NOT FOR OFFICIAL PUBLICATION
See Okla.Sup.Ct.R. 1.200 before citing.

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION II

RACHEL ELIZABETH BROWN, an individual and JORDAN TODD BROWN,

Plaintiffs/Appellants,

vs.

INDEPENDENT SCHOOL DISTRICT NO. 52 OF OKLAHOMA COUNTY, a political subdivision of the State of Oklahoma, a.k.a. MIDWEST CITY-DEL CITY SCHOOLS,

Defendant/Appellee.

and

JOHN DOE, a minor, Mother DOE and Father DOE, Parents of JOHN DOE,

Defendants.

Case No. 122,983

APPEAL FROM THE DISTRICT COURT OF
OKLAHOMA COUNTY, OKLAHOMA

HONORABLE SHEILA D. STINSON, DISTRICT JUDGE

AFFIRMED

Keith H. Covey
Oklahoma City, Oklahoma

For Plaintiffs/Appellants

F. Andrew Fugitt
Jeffrey D. Scott
THE CENTER FOR EDUCATION LAW, P.C.
Oklahoma City, Oklahoma

For Defendant/Appellee

OPINION BY GREGORY C. BLACKWELL, JUDGE:

The plaintiffs appeal from summary judgment entered in favor of Independent School District No. 52 of Oklahoma County. The undisputed material facts show that the district cannot be held liable for the negligence of the school district, if any, as another party was the supervening cause of the plaintiffs' injuries. Thus, we affirm.

BACKGROUND

The following facts are undisputed. On February 8, 2019, Jordan Brown—then a freshman—was traveling with his high school basketball team back to their high school from an away game. Jordan asked one of the assistant coaches if he could have a cookie that was left over from the team's pre-game meal. After he received the cookie from one of the coaches, a teammate, AW—also a freshman—took Jordan's cookie and walked back to his seat at the rear of the bus. A little while later, Jordan walked to the back of the bus where AW was sitting and sought the return of his cookie. After Jordan kept asking for AW to return the cookie, AW stood up and told him: "I'm not going to give your cookie back." Jordan then tried to reach for the cookie, which was in AW's pocket. After Jordan reached for the cookie, AW punched Jordan in the face.

Before the punch, the pair had never had any issues or history of hostility. Jordan described their relationship as "pretty friendly," and Jordan indicated that he had never been harassed or bullied by AW or anyone else on the team. Jordan described AW's punch as "out of character." After the punch, Jordan walked back to the front of the bus. A towel was used to stop the bleeding from

his nose. Jordan received ice once the team returned to the school's field house to try and reduce the swelling in his nose.

Jordan's mother, Rachel,[1] brought this action against the district as well as AW (named John Doe) and the parents of AW (named Mother and Father Doe). However, none of the Doe defendants were served and they were dismissed from this suit without prejudice on March 12, 2025.

In their petition, the Browns claimed that Jordan's injuries resulted from the negligence of the district's employees, and that the district was liable for the negligent acts of its employees, failed to properly train its employees, and failed to properly supervise its employees. The Browns brought these claims pursuant to the Governmental Tort Claims Act (GTCA) and alleged that notice required by the act was served on the district. Their claims were not addressed within ninety days of notice; therefore, they were deemed denied by operation of law.

The district filed a motion for summary judgment, alleging that the material facts in this case were undisputed, that the Browns could not prove the elements of their negligence cause of action, and that the district was exempt from liability for any claim related to failure to train or supervise under the GTCA. The Browns filed a response and conceded that the material facts alleged by the district were undisputed. However, they added that there were additional

[1] When the petition was filed, Jordan was a minor, so Rachel brought this action individually and as a parent and next of kin. However, on July 24, 2024, the plaintiffs filed a motion to substitute, as Jordan had reached the age of majority and could pursue this case in his own name.

undisputed facts which precluded granting summary judgment, which are discussed as needed below.

After a hearing, the court ultimately granted summary judgment in favor of the district, finding that there were no genuine issues as to any material facts and that the district was entitled to judgment as a matter of law. The Browns appeal.

