

Roger Williams University Law Review

Volume 28
Issue 3 *Vol. 28, No. 3: Summer 2023*

Article 41

Summer 2023

Dextraze v. Bernard, 253 A.3d 411 (R.I. 2021)

Angela Amaral

Candidate for Juris Doctor, Roger Williams University School of Law

Follow this and additional works at: https://docs.rwu.edu/rwu_LR



Part of the [State and Local Government Law Commons](#), and the [Torts Commons](#)

Recommended Citation

Amaral, Angela (2023) "Dextraze v. Bernard, 253 A.3d 411 (R.I. 2021)," *Roger Williams University Law Review*. Vol. 28: Iss. 3, Article 41.

Available at: https://docs.rwu.edu/rwu_LR/vol28/iss3/41

This Survey of Rhode Island Law is brought to you for free and open access by the School of Law at DOCS@RWU. It has been accepted for inclusion in Roger Williams University Law Review by an authorized editor of DOCS@RWU. For more information, please contact mwu@rwu.edu.

Tort Law. *Dextraze v. Bernard*, 253 A.3d 411 (R.I. 2021). Expert testimony is not required in a negligence action against a school district where it is reasonably foreseeable that a student will assault another student. Proximate cause is a matter left to the jury and the jury's verdict will not be disturbed where the plaintiffs have presented sufficient facts to support their negligence claim.

FACTS AND TRAVEL

On January 18, 2012, Timothy Bernard (Bernard) assaulted fellow student, Corey Dextraze (Dextraze), in the hallway of Ponaganset High School.¹ Bernard, a student with a history of disciplinary issues, harassed and then attacked Dextraze without provocation, broke Dextraze's jaw in two places, and dislocated his front teeth.² Preceding the attack, Bernard harassed and followed Dextraze in the hallway, passing five or six classrooms, and ignored Dextraze's pleas to leave him alone.³ There were no teachers present in the hallway.⁴ Dextraze stopped to get a water bottle out of one classroom that had a teacher inside; when he exited the classroom, Bernard punched Dextraze in the side of his head and again in the front of his mouth.⁵ At this point, a teacher finally stepped into the hallway to tell the students to go to class.⁶ Dextraze informed the teacher that Bernard had punched him, but the teacher merely repeated that they should go to class.⁷ The teacher in his next class finally sent Dextraze to the nurse's office because Dextraze was dazed and bleeding from his mouth and head and avoided moving his mouth because of the pain.⁸ The following day an oral

1. *Dextraze v. Bernard*, 253 A.3d 411, 414 (R.I. 2021).

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Dextraze*, 253 A.3d at 414.

7. *Id.*

8. *Id.*

surgeon inserted four screws in Dextraze's jaw and wired his jaw closed for six weeks to allow time to heal.⁹ Dextraze missed two weeks of school and midterms because of surgery and doctor's appointments.¹⁰ At no point did the high school reach out to Dextraze to offer counseling or tutoring or discuss how he would be kept safe from Bernard in the future.¹¹

In November 2013, Dextraze and his parents (plaintiffs) filed suit against Bernard and his parents.¹² In December 2014, the Bernards defaulted, and the plaintiffs amended their complaint naming the school district as a defendant.¹³ The plaintiffs made two allegations in the amended complaint: (1) that the school district owed a duty to students, specifically Dextraze, to provide a safe school, conducive to learning and free from threats of physical harm from disruptive students and (2) that the school district "knew or reasonably should have known that Mr. Bernard's conduct 'substantially impeded the ability of other students to learn and . . . posed [a] threat of . . . physical harm to fellow students.'" ¹⁴

On September 24, 2019, a jury trial commenced, and the school district moved for judgment as a matter of law.¹⁵ The school district had two arguments to support their motion.¹⁶ First, it argued that R.I.G.L. 1956 § 16-2-17¹⁷ which insures that students have a right to a safe and secure school, does not provide for civil liability and "cannot be a source of duty in a negligence claim."¹⁸ Second, the district argued that the plaintiffs failed to present expert testimony, which was required "to show that it had deviated from the standard of care."¹⁹

The plaintiffs argued that the school district waived its argument under § 16-2-17, that the school district was liable because the high school owed a common law duty to its students, that the

9. *Id.*

10. *Id.*

11. *Dextraze*, 253 A.3d. at 414-15.

