2022 WL 2951912
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UNPUBLISHED OPINION. CHECK COURT RULES BEFORE CITING.

Superior Court of Connecticut,
JUDICIAL DISTRICT OF NEW HAVEN AT NEW HAVEN.

Laila HARAJ-SAI PPA Mohan Sreenivasan
v.
Craig COOKE

DOCKET NO. CV-21-6119318-S
|
JULY 26, 2022

MEMORANDUM OF DECISION RE: DEFENDANT'S MOTION TO STRIKE (#110)

James W. Abrams, Judge

***1** The plaintiff, Laila Haraj-Sai, is a minor of high school age. She brings this action by and through her stepfather and next friend, Mohan Sreenivasan. The case involves the plaintiff's challenge to the decisions of the administrators at her former high school involving another student who threatened her, specifically the decision to allow him to return to school five months earlier than originally planned.

The plaintiff first filed suit on November 28, 2021. Then, on March 17, 2022, the plaintiff filed a revised complaint, which serves as the operative complaint. The defendant moved to strike the revised complaint on May 3, 2022, asserting that the complaint does not sufficiently allege that the defendant's conduct was extreme and outrageous. On June 23, 2022, the plaintiff filed a memorandum opposing the motion to strike. This court held a remote hearing on June 24, 2022.

**FACTS**

The revised complaint alleges the following facts. As of March 17, 2022, the plaintiff was a student at Daniel Hand High School (Hand) in Madison, Connecticut. The defendant, Craig Cooke, is the Superintendent of Madison Public Schools. The plaintiff alleges that the defendant's decisions regarding another student at Hand who made death threats against the plaintiff, most particularly the decision to shorten his period of suspension, constituted intentional infliction of emotional distress.

On March 20, 2021, the other student sent the plaintiff over ninety text messages where he threatened to kill her multiple times. In his text messages, he also used sexually harassing language, degrading language, and threatened to injure the plaintiff. It was later discovered that the other student had nine guns in his home, some of which were not registered. An arrest warrant was issued, there was a juvenile proceeding, and Hand suspended the other student for one year, meaning he would not come back to school until April 2022.

Thereafter, on November 11, 2021, the defendant notified the plaintiff's parents that the other student would return to Hand on December 6, 2021, five months earlier than his initial suspension called for. That same day, the defendant provided a safety plan for the plaintiff, which would have caused changes to her academic experience.

Despite this plan, the plaintiff feels unsafe to return to Hand if the other student is also attending. The plaintiff asked the defendant to provide her with an alternative education plan. The defendant declined. Feeling that returning to Hand is not safe, the plaintiff believes her only option, for now, is to be homeschooled. Private school is also an option, but that will come at a significant financial cost. The plaintiff alleges that this sequence of events caused her extreme emotional distress.

**DISCUSSION**

"The standard of review for granting a motion to strike is well settled. [The court] must take as true the facts alleged in the plaintiff's complaint and must construe the complaint in the manner most favorable to sustaining its legal sufficiency.... A motion to strike admits all facts well pleaded.... A determination regarding the legal

  

sufficiency of a claim is, therefore, a conclusion of law, not a finding of fact.... If facts provable in the complaint would support a cause of action, the motion to strike must be denied.... Moreover, we note that [w]hat is necessarily implied [in an allegation] need not be expressly alleged....

***2** "To prevail on a claim sounding in intentional infliction of emotional distress, a plaintiff must prove the following four elements: (1) that the actor intended to inflict emotional distress; or that he knew or should have known that emotional distress was a likely result of his conduct; (2) that the conduct was extreme and outrageous; (3) that the defendant's conduct was the cause of the plaintiff's distress; and (4) that the emotional distress sustained by the plaintiff was severe.... In assessing a claim for intentional infliction of emotional distress, the court performs a gatekeeper function. In this capacity, the role of the court is to determine whether the allegations of a complaint ... set forth behaviors that a reasonable fact finder could find to be extreme or outrageous. In exercising this responsibility the court is not [fact-finding], but rather it is making an assessment whether, as a matter of law, the alleged behavior fits the criteria required to establish a claim premised on intentional infliction of emotional distress....