STANDARD OF REVIEW

A trial court's decision on summary judgment is purely legal; whether a party is entitled to judgment as a matter of law because there are no material disputed facts. *Carmichael v. Beller,* 1996 OK 48, ¶ 2, 914 P.2d 1051, 1053. Therefore, our standard of review is *de novo. Id.* Even if the material facts are undisputed, a motion for summary judgment must be denied if reasonable people could reach different conclusions from the undisputed facts. *Buckner v. Gen. Motors Corp.,* 1988 OK 73, ¶ 30, 760 P.2d 803, 812. We draw all inferences in favor of the party opposing the motion. *Davis v. Leitner,* 1989 OK 146, ¶ 9, 782 P.2d 924, 926. To withstand appellate scrutiny, a summary judgment must be based on "evidentiary materials [that] as a whole (a) show undisputed facts on some or all material issues and (b) ... support but a single inference in favor of a successful movant's quest for relief." *Gray v. Holman,* 1995 OK 118, ¶ 11, 909 P.2d 776, 781 (emphasis omitted).

ANALYSIS

In its summary judgment motion, the district argued that the plaintiffs could not prove the elements necessary to establish that the district was

negligent. The essential elements of a negligence claim are: "(1) a duty owed by the defendant to protect the plaintiff from injury, (2) a failure to properly perform that duty, and (3) the plaintiff's injury being proximately caused by the defendant's breach." *Lockhart v. Loosen,* 1997 OK 103, ¶ 9, 943 P.2d 1074, 1079. The Browns claim that the district was negligent by failing to ensure five coaches were on the school bus and that the district negligently trained and supervised its employees.[2] However, we view AW's punch as an independent cause of Jordan's injury.

We find, as this Court did in *Randell v. Tulsa Indep. Sch. Dist. No. 1*, 1994 OK CIV APP 156, 889 P.2d 1264, 1267, that even if the district was negligent in the ways alleged, AW's unexpected punch was a supervening cause which severed any causal nexus between the district's negligence, if any, and Jordan's injury. "A supervening cause must meet three requirements: (1) It must be independent of the original act of negligence; (2) it must be adequate of itself to bring about the result; and, (3) it must not have been reasonably foreseeable." *Franks v. Union City Pub. Sch.*, 1997 OK 105, ¶ 9, 943 P.2d 611, 614. Generally, the question of causation is one of fact for the jury. "However, the question of proximate cause becomes a question of law when the facts are undisputed and

[2] Title 51 O.S. § 155(5) provides that a state or political subdivision is not liable if a claim results from "[p]erformance of or the failure to exercise or perform any act or service which is in the discretion of the state or political subdivision or its employees." Our Supreme Court has held that "protected discretionary functions include the policy making and planning decisions, although not negligent performance of the policy." *Franks v. Union City Pub. Sch.*, 1997 OK 105, ¶ 6, 943 P.2d 611, 613. Because the Browns' claims are related to the district's alleged negligent performance of the district's bus policies, we find that this exclusion does not protect the district from liability.

there is no evidence from which a jury could reasonably find a causal connection between the allegedly negligent act and the injury." *Lefthand v. City of Okmulgee,* 1998 OK 97, ¶ 7, 968 P.2d 1224, 1226.

The Browns allege that the district was negligent because there were only two coaches on the bus when there were meant to be five. If there had been five coaches that were all seated throughout the bus, the Browns contend that they would have been "able to prevent incidents such as the one that occurred here." Doc. 5, *Plaintiff's Response to School District's Motion for Summary Judgment and Brief in Support,* 8. The Browns also allege that the district negligently trained and supervised its employees. Specifically, the Browns contend that "if students had been made to stay in their seats pursuant to bus policy, the incident would not have happened." *Id.*

We find, as the Court did in *Franks,* that the first two requirements are clearly met. First, the punch was independent of any failure to require that additional staff ride on the bus and any failure to supervise or train. Indeed, no amount of supervision or training appropriate to the setting can prevent all injuries of the type alleged here. Second, the punch was adequate in of itself to bring about the injury. In fact, it was the sole cause of the injury. As to the third requirement, the facts presented to the court show that the district could not have reasonably foreseen that AW would punch Jordan in the face over a cookie. Jordan maintained that the pair had a friendly relationship, there was no history of bullying, and Jordan described the incident as out of character for AW. "The unprovoked, one punch fight was independent of the lack of supervision." *Id.*

Thus, we hold that AW's assault and battery on Jordan was the supervening cause of Jordan's injury, and the district is thereby relieved of any potential liability. Accordingly, the court properly granted summary judgment in the district's favor.

AFFIRMED.

WISEMAN, P.J., and FISCHER, J., concur.

July 2, 2025