No. 22-745

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

THE MERCER COUNTY BOARD OF EDUCATION AND DR. DEBORAH AKERS,

Defendants Below, Petitioners,

v.

AMANDA SHREWSBURY

Respondent Below, Respondent.

From the Circuit Court of Mercer County, West Virginia
The Honorable Mark Wills
Civil Action No. 19-C-108

PETITIONERS' REPLY BRIEF

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The Respondent's Statement of the Case, is simply her own narrative of events which is not sounded in reality and is largely based upon the Respondent's own self-serving testimony. Despite repeatedly stating that the Respondent's narrative of events is "corroborated" by the record, said statement could not be further from the truth.

As an initial matter, it is incontrovertible that Respondent's employment contract with the MCBE was as a substitute service personnel employee. AR at p. 576. Respondent never had a contract of employment for any full time position despite the repeated assertion that she was a full time employee. Respondent's employment with the MCBE as a substitute aide was never terminated. Respondent's employment status with the MCBE never changed, the aide position was filled by a qualified full time candidate. Respondent was never taken off the substitute call list. In short, Respondent's position at Cumberland Heights was temporary and she was aware of the same. The position Respondent occupied as a substitute was advertised, and subsequently awarded, to Rebecca McFadden, who assumed the role on January 14, 2019. AR at p. 578.

Respondent, a substitute classroom aide, was never "fired." AR at p. 566. Rather, Shrewsbury's position at Cumberland Heights was temporary. AR at p. 568. Despite her contention that Hayes informed Respondent that Petitioner Akers told him to no longer call Respondent for employment opportunities (Respondent's Brief at p. 3), Respondent concedes that she was never taken off the substitute call list and has been called for, and accepted, other substitute positions ***after*** she left Cumberland Heights. AR at p. 169. In fact, Shrewsbury was called ***593 times*** when she was either "not reached" or did not answer. AR at pp. 74 and 85. Thus, the record is clear that the MCBE continued to contact Respondent for employment opportunities.

The Response Brief goes to great lengths to state that the alleged conduct of Ms. Belcher was reported to Mr. Hayes on multiple occasions prior to January 11, 2019 and that Respondent also reported the alleged abuse to CPS or the DHHR on January 4, 2019. The record before this Court is clear that what was allegedly reported by Respondent to Hayes was yelling and forcing children to sit down. Mr. Hayes testified, paraphrasing; that he did not report the December allegations of Respondent concerning Ms. Belcher as he did not have reasonable cause to believe such events had occurred. AR at 434. The record is also uncontroverted that Dr. Akers was unaware of the alleged conduct of Ms. Belcher until January 14, 2019. AR at p. 433-434.

Respondent also goes to great lengths to discuss the nature of any investigation conducted by the MCBE, but the nature of any investigation or lack of investigation is not germane to this appeal or any of the allegations set forth in the Respondent's Complaint. Similarly, any other pending litigation (Respondent's Brief at FN 1) is also not relevant to the employment lawsuit being brought by this Respondent or this appeal.

These Petitioners maintain that the lower court erred in deciding the issue of qualified immunity and other arguments asserted in these Petitioners' Motion for Summary Judgment. These Petitioners also maintain that the Respondent's claims against these Petitioners are barred by the doctrine of qualified immunity and other arguments set forth herein and form the basis of this interlocutory appeal.

I. THE CIRCUIT COURT OF MERCER COUNTY ERRED IN NOT FINDING THAT THESE PETITIONERS WERE ENTITLED TO QUALIFIED IMMUNITY.

The Respondent has a misunderstanding of the various immunities afforded to various governmental entities. This is evident as Respondent commonly refers to various immunities

interchangeably in her Brief. Statutory immunity, qualified immunity, sovereign immunity are all separate and distinct immunities which may be afforded to political subdivisions, and specifically, county board of education in various circumstances. The Respondent's Brief argues that these Petitioners are not entitled to any immunity outside of the Governmental Tort Claims and Insurance Reform Act and cite *Ohio Valley Contractors* for the proposition that county boards of education are not entitled to qualified immunity. Respondent's Brief at pp. 11-12.

Of note, *Ohio Valley Contractors* was decided prior to the enactment of the Governmental Tort Claims and Insurance Reform Act and obviously prior to the development of qualified immunity in West Virginia. Importantly, *Ohio Valley Contractors* discussed immunity under W. Va. Const. Art. VI, § 35 and immunity for governmental proprietary functions. *Ohio Valley Contractors v. Bd. of Educ.*, 170 W. Va. 240, 241, 293 S.E.2d 437, 438 (1982). These Petitioners never argued immunity under either of the previous theories.