"Liability for intentional infliction of emotional distress requires conduct exceeding all bounds usually tolerated by decent society, of a nature which is especially calculated to cause, and does cause, mental distress of a very serious kind.... Generally, the case is one in which the recitation of the facts to an average member of the community would arouse his resentment against the actor, and lead him to exclaim, Outrageous! ...

"[E]ven if emotional harm is inflicted for no purpose other than to cause such harm, some degree of emotional harm must be expected in social interaction and tolerated without legal recourse. Under the extreme and outrageous requirement, an actor is liable only if the conduct goes beyond the bounds of human decency such that it would be regarded as intolerable in a civilized community. Ordinary insults and indignities are not enough for liability to be imposed, even if the actor desires to cause emotional harm." (Citations omitted; internal quotation marks omitted.) *Strano* v. *Azzinaro*, 188 Conn. App. 183, 187-189, 204 A.3d 705 (2019).

"We note that it has always been a relatively commonplace circumstance that some students are afraid of schoolteachers, examinations and other students. We also note that it is likely that students who experience these concerns also will suffer some degree of stress and anxiety, whether these acts are lawful and proper or wrongful and tortious in nature. To survive a motion to strike, therefore, there must be allegations that the extreme and outrageous conduct 'exceeded *all bounds* usually tolerated by decent society....' " (Emphasis in original.) *Bell* v. *Board of Education*, 55 Conn. App. 400, 410, 739 A.2d 321 (1999).

Our caselaw has repeatedly reinforced the "high bar"; *Di Teresi* v. *Stamford Health System*, 142 Conn. App. 72, 87, 63 A.3d 1011 (2013); the plaintiff must clear to show that the defendant's conduct was extreme and outrageous. For example, in *Strano*, a minor, who was autistic, and his father sued the minor's boy scout troop leader and the organization for expelling the minor. *Strano* v. *Azzinaro*, supra, 188 Conn. App. 185-186. Prior to the expulsion, another scout repeatedly bullied the minor. Id., 194-95. "The defendants suspended the bully for four weeks but did not take further action against him." Id., 195. The defendants ultimately expelled the minor in retaliation for the minor's father's action, as the father asked the defendants to stop the bullying. Id. Concerning the minor's intentional infliction of emotional distress claim, the Appellate Court held he did not state a claim, acknowledging the facts were "unfortunate, but not totally uncivilized, behavior." Id., 196.

Federal courts interpreting Connecticut law are also illustrative. *Matias* v. *Chapdelaine*, United States District Court, Docket No. 3:18-cv-17 (SRU) (D. Conn. February 12, 2018) involved alleged facts that are at least on a level with those at issue in this case and still did not amount to a cognizable intentional infliction of emotional distress claim. There, a prisoner guard transferred a prisoner, the plaintiff, to a new cell. Id. The new cell already had an inmate in it. Id. When the plaintiff attempted to enter the new cell, per the instructions of the guard, the inmate already there became irate. Id. "After [the other inmate] had threatened [the plaintiff] several times, [the plaintiff] 'did not try to move into [the new] cell ...' but [the guard] told him that, if he did not enter the cell, he would be taken to segregation.... Reluctant, [the plaintiff] entered the cell.... Approximately ten minutes later, [the other inmate] assaulted [the plaintiff], rendering him unconscious and causing him severe injuries." (Citations omitted.) Id. The plaintiff sued the prison guard, other employees, the Department of Correction, and the alleged assailant. Id. The court concluded that these allegations—against any defendant—did not state an IIED claim. Id.