12. *Id.* at 413.

13. *Id.*

14. *Id.*

15. *Id.* at 415.

16. *Dextraze*, 253 A.3d at 415.

17. *Id.* (stating that a school must provide students with a safe environment).

18. *Id.*

19. *Id.*

school's handbook established duties owed to its students, and that no expert testimony was needed per this Court's caselaw.²⁰ The trial justice agreed with the school district that § 16-2-17 did not provide for a private cause of action; however, there was a duty owed to the students to provide "adequate supervision" under this Court's decision in *Daniels v. Fluette*.²¹

The trial court denied the motion for judgment as a matter of law and determined there was enough evidence of Bernard's "behavioral issues" to preclude the need for expert testimony.²² The case went to the jury, and the jury determined that the school district was negligent and that negligence was the proximate cause of the plaintiffs' injuries.²³ The jury awarded monetary damages in the amount of \$70,000 to Dextraze and \$5,000 to his parents for pain and suffering.²⁴

Following the jury verdict, the school district renewed its motion for judgment as a matter of law and moved for a new trial.²⁵ The school district argued that a new trial was needed because the plaintiffs did not prove causation. After all, expert testimony was needed to show how the school district breached its standard of care.²⁶ The school district also argued that the plaintiffs failed to identify a specific act of negligence, and therefore, determining causation was likely impossible.²⁷

In response, the plaintiffs argued Bernard's disciplinary history with the school showed that the high school knew of his conduct but failed to supervise him or intervene when Bernard "harassed" Dextraze before the assault.²⁸ Furthermore, the jury could "reasonably infer" that the defendant failed to supervise Bernard and that failure was the proximate cause of the attack.²⁹

20. *Id.*

21. *Daniels v. Fluette*, 64 A.3d 302 (R.I. 2013).

22. *Dextraze*, 253 A.3d at 415.

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.*

27. *Dextraze*, 253 A.3d at 415.

28. *Id.*

29. *Id.* at 415-16.

The trial justice denied the school district's renewed motion for judgment as a matter of law.³⁰ She reviewed Bernard's disciplinary record with the high school and determined that prior incidents of his assaultive behavior towards others put the high school on notice that he was dangerous and required supervision and that the high school did little to supervise him.³¹ The trial justice decided not to overturn the jury's verdict because there was sufficient evidence of proximate cause due to Bernard's known aggressive conduct and the school's failure to supervise him.³² The trial court entered judgment for the plaintiffs, and the school district appealed to the Rhode Island Supreme Court.³³

ANALYSIS AND HOLDING

The Court addressed the school district's two arguments on appeal; first, whether the trial court erred in denying its motions for judgment as a matter of law or the motion for a new trial because the plaintiffs did not offer expert testimony evidence to establish that the school district deviated from the standard of care, and second, that the plaintiffs did not establish proximate cause between the school district's failure to act and the plaintiffs' injuries.³⁴ The Court conducted a *de novo* review.

Negligence requires plaintiffs to establish that a defendant owed a duty to the plaintiff, that the defendant breached that duty, that the defendant's conduct caused the injury, that the injury suffered by the plaintiff was a foreseeable consequence to the defendant,³⁵ and that actual loss or damages were incurred.³⁶ Here, the trial justice found, and neither party challenged, that the school district had a duty "to adequately supervise the students in its care."³⁷ However, the school district argued that the plaintiffs did not establish evidence of breach of that duty because the Court's

30. *Id.* at 416.

31. *Id.*

32. *Dextraze*, 253 A.3d at 416.

33. *Id.*

34. *Id.*

35. The injury must result in the type of harm that was foreseeable to the defendant stemming from its alleged negligent conduct. *See Palsgraf v. Long Island R. R. Co.*, 162 N.E. 99, 104 (N.Y. 1928).