The Respondent takes issue with the Petitioners use of this Court's holding in *Ruskauff*, however, said holding is clearly informative and the most directly on point holding as to the issue presented in this appeal. Although the Petitioner in *Ruskauff* did not raise the issue of applicability of qualified immunity, it was certainly within the discretion of this Court that if such immunity did not apply this Court would have stated the same. In previously affording these Petitioners qualified immunity, precedent and logic would lead to these Petitioners being afforded the same immunity in this case.

This Court has previously held in an employment related matter that the Mercer County Board of Education, is entitled to avail itself of the doctrine of qualified immunity. *Mercer Cty. Bd. of Educ. v. Ruskauff*, No. 18-0711, 2019 W. Va. LEXIS 514, at *1 (Nov. 4, 2019) ("[t]he BOE is entitled to qualified immunity.") (Memorandum Decision). The MCBE is entitled to

qualified immunity in the instant matter as the Respondent's claims against these Petitioners arise from Respondent's employment relationship with the MCBE. The *Ruskauff* matter concerned the publishing of a disciplinary action against an employee in MCBE meeting minutes. In that matter, this Court held that "[t]here is no dispute that respondent's claim is not within the purview of the West Virginia Governmental Tort Claims and Insurance Reform Act. See W. Va. Code § 29-12A-18(b) (stating that the Act does not apply to "[c]ivil actions by an employee . . . against his or her political subdivision relative to any matter that arises out of the employment relationship between the employee and the political subdivision." *Id.* at p. 8. In *Ruskauff*, because the petitioner's claims did not fall within the purview of the Act, this Court analyzed the claims within the doctrine of qualified immunity.

In addition to *Ruskauff*, other courts in this State, admittedly primarily federal district courts in analyzing claims brought pursuant to 42 U.S.C. § 1983, have held that various political subdivisions are entitled to qualified immunity. See *Webb v. Raleigh Cty. Sheriff's Dep't*, 761 F. Supp. 2d 378, 388-393 (S.D. W. Va. 2010); *Miller v. Hall*, No. 2:19-cv-00901, 2020 U.S. Dist. LEXIS 143175, at *7-12 (S.D. W. Va. Aug. 11, 2020); *Grace v. Sparks*, 2016 U.S. Dist. LEXIS 59184, at *8-14 (S.D. W. Va. May 4, 2016) (This was a specific holding concerning employment related claims brought against a county board of education.). The previous cases are only a few examples of when courts have applied qualified immunity to claims being brought against various political subdivisions.

Governmental officials who are acting within the scope of their authority and are not covered by the provisions of W.Va. Code §29-12A-1 et seq. [the West Virginia Governmental Tort Claims and Insurance Reform Act], are entitled to qualified immunity with respect to the discretionary judgments, decisions, and actions of the governmental official insofar as their

conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *W.Va. Reg'l Jail & Corr. Facility Auth. v. A.B.*, 234 W. Va. 492. 766 S.E.2d 751, 755 (2014); Syl. pt. 6, *Clark v. Dunn*, 195 W.Va. 272, 465 S.E.2d 374 (1995); Syl. Pt. 4, *City of Saint Albans v. Botkins*, 228 W.Va. 393, 719 S.E.2d 863 (2011). The previous holdings make clear that qualified immunity does not only apply to State agencies. If it was the intent of this Court to hold that qualified immunity only applies to State agencies (1) it would have said as much and (2) there would be no basis for including the following language: "[n]ot covered by the provisions of W.Va. Code §29-12A-1 et seq." as the inclusion of any such language in the holding would be redundant and superfluous. W.Va. Code § 29-12A-3(e) clearly states that the immunities afforded to political subdivisions pursuant to W.Va. Code § 29-12A-1 *et seq*. do not apply to the State. Logically, any claim against the State would not be covered or fall under the purview of W.Va. Code § 29-12A-1 *et seq*. As Respondent has contended that all of the words in a statute are presumed to have meaning, so to do the words of the holdings announced by this Court. Therefore, the Petitioners contend that in this particular instance because the Respondent's claim are not covered under W.Va. Code § 29-12A-1 *et seq*. as they are claims arising from her employment with the MCBE, qualified immunity applies in this matter.

