STATE OF MICHIGAN

COURT OF APPEALS

DEBRA VIRGINIA YOUNG, as Next Friend of RICHARD GEORGE YOUNG, a minor,

Plaintiff-Appellant,

v

JUDITH MERTZ,

Defendant-Appellee.

UNPUBLISHED
November 20, 1998

No. 200455
St. Clair Circuit Court
LC No. 96-000800 NO

Before: Smolenski, P.J., and McDonald and Doctoroff, JJ.

PER CURIAM.

Plaintiff Debra Young, as next friend of her minor son, Richard Young, appeals as of right from an order granting summary disposition in favor of defendant Judith Mertz. We affirm.

Defendant, a middle school teacher of emotionally impaired students, had in her class plaintiff's son and Robert Sanchez. Plaintiff's son informed defendant that he had observed Sanchez possessing a bandanna. Bandannas were indicative of possible gang affiliation and were prohibited at school. Defendant then questioned both boys together, during which she revealed plaintiff's son's allegations to Sanchez. Approximately two or three weeks later, Sanchez and an accomplice beat plaintiff's son. Plaintiff brought suit against defendant for her son's injuries. Defendant moved for summary disposition pursuant to MCR 2.116(C)(10). The trial court granted the motion on the ground that defendant had not been grossly negligent in informing Sanchez of plaintiff's son's allegations.

On appeal, plaintiff argues that the trial court erred in granting summary disposition because a question of fact existed concerning whether defendant was grossly negligent. We disagree.

Although evidence was presented that defendant had been informed that Sanchez was a "sassy troublemaker type thing," we agree with the trial court that no evidence was presented indicating that defendant knew of any hostilities between plaintiff's son and Sanchez or that defendant knew or should have known that Sanchez would act with physical violence. Moreover, we agree with the trial court that the evidence indicated that "the school had a policy of encouraging students to resolve their problems

by discussing them openly in front of each other" and that defendant "acted in compliance with the school policy in handling" the bandanna incident. We conclude that reasonable minds could not differ in concluding that the evidence, when viewed in a light most favorable to plaintiff, does not raise a question whether defendant's conduct was "so reckless as to demonstrate a substantial lack of concern for whether an injury results." *Jackson v Saginaw Co*, 458 Mich 141, 142, 150; 580 NW2d 870 (1998); see also MCL 691.1407(2)(c); MSA 3.996(107)(2)(c). There being no dispute that defendant was acting within the scope of her authority and that the operation of a school is a governmental function, defendant was entitled to governmental immunity. *Id*. at 148; see also MCL 691.1407(2)(a) and (b); MSA 3.996(107)(2)(a) and (b). The trial court did not err therefore in granting summary disposition in favor of defendant.

Because we conclude that the statutory definition of gross negligence has not been met in this case, we need not address plaintiff's additional issue regarding proximate cause.

Affirmed.

/s/ Michael R. Smolenski
/s/ Gary R. McDonald
/s/ Martin M. Doctoroff