***3** Another example of a plaintiff failing to sufficiently allege an intentional infliction of emotional distress came in *Miner* v. *Cheshire*, 126 F. Supp. 2d 184 (D. Conn. 2000). That case involved a female police officer who,

  

allegedly, suffered sexual harassment and stalking from her shift commander, a male. Id., 186-187. The alleged events reached a crisis level when the shift commander mandated she work at the front desk alone with him—despite the fact that he was not allowed to work with her. Id., 187. These events forced her to resign. Id. She sued the town, which employed them, for, among other claims, intentional infliction of emotional distress, arguing the town "(1) 'refus[ed] to take action to protect plaintiff and other women from sexual harassment;' [and] (2) 'refus[ed] to take action to protect plaintiff from [the shift commander's] aggressive, offensive, and hostile conduct....' " Id., 195. The court rejected these contentions. It held: "In the absence of allegations of facts indicating that the Town conducted such activities in a humiliating, extreme, or outrageous manner, the complaint did not state a claim for intentional infliction of emotional distress." Id.

Returning to the present case, the most significant allegation is that the defendant's decision to reinstate the other student five months early is so beyond the pale that it rises to the level of extreme and outrageous conduct. In rejecting this argument, the court cannot ignore the fact that that the other student was going to return to Hand in April 2022. This means that the alleged extreme and outrageous conduct was not the decision to allow the other student to return to school, but the fact that it allowed him to do so five months earlier than had originally been planned. Upon the other student's return, the plaintiff, by her own admission, would have either gone to school with him, began homeschooling, or enrolled in a private school. The defendant's decision did not suddenly create a new danger. It, instead, merely accelerated an inevitable event. The other student's threat is, no doubt, "unfortunate, but [the defendant's response to the threat was not] totally uncivilized...." *Strano* v. *Azzinaro*, supra, 188 Conn. App. 195. As superintendent, the defendant has a responsibility to do what is best for the whole school and all its students, not just the plaintiff.[1]

Additionally, "[i]t is instructive to note what was not alleged." Id. The complaint states an arrest warrant was issued for the other student and there was a juvenile proceeding against him. But the complaint makes no mention that he was ever arrested or convicted. The complaint also does not hint of any threat made after March 20, 2021. Contrast these facts with *Matias.* That case involved a threat from an inmate; *Matias* v. *Chapdelaine*, supra, United States District Court, Docket No. 3:18-cv-17; thus, the would-be attacker already had a propensity for lawlessness. Brasky does not fit this profile. Further, the attack in *Matias* came just ten minutes after the threat. Id. The threat here came almost a year and a half ago. What is more, the plaintiff in *Matias* had nowhere else to go once the guard told him to enter the cell. Id. Choosing between being assaulted or being sent to segregation is no choice at all. The allegations against the administration in this case are more benign than those in *Matias*—as well as *Miner*. Concerning *Miner*, there, the plaintiff's harasser forced her to work with her. *Miner* v. *Cheshire*, supra, 126 F. Supp. 2d 187. Notably, this came after the plaintiff endured *repeated* sexual harassment and stalking. Id. Further, this harassment came from her superior, not a peer. Id. There was an inherent power imbalance in their relationship. If the town's refusal to protect her from this egregious and enduring conduct did not state a sufficient intentional infliction of emotional distress claim, how can the defendant's decisions in this case, most prominently reinstating the other student earlier than originally planned, rise to the level of an intentional infliction of emotional distress?

***4** In sum, while the facts alleged are understandably incredibly distressing for the plaintiff, her subjective perspective is not the focus of the court's inquiry. The actions of the administration, while giving rise to legitimate questions, simply would not cause the average member of society to conclude that they were beyond all bounds of human decency and, as a result, the plaintiff has failed to sufficiently allege a claim of intentional infliction of emotional distress.

## CONCLUSION

For the forgoing reasons, the court grants the defendant's motion to strike.

### All Citations

Not Reported in Atl. Rptr., 2022 WL 2951912

Footnotes

1 It is important to keep in mind that the behavior at issue in this case is not the other student's death threats against the plaintiff, but, rather, the administration's reaction to those threats. The court will admit to a certain amount of difficulty in resisting the temptation to step into the shoes of the administrators and substitute its judgment for theirs. From a distance, the

administration's decision to accelerate the other student's return to school seems unnecessarily provocative given the seriousness of the underlying behavior. However, the court is mindful that its role is merely to decide whether such a decision constituted extreme and outrageous behavior as defined by the prevailing law.

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