Next, this Court must then identify the nature of the governmental acts or omissions which give rise to the suit for purposes of determining whether such acts or omissions constitute legislative, judicial, executive, administrative policy-making acts or involve otherwise discretionary governmental functions. *W. Virginia Bd. of Educ. v. Marple*, 236 W. Va. 654, 663, 783 S.E.2d 75 (2015). In this matter, although the Respondent's employment was never terminated, if it did as Respondent alleges, such action constitutes discretionary acts for which

these Defendants are immune. Similarly, any alleged supervision claim also constitutes a discretionary act. It is undisputed that "the broad categories of training, ***supervision***, and ***employee retention***, as characterized by Respondent, easily fall within the category of 'discretionary' governmental functions." *W. Va. Reg'l Jail & Corr. Facility Auth. v. A. B.*, 234 W. Va. 492, 496, 514, 766 S.E.2d 751, 773 (2014) (emphasis added); cited with approval in *W. Va. Bd. of Educ. v. Marple*, 236 W. Va. 654, 663, 783 S.E.2d 75, 84 (2015). Also, this Court has repeatedly recognized that "[c]ounty boards of education have substantial discretion in matters relating to the hiring, assignment, transfer, and promotion of school personnel." Syl. Pt. 3, in part, *Dillon v. Board of Educ.*, 177 W.Va. 145, 351 S.E.2d 58 (1986).' Syllabus Point 3, *Cahill v. Mercer County Bd. of Educ.*, 208 W.Va. 177, 539 S.E.2d 437 (2000)." *Bolyard v. Bd. of Educ. of Grant County*, 214 W.Va. 381, 589 S.E.2d 523, 526 (2003). All of Respondent's remaining claims contained within Counts I, II, V, and VII concern purported employment retention decisions or supervision issues. Thus, any employment decision or supervision issue concerning the Respondent constitutes a discretionary act.

Furthermore, the Respondent has failed to demonstrate that any act or omission of these Defendants was in violation of any clearly established statutory or constitutional right of the Respondent's. The Respondent's Brief discusses W.Va. Code § 49-2-803 as that is the statute, which the lower court found was the source of a substantial public policy. Respondent's Brief also discussed W.Va. Code § 6C-1-3 as the source of another substantial public policy. However, the standard is not the Petitioners violated any statute or law but that these Petitioners violated a clearly established statutory or constitutional right of the Respondent's. Whether said statutes may or may not be the source of any substantial public policy is not relevant to the analysis of qualified immunity in this matter.

The lower court and Respondent's Brief conflates the issues of substantial public policy and a clearly established statutory or constitutional right of the Respondent's. The lower court seems to imply that W.Va. Code § 49-2-803 forms the basis of a substantial public policy but does not hold that such code provision creates a clearly established statutory or constitutional right of the Respondent's. Moreover, Respondent's Brief fails to make such argument. Additionally, the Respondent's Complaint does not identify any statute or law as the basis of any purported substantial public policy, which these Petitioners allegedly violated. AR at 11-17.

Moreover, these Petitioners maintain that the lower court neglected to make such a finding because said code provision does not create any right as to the Respondent. Under the previous version of the Child Welfare Act, this Court expressly held that the mandatory reporting statute "does not give rise to an implied private civil cause of action, in addition to criminal penalties imposed by the statute, for failure to report suspected child abuse where an individual with a duty to report under the statute is alleged to have had reasonable cause to suspect that a child is being abused and has failed to report suspected abuse." *Arbaugh v. Ed. of Educ., County of Pendleton*, 214 W.Va. 677, 591 S.E.2d 235, Syl. pt. 3 (2003).

Discussion or analysis of W.Va. Code § 6C-1-3 is not necessary for this Court's analysis as the lower court never made any such finding as either a source of substantial public policy or a clearly established statutory right of the Respondent's which these Petitioners allegedly violated.

"For a statutory or constitutional right to be "clearly established," so that a government official lacks qualified immunity from civil damages liability for violating that right because the right was clearly established at the time of the challenged conduct, the right must be sufficiently clear that every reasonable official would have understood that what he is doing violated that right; in other words, existing precedent must have placed the statutory or constitutional question

beyond debate." *Reichle v. Howards*, 132 S.Ct. 2088 (2012). W.Va. Code § 49-2-803 does not create any right of the Respondent in this matter.

Therefore, because these Petitioners are a governmental agency and a governmental officer not covered under W.Va. Code § 29-12A-1 *et seq.*, and any alleged conduct that they engaged in was discretionary, and the Respondent has failed to cite to any statutory or constitutional right of Respondent's that these Petitioners violated, the Respondent's claims are barred by the doctrine of qualified immunity.

II. THE CIRCUIT COURT OF MERCER COUNTY ERRED IN NOT FINDING THAT ALL OF RESPONDENT'S NEGLIGENCE CAUSES OF ACTION WERE CATEGORICALLY BARRED BY THE DOCTRINE OF QUALIFIED IMMUNITY.

Respondent's Brief does not specifically address this assignment of error. As discussed above, it is clear that the MCBE is entitled to qualified immunity in this instance and therefore claims of negligence are categorically barred. In Counts V and VII, the remaining negligence causes of action, Respondent brings various negligent supervision claims against these Petitioners, apparently arising out of their supervision of Alma Belcher. AR at pp. 11-17.

