ADAMS V. DEMOPOLIS CITY SCHOOLS: ELEVENTH CIRCUIT AFFIRMS GRANT OF SUMMARY JUDGMENT TO SCHOOL SYSTEM AND SCHOOL OFFICIALS, HOLDING AS A MATTER OF FIRST IMPRESSION THAT DELIBERATE INDIFFERENCE IS THE STANDARD APPLICABLE TO A TITLE VI CLAIM

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In *Adams v. Demopolis City Schools*, the United States Court of Appeals for the Eleventh Circuit affirmed summary judgment on all claims in favor of a school system and its officials and, as a matter of first impression, addressed whether the deliberate indifference standard is applicable to a Title VI claim.[1] Jasmine and Janice Adams, the mother and grandmother of an elementary school student who committed suicide, filed a 42 U.S.C. § 1983 action against Demopolis City Schools ("DCS") and school officials on behalf of the child's estate.[2] The Adamses alleged that the school officials were deliberately indifferent to sex-based harassment and discrimination in violation of Title VI, Title IX, the Fourteenth Amendment, and state law.[3] Additionally, the Adamses claimed that the school system failed to train its officials and teachers on how to identify and respond to bullying in violation of the Jamari Terrell Williams Act.[4]

McKenzie Adams, a nine-year-old Black girl, attended U.S. Jones Elementary School, part of the DCS school district.[5] Throughout her fourth-grade year, McKenzie was repeatedly harassed and bullied by multiple White male students who called McKenzie names and racial slurs and physically harassed her on several occasions.[6] Fellow classmates reported instances of the bullying to McKenzie's teachers who, in response: memorialized the incidents in writing, mandated several days of in-school suspension to the wrongdoers, and sent the bullies into the hallway as a form of punishment.[7] When these disciplinary

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[1] 80 F.4th 1259, 1264–73 (11th Cir. 2023).

[2] *Id.* at 1267–68.

[3] *Id.* at 1268.

[4] *Id.* at 1267; *see* ALA. CODE § 16-28B-8 (1975).

[5] *Adams*, 80 F.4th at 1264.

[6] *Id.* at 1264–65.

[7] *Id.* at 1265.

actions proved ineffective, McKenzie's mother and grandmother complained to the school's Assistant Principal, who derived a "safety plan," allowing McKenzie to "leave her classroom any time she felt threatened" by the bullying.[8] After the implementation of the "safety plan," McKenzie's grandmother did not notice anything unusual about McKenzie's behavior.[9] However, unbeknownst to her mother and grandmother, McKenzie continued to document instances of ongoing bullying and accompanying suicidal thoughts in her diary, and she later died by suicide in her grandmother's home.[10]

While McKenzie was enrolled at U.S. Jones Elementary, the school was required to follow DCS's anti-bullying policy.[11] The policy required all teachers to attend a "Back to Basics" training on suicide awareness at the beginning of each school year.[12] Teachers were trained to address bullying and suicide prevention and were required to report and document instances of bullying.[13] DCS also provided a "Code of Conduct," which detailed different forms of bullying and outlined several punishments for student-on-student bullying including contacting parents, in-school suspension, and out-of-school suspension.[14]

After McKenzie's death, the Adamses sued DCS and several school officials, alleging that shortly before McKenzie's death, Alabama enacted the Jamari Terrell Williams Act, which required its public schools to "adopt plans or programs that addressed bullying."[15] According to the complaint, DCS failed to adopt such plans or programs and thereby failed to effectively train its school officials and teachers on how to identify and respond to instances of bullying.[16] The complaint included eleven counts with claims arising under both federal and Alabama law.[17] More specifically, the Adamses alleged that DCS was liable under Title IX and Title VI because it was deliberately indifferent to the sex- and race-based harassment and discrimination it knew was being directed toward McKenzie at school.[18] Additionally, the Adamses asserted claims under 42 U.S.C. § 1983, alleging that DCS

