult supervision was required pursuant to the policy provision requiring “all students to be under assigned adult supervision at all times when they are on school grounds . . . .” LPSB, on the other hand, points out that the policy also provides that LPSB’s supervision extends to students “during the school day and *for a reasonable period of time before and after school*” (emphasis added). These two provisions are seemingly in tension with each other. We do not find it appropriate to weigh the evidence and make a determination as to how these provisions interact

with each other on a motion for summary judgment. Therefore, we find that the question of whether LPSB violated its school policy, and therefore breached its duty, is a genuine issue of material fact.

Second, while it is undisputed that Gilchrist did not attend basketball practice on the date of the incident, we find that whether Gilchrist was permitted to be on campus at the time of the incident is a genuine issue of material fact. The basketball coach, John Tanner, testified in his deposition that he invited Gilchrist to attend some of the varsity/junior varsity basketball practices and told Gilchrist he would make the freshman basketball team. Coach Tanner further testified that he knew Gilchrist watched varsity/junior varsity basketball practice sometimes when his older brother, who was on the team, attended practice. In other words, the evidence appears to show that Coach Tanner did, indeed, include Gilchrist in the “basketball family,” along with his older brother, and even invited Gilchrist to participate in the upper-level basketball practices.

Even though Gilchrist did not attend practice on the date of the incident, it is not unusual for siblings to wait after school while other siblings participate in after-school activities. Furthermore, this incident occurred during the COVID-19 pandemic, and Acadiana High School was on an abnormal, inconsistent schedule that ended earlier than usual, which arguably required increased after-school supervision. School Board President, Britt Latiolais, admitted in his deposition that it “was not a normal year” and could not state with certainty what activities occurred after school that day, whereas “in any other given year,” he knew exactly what was going on after school.

Accordingly, we find the extent to which Gilchrist had permission to be on campus is disputed. This disputed fact is material because if Gilchrist was

participating in a school-sponsored activity or had permission to be on campus, then the school policy required him to be “under assigned adult supervision at all times.” The failure to supervise him would be a violation of school policy and thus a breach under the jurisprudence.

Finally, we find a genuine issue of material fact exists regarding the number of students in the parking lot and the length of lack of supervision on the date of the incident are genuine issues of material facts. In *Coutee v. Glade Middle School*, 03-128 (La.App. 5 Cir. 6/3/03), 848 So.2d 754, writ denied, 03-1817 (La. 10/17/03), 855 So.2d 763, the fifth circuit found that the school and school board failed to provide reasonable supervision over its students. Two teachers were assigned to watch the students and hallway during school hours. Despite this, seven students slipped past the two teachers into the gym where the incident occurred, leading to a conclusion that the teachers were negligent and clearly not properly supervising the students.

As the court in *Coutee* indicated, there is significance in the number of unsupervised students. Here, the video footage does not create a clear picture as to the state of supervision in the parking lot prior to the incident, including how many students were unsupervised and the length of non-supervision. The record reveals that several after-school activities took place that day, including football practice, basketball practice, soccer practice, and wrestling practice, and thus there may have been many students unsupervised in the parking lot. We find that the number of unsupervised students in the parking lot prior to the incident is a genuine issue of material fact.

Both LPSB and the trial court relied upon *Taylor v. Swift*, 22-623 (La.App. 3 Cir. 5/10/23), 366 So.3d 666, in support for granting the motion for summary

judgment. In *Taylor*, a middle school girl’s parents filed suit against various parties, including Holy Family School and the Diocese of Lafayette (“the Diocese”), alleging liability for the alleged rape, sexual abuse, molestation, sexual battery, sexual assault, and exploitation of T.S. that occurred in the Pre-K bathroom by three male students. T.S. was discovered by a teacher in the bathroom with her lower garments unfastened approximately ten to fifteen minutes after school dismissal. The Diocese filed a motion for summary judgment, which was granted by the trial court and affirmed by this court on appeal. On appeal, this court found that there was no disputed genuine issue of material fact “that could lead to a finding that the Diocese failed to uphold its duty of reasonable supervision.” *Id.* at 673–74.

We find *Taylor* to be distinguishable in several crucial aspects. First, in *Taylor*, the school had a robust system of supervision and dismissal rules in place at the time of the incident. In the present appeal, our review of the record revealed zero supervision of the school parking lot at the time of the incident, despite the facts that several after-school activities were taking place that day and many of the students were of driving age. There does not appear to be any dispute that many students at Acadiana High School exited through the parking lot around the time of the incident, either to wait on a ride home or to drive their own vehicles home. In contrast, in *Taylor*, no students were permitted to exit after school in the breezeway near the bathroom where the incident occurred. Furthermore, the incident in *Taylor* occurred in a private area of the school—in a bathroom—where it would be unusual, if not improper, for an adult to supervise. Here, the incident occurred in a large, public area in plain view. Finally, in *Taylor*, there was no violation of the school policy, but rather an adherence to its established dismissal protocol. Here, there is a dispute

regarding the Acadiana High School's adherence to the policy. Thus, we find *Taylor* distinguishable.

