

*Tatayana Osborn Et Al. v. City of Waterbury Et Al.*

The personal injury claim at issue in this case was brought to the court by the plaintiff mother on behalf of her elementary school aged child (“T”) against the city of Waterbury and the Waterbury Board of Education. The plaintiff alleged that T was physically assaulted by at least two schoolmates while on recess and, as a result, sustained permanent injuries. At trial, the plaintiff presented evidence suggesting that at the time of the incident, one intern and three or four staff members were supervising as many as 400 children on the playground. There was also evidence introduced that the two staff members who attended to the situation had ran from inside the building to stop the assault. The plaintiff alleged that the defendants and their employees acted negligently by failing to adequately supervise the children in their care. The trial court found in favor of the plaintiff, holding that the injuries suffered by T were a result of the defendants’ failure to “provide sufficient personnel to exercise proper control over the number of students on the playground at the time.”

The defendants appealed the decision of the trial court claiming it had: (1) improperly rejected the defendants’ claim of government immunity; (2) incorrectly found that T suffered the alleged injuries as a result of an inadequate number of staff members supervising the children; and (3) improperly found that the number of staff members supervising the students was inadequate in the absence of expert testimony to that effect. The Appellate Court ruled only on the defendants’ third claim. The Appellate Court concluded that, in the absence of expert testimony, the trial court could not have properly found that the defendants had breached their duty of care by failing to provide adequate supervision over the children in their care.

The issue presented to the Supreme Court, therefore, is whether expert testimony was necessary to establish the standard of care in this negligence action, or whether, alternatively,

common knowledge was sufficient in order for the jury to properly determine the defendants' liability. More specifically, the Court must determine whether "the supervision of children involves professional judgement or skill, or whether it is a task comparable to those that laypeople routinely perform." The Court ruled that fact finder did not need any specialized knowledge in order to determine the defendants' liability in this case and therefore expert testimony was not necessary. The Court disagreed with the Appellate Court's determination that, "because schools are highly regulated areas, expert testimony is required." Rather, the Court found that the determination of whether expert testimony is required must be based upon whether the alleged claim "is within the common knowledge of a layperson."

In determining whether a defendant has acted negligently, the fact finder must consider "whether the defendant knew or should have known, that the situation at hand would obviously and naturally, even though not necessarily, expose [the plaintiff] to probable injury unless preventative measures were taken." The Court found that, when such a determination can be made based solely on common knowledge, expert testimony is not required.

Expert testimony is often used in cases involving professional negligence or malpractice. However, the Court found that expert testimony is not always required in such cases. Rather, the Court found that there are two types of cases which arise from professional relationships but do not require expert testimony. The first type involves negligence which is "so gross as to be clear to the layperson." The second type, which is the type at issue in the present case, involves an alleged claim of error for a task that is within the common knowledge of the general population.

The Appellate Court determined that the number of staff members necessary to ensure adequate supervision is not a matter of common knowledge as the procedures of the public-school system are highly regulated. The Supreme Court determined that, although education is a

highly regulated profession, that fact alone does not necessarily mean that expert testimony is required in order for a fact finder to determine that professional negligence has occurred. The Supreme Court determined that supervising children is not a task which requires specialized knowledge, but rather is a task which falls within basic common knowledge of the general public.

Lastly, the Court determined that the Appellate Court erred in their finding that the plaintiff's claim required the fact finder to determine the "standard of care regarding the number of supervisors needed to ensure the safety of elementary school students on a playground." The Court reasoned that the fact finder could have determined the defendants' supervision was inadequate, even if there was expert testimony as to the proper ratio of staff to children and evidence that the defendant met that ratio. The defendants' supervision could still be inadequate as "adequacy is not based just on numbers, and nothing in the complaint limited the plaintiff's claim to a mere numerical calculation between the number of students and the number of adults." The Court therefore held that the Appellate Court improperly reversed the decision of the trial court based on a lack of expert testimony.