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[8] *Id.* at 1266.
[9] *Id.*
[10] *Id.* at 1266–67.
[11] *Adams*, 80 F.4th at 1267.
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] *Adams*, 80 F.4th at 1267.
[18] *Id.* at 1267–68.

and its school officials violated McKenzie's "right to substantive due process and equal protection under the Fourteenth Amendment."[19] And lastly, the Adamses alleged Alabama state-law wrongful death claims, all of which were based on negligent, reckless, or wanton conduct that allegedly brought about McKenzie's death.[20] The district court granted the defendants' motion for summary judgment on all claims, and the Adamses timely appealed.[21]

On appeal, the Eleventh Circuit addressed whether the Adamses presented sufficient evidence to show that the defendants' conduct satisfied the standards required by the claims asserted.[22] The court began its analysis by noting that with respect to a Title IX claim, the Adamses must establish that the public school was "deliberately indifferent to sexual harassment, of which it ha[d] actual knowledge."[23] The court further recognized that "[a] school is deliberately indifferent only where its response, or lack thereof, to student-on-student harassment or discrimination is 'clearly unreasonable' in the light of known circumstances."[24] The Eleventh Circuit determined that the school officials' disciplinary actions—which included writing students up, sending them to the office, and mandating in-school suspension—were consistent with DCS's "Code of Conduct."[25] Further, it concluded that the Vice Principal's suggested "safety plan" represented a "reasonable attempt to rectify the bullying."[26] Accordingly, the court held that such actions were reasonable, and thus, no reasonable jury could find that the defendants acted with deliberate indifference in response to the known instances of bullying directed toward McKenzie.[27]

Next, the Eleventh Circuit considered the Adamses's argument that DCS acted with deliberate indifference when it failed to implement an anti-bullying plan consistent with the Jamari Terrell Williams Act.[28] The court considered that although DCS did not promptly adopt a plan consistent with the Act, it was normal practice for DCS to wait until model plans were issued by the Department of Education to adopt such

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[19] *Id.* at 1268.
[20] *Id.*
[21] *Id.*
[22] *Id.* at 1269.
[23] *Adams*, 80 F.4th at 1270 (internal quotation marks omitted) (quoting Hill v. Cundiff, 797 F.3d 948, 968 (11th Cir. 2015)).
[24] *Id.* (quoting Davis *ex rel.* LaShonda D. v. Monroe Cnty. Bd. of Educ., 526 U.S.629, 648 (1999)).
[25] *Id.* at 1271.
[26] *Id.*
[27] *Id.*
[28] *Id.*

plans.[29] Moreover, the court recognized that DCS still held its "Back to Basics" training that effectively covered the topics of bullying and suicide prevention.[30] Because no evidence signaled that DCS's training program was intentionally or recklessly deficient or that the decision to wait for a model plan was a reckless one, the court determined that a reasonable jury could not find that DCS's delayed adoption of a model policy was an act of deliberate indifference.[31]

The court next considered the Title VI claim and notably joined four other circuits in holding that "to prevail on a Title VI claim for student-on-student race-based harassment, a plaintiff must prove that the defendants were deliberately indifferent to the harassment."[32] The court explained that its decision to apply the deliberate indifference standard to Title VI claims flows logically from Congress's modeling of Title IX after Title VI.[33] Specifically, the court noted that the two statutes are parallel and operate in the same manner, with their only difference being that Title IX prohibits sex-based discrimination whereas Title VI prohibits race-based discrimination.[34] As such, the court suggested that "just like a school district . . . is liable under Title IX when it is 'deliberately indifferent to known acts of student-on-student sexual harassment,' a school district . . . is liable under Title VI when it is deliberately indifferent to known acts of student-on-student racial harassment."[35] For the same reasons discussed when applying the deliberate indifference standard to the Title IX claim, the Eleventh Circuit again concluded that DCS did not act with deliberate indifference when responding to the race-based bullying.[36]