Given the language of the school board policy, the unresolved questions regarding Gilchrist's extent of participation and permission to be on campus after school, and the disputed number of unsupervised students on campus, we find that there are genuine issues of material fact concerning whether LPSB was negligent in supervising Gilchrist.

*Causal Connection Between the Lack of Supervision and the Incident*

Having found that there are genuine issues of material fact regarding the first element at issue, we now consider the second element in a school board liability case: a causal connection between the lack of supervision and the incident. This element is satisfied "if it is proven that 'but for' the lack of reasonable supervision, plaintiff's injuries would have been prevented." *Wallmuth*, 813 So.2d at 347.

Plaintiffs claim that it is disputed whether the incident would have occurred had a supervisor been in the parking lot. In support, they point to Zeno's testimony, in which he stated that he would not have driven forty miles per hour had an administrator been present in the parking lot.

In *Coutee*, 848 So.2d at 758, the court found a causal connection between the lack of supervision and the incident, stating it was likely "that a teacher, present in the gym, could have prevented this incident from occurring." Zeno's testimony creates, at a minimum, a genuine issue of material fact regarding the causal link between the lack of supervision and Gilchrist's injuries, as Zeno plainly admits he would not have driven recklessly if an administrator had been present in the parking lot.

### Foreseeability

The final element a plaintiff must prove in a school board liability case is foreseeability of the risk of unreasonable injury. “[T]he risk of unreasonable injury must be foreseeable, constructively or actually known, and preventable if a requisite degree of supervision had been exercised.” *Henix v. George*, 465 So.2d 906, 910 (La.App. 2 Cir. 1985).

Plaintiffs argue that “the School Board’s own supervision policy acknowledges the foreseeability of harm resulting from unsupervised student activity.” They further aver that the failure to properly discipline Zeno “supports an inference that such behavior was tolerated or ignored—further demonstrating that the risk of harm was foreseeable.” Plaintiffs also point to the affidavit evidence provided by their clinical neuropsychologist expert, Susan R. Andrews, Ph.D. Dr. Andrews attested that high school aged adolescents should be properly supervised by an adult, and failure to do so increases the risk of dangerous behavior on the part of the adolescent. She also attested that the longer an adolescent is left unsupervised, the greater the risk that the adolescent will engage in risky behavior and poor decision making.

Finally, Plaintiffs argue that the testimony of the school employees creates a genuine issue of material fact regarding foreseeability. Coach Tanner remarked that teenagers see the fun in their actions but not the consequences, while Coach McCullough stated that supervision is in place to “monitor the students so something won’t happen,” including a fight, somebody getting picked on, or someone bringing alcohol or drugs on campus. When asked if there is a risk of kids in the parking lot doing things they should not when unsupervised, Coach McCullough agreed there

was a risk. He further testified that students can “think they’re invincible” and do things that are “not very smart.”

On the other hand, LPSB asserts that Plaintiffs confuse foreseeability with conceivability. LPSB points to the affidavit of Acadiana High School principal, David LeJuene, who attested that in his nine years as principal, there had never been a joyriding incident on campus. Similarly, LPSB cites the deposition of Coach McCullough, who testified that there had not been any previous fights or incidents in the parking lot since 2014 when he first started teaching and coaching there. LPSB also argues that Dr. Andrews’ affidavit does not defeat summary judgment, as it is devoid of facts and makes improper legal conclusions.

Even if this court has doubts regarding the foreseeability of Gilchrist’s injuries, the law is clear that any doubts regarding a material issue of fact must be resolved against granting the motion. *Suire*, 907 So.2d 37. When the following factors converge—an unsupervised parking lot, a pandemic-related disruption, teenage boys, a school board policy that implicitly recognizes the capacity for harm in the absence of supervision, and several after-school activities—it is foreseeable that an accident in a school parking lot could occur. At the very least, the foreseeability of such an incident is a question of material fact properly left to the fact-finder for determination. Moreover, mindful of our prohibition of making credibility determinations, we find that the coaches’ testimony and Dr. Andrews’ affidavit also create genuine issues of material fact regarding foreseeability.

### **CONCLUSION**

We find that there are genuine issues of material fact regarding LPSB’s liability which precludes the granting of its motion for summary judgment. We

reverse the judgment of the trial court and remand for further proceedings. Costs of this appeal are assessed against Defendant, Lafayette Parish School Board.

**REVERSED AND REMANDED.**