

SUPREME COURT OF NOVA SCOTIA
Citation: Little v. Chignecto, 2004 NSSC 204

Date: 20041012
Docket: S.T. 08691 (216435)
Registry: Truro

Between:

Michael Dewayne Little, an infant represented
by his litigation guardian, Wayne Little

Plaintiff

vs.

Chignecto Central Regional School Board

Defendant

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Judge: The Honourable Justice Walter R. E. Goodfellow

Heard: October 4 and 5, 2004, in Truro, Nova Scotia
Closing arguments October 6, 2004, in Halifax, Nova Scotia

Subject: STANDARD OF CARE REQUIRED OF SCHOOL BOARD TOWARDS
ITS STUDENTS, *EDUCATION ACT AND COMMON LAW*

Summary: Wayne Little, now 15, on November 22, 1999 playing football at lunch hour suffered a broken leg. Several versions of what allegedly transpired given by a number of students and school yard supervisor. Required determinations of fact and credibility. Determination that Wayne Little suffered from this unfortunate accident that occurred when he jumped up to knock down a football pass being thrown by another student.

Issue: Has the Plaintiff established that Chignecto Central Regional School Board failed to meet the high standard dictated by the *Education Act* and common law with regards to the safety of the students and in particular, the infant Plaintiff, Michael Dewayne Little? This is a civil action and the onus is one of a balance of probability.

Result: Concluded principal and those responsible for discipline and safety of students had clear disciplinary policy which was known by all staff, supervisors coupled with student handbook provided annually to each student at commencement of school year. School policy clearly communicated to parents and students through principal's address at opening assembly,

reinforced at meetings with supervisors, parents, classroom instructions to students, etc. On the day in question experienced school supervisor made her circuit through the field where the boys were playing football and at all times had a visible presence to all the students engaged in the game and with the exception of a brief 30 to 60 second period when she was answering an inquiry of a student, she had the entire area in which the game was being played under surveillance. Supervisor had full knowledge of the school policy and had on numerous occasions in the past implemented the policy by reporting students who had engaged in fighting, throwing snowballs, roughhousing or other prohibitive activities. Brief period where she did not have the participants in the game under surveillance does not constitute negligence and in any event, had she during this brief period had the game under direct surveillance, it would not have precluded infant Plaintiff from jumping up to knock down a pass and unfortunately breaking his leg. In the result, action is dismissed.

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