Next, the court addressed the Adamses's equal protection claim.[37] It explained that for a plaintiff to establish a defendant is liable under the Equal Protection Clause, the plaintiff must prove discriminatory intent.[38] Discriminatory intent can be proven using evidence of a "history of discriminatory official actions" or that a violation resulted from a custom or policy created by a supervisory official or governmental

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[29] *Adams*, 80 F.4th at 1272.
[30] *Id.*
[31] *Id.*
[32] *Id.* at 1273.
[33] *Id.*
[34] *Id.*
[35] *Adams*, 80 F.4th at 1273 (quoting Davis *ex rel.* LaShonda D. v. Monroe Cnty. Bd. of Educ., 526 U.S. 629, 646–48 (1999)).
[36] *Id.* at 1274.
[37] *Id.*
[38] *Id.* at 1273.

entity.[39] Because there was no indication that DCS had a "pervasive practice or custom of ignoring" instances of bullying or that bullying or harassment were extensive problems at DCS or the elementary school, the court found that the defendants did not act with discriminatory intent.[40]

On the issue of the substantive due process claims, the Eleventh Circuit recognized that a government actor's conduct will rise to the level of a substantive due process violation "only if the act can be characterized as arbitrary or conscience-shocking in a constitutional sense."[41] The Adamses contended, as the basis for their substantive due process claims, that DCS's indifference to the Jamari Terrell Williams Act was arbitrary.[42] The court neglected to decide whether deliberate indifference could rise to the level of conscience-shocking conduct.[43] Still, it suggested that even if it could rise to such level, the evidence supports no finding that the defendants were deliberately indifferent in waiting to adopt a plan in accordance with the Act.[44]

Lastly, the court addressed the Adamses's state-law wrongful death claims, noting that Alabama law affords immunity from suit to state officials and extends such immunity to "a person acting as an agent of a municipal board of education when the person is performing discretionary duties or duties that require the exercise of judgment."[45] Specifically, the Alabama Supreme Court has held that a state agent is immune from suit when he or she "formulat[es] plans [and] policies"[46] and "exercise[es] judgment in . . . educating students."[47] Here, because Adams sought to hold the defendants liable for conduct involving their "official duties to supervise and educate students," the court concluded that the defendants were entitled to state-agent immunity as provided by Alabama law.[48]

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[39] *Id.* at 1273–74.

[40] *Id.* at 1274.

[41] *Adams*, 80 F.4th at 1274 (citing L.S. *ex rel.* Hernandez v. Peterson, 982 F.3d 1323, 1330 (11th Cir. 2020)).

[42] *Id.*

[43] *Id.*

[44] *Id.* at 1274–75.

[45] *Id.* at 1275.

[46] *Id.* (internal quotation marks omitted) (alteration in original) (quoting *Ex parte* Cranman, 792 So. 2d 392, 405 (Ala. 2000)).

[47] *Adams*, 80 F.4th at 1275 (internal quotation marks omitted) (alteration in original) (quoting *Ex parte* Nall*,* 879 So. 2d 541, 544 (Ala. 2003)).

[48] *Id.* at 1276. Adams further argued that immunity did not apply because the defendants acted beyond their authority by using their discretion to identify and discipline the bullying. *Id.* However, the state-agent defendants—the school superintendent and principal—did

In sum, the court's ruling in *Adams* highlights the standards required by Title VI, Title IX, the Fourteenth Amendment, and state law and establishes deliberate indifference as the standard applicable to all future Title VI claims.[49] While the Eleventh Circuit expressed its deep sympathy for the tragic loss of McKenzie Adams, it concluded that the applicable standards were not met for each of the Adamses's claims and held that the district court did not err in granting summary judgment on all claims in favor of DCS and its school officials.[50]

not directly interact with McKenzie or discipline the bullies; thus, they did not act beyond their authority and state-agent immunity nevertheless applied. *Id.*

[49] *See id.* at 1269–77.

[50] *Id.* at 1277.