36. *Dextraze*, 253 A.3d at 416.

37. *Id.* at 417.

decision in *Medeiros v. Sitrin*³⁸ requires expert testimony to prove that a defendant deviated from the standard of care.³⁹ The Court disagreed that expert testimony was needed, citing its decision in *Daniels*⁴⁰ where it held that a student must only show that injuries suffered at the hands of another student were reasonably foreseeable by the school district.⁴¹ Expert testimony is required to establish matters that are not common knowledge or not obvious to a layperson.⁴² Here, the Court concluded that the plaintiffs presented compelling evidence to establish that the school district breached its duty to “adequately supervise” the students because the assault on Dextraze was “abundantly” foreseeable.⁴³

The Court determined that the plaintiffs’ evidence at trial was cognizable by a layperson because it showed that Bernard required supervision and that the school failed to supervise him and the hallway where the attack occurred.⁴⁴ The Court concluded that no expert testimony was required because “the school district exercised *no* degree of care” in response to a known and foreseeable danger.⁴⁵ Additionally, in the matter of proximate cause the Court concluded that the plaintiffs offered sufficient evidence for a jury to find that the school district’s failure to act caused Dextraze’s injuries.⁴⁶ Thus, the Court affirmed the jury’s verdict.⁴⁷ Finally, the Court affirmed the trial court’s decision denying the motions for judgment as a matter of law and for a new trial because the evidence at trial supported the jury’s verdict.⁴⁸

COMMENTARY

Parents expect the school district to have a duty to adequately supervise its students.⁴⁹ The duty of “adequate supervision”

38. 984 A.2d 620 (R.I. 2009).

39. *Dextraze*, 253 A.3d at 417.

40. *Daniels*, 64 A.3d at 307 (R.I. 2013).

41. *Id.*

42. *Dextraze*, 253 A.3d at 417-18.

43. *Id.* at 417.

44. *Id.*

45. *Id.* at 418.

46. *Id.*

47. *Dextraze*, 253 A.3d. at 418.

48. *Id.*

49. *Id.* at 415.

remains vague and undefined in this case. The *Daniels* Court concluded that a school district is liable for breach of this duty when injury results from the acts of another student and such acts could have been reasonably foreseen by the school.⁵⁰ School districts that adequately supervise their students cannot be held liable for unknown threats. When a particular student has a lengthy disciplinary history and is known in the school for aggressive and assaultive behavior, then future assaultive behavior is reasonably foreseeable. Therefore, it is reasonable to expect the school district to act with care to prevent foreseeable harm from students like Bernard; in other words, to adequately supervise them. The plaintiffs' evidence showed that Bernard was not an unknown threat, and this school district breached its duty to prevent foreseeable harm to its students.

Expert testimony is *not* necessary for a negligence action on these facts. When something is a matter of common sense to a reasonable jury, expert testimony is not required to show that the defendant deviated from the standard of care. "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert . . . may testify thereto in the form of fact or opinion."⁵¹ Here, teachers were the primary supervisors in the school; the school expected them to stay visible in the hallways, and the school's handbook prohibited students from shouting and using profanities as Bernard did just before the assault.⁵² A jury does not need expert testimony to understand that teachers were supposed to be visible in hallways. In this dispute, they were not, and students with assaultive tendencies like Bernard should be supervised. In light of identifiable failures and the school's knowledge of Bernard's disciplinary history, the question was not whether it was reasonable to find the school district negligent but how they could not.⁵³

50. *Daniels*, 64 A.3d at 307.

51. R.I. R. EVID. 702.

52. *Dextraze*, 253 A.3d at 417.

53. *Id.*

CONCLUSION

The Rhode Island Supreme Court affirmed the Superior Court's decision to deny the school district's motions for judgment as a matter of law and new trial. The Court held that expert testimony is not required to prove a deviation in the standard of care in a negligence action against a school district where it was reasonably foreseeable that a specific student would assault another student. Proximate cause is a matter left to the jury and the jury's verdict will not be disturbed where the plaintiffs have presented sufficient facts to support their negligence claim.

Angela Amaral