This Court has consistently upheld governmental agencies' immunity from liability for claims of mere negligence. In *Clark*, the West Virginia Supreme Court of Appeals upheld the immunity of the Department of Natural Resources against negligence allegations for the negligent actions of its officer against negligence allegations for the negligent actions of its officer, which led to an accidental shooting. The Court held that the DNR was a State agency not under the Act and was, therefore, immune from liability for "negligence." This Court more recently held in *A.B.*, that the West Virginia Regional Jail Authority was immune from allegations of negligent hiring, training, and retention of correctional officers accused of sexually assaulting female inmates.

As discussed above, these Petitioners are a governmental agency and official entitled to qualified immunity. The supervision of an employee (i.e. Alma Belcher) is a discretionary act of these Petitioners. Therefore, Respondent's claim of negligence against these Petitioners are categorically barred by the doctrine of qualified immunity and the lower court erred in not making such a finding.

III. THE CIRCUIT COURT OF MERCER COUNTY ERRED IN FINDING THAT WHETHER THE RESPONDENT SUSTAINED AN ADVERSE EMPLOYMENT ACTION WAS A QUESTION OF FACT.

Despite Respondent's continued assertion that she was a full time employee it is incontrovertible that her contract of employment with the MCBE was as a substitute service personnel. She was placed at Cumberland Heights for a temporary position. There is no genuine issue of material fact that the Respondent's employment was never terminated, as she was hired as a substitute, she accepted positions with the MCBE after January 11, 2019, and she was called for positions approximately 593 times. Similarly, her terms and conditions of employment did not change because at all relevant times Respondent remained a substitute service personnel. She was never a full time employee and certainly was never a full time employee at Cumberland Heights.

The Respondent, Amanda Shrewsbury, was employed as a substitute teacher's aide at Cumberland Heights Early Learning Center ('Cumberland Heights') located in Bluefield, Mercer County, West Virginia. AR at p. 12; *see also* AR at p. 70. The Respondent is a substitute teacher's aide and, therefore, participates in the "call system." AR at p. 71. The Respondent has been registered in the *e*School call system since December 8th, 2015. AR at p. 80. Importantly, the Respondent has had a contract with the Mercer County Board of Education as a substitute since the 2014-2015 school year through the present date. *See* AR at pp. 71 and 576.

In short, Respondent Amanda Shrewsbury was never terminated and despite Respondent's assertion, her terms and conditions of employment never changed. Rather, Shrewsbury's position at Cumberland Heights was temporary. Shrewsbury concedes that she was never taken off the substitute call list and has been called for, and accepted, other substitute positions ***after*** she left Cumberland Heights. AR at p. 169. In fact, Shrewsbury was called ***593 times*** when she was either "not reached" or did not answer. AR at pp. 74 and 85.

Therefore, this Court should reverse the lower court's decision and find that the Respondent's claims contained in Counts I and II against Petitioners are barred because the Respondent's employment with Petitioner MCBE was not terminated and the terms and conditions of her employment never changed and therefore any retaliatory discharge/wrongful termination claim must fail as a matter of law.

IV. THE CIRCUIT COURT OF MERCER COUNTY ERRED IN FAILING TO PROVIDE ANY SPECIFIC ANALYSIS AS TO THE CLAIMS AGAINST PETITIONER, DR. DEBORAH AKERS. MOREOVER, COUNTS I AND II AGAINST DR. AKERS MUST FAIL, AS SHE IS INCAPABLE OF TERMINATING THE RESPONDENT'S EMPLOYMENT.

The Respondent's Brief essentially argues that there are genuine issues of material fact as to Dr. Akers involvement concerning any employment decision regarding Respondent. However, statute makes clear that only the Board of Education has the authority to terminate and there is no genuine issue of material fact that the Respondent remained a substitute service personnel following January 11, 2019. Again, it cannot be overstated the Respondent was never a full time employee.

This Court has repeatedly recognized that "[c]ounty boards of education have substantial discretion in matters relating to the hiring, assignment, transfer, and promotion of school personnel." Syl. Pt. 3, in part, *Dillon v. Board of Educ.*, 177 W.Va. 145, 351 S.E.2d 58 (1986);

Syllabus Pt. 3, *Cahill v. Mercer County Bd. of Educ.*, 208 W.Va. 177, 539 S.E.2d 437 (2000); *Bolyard v. Bd. of Educ. of Grant County*, 214 W.Va. 381, 589 S.E.2d 523, 526 (2003). According to the West Virginia Code, "School personnel" is defined as "all personnel employed by a county board whether employed on a regular full-time basis, an hourly basis or otherwise." "School personnel" is comprised of two categories: Professional personnel and service personnel. W.Va. Code § 18A-1-1(a). The statutory definition of "service personnel" specifically includes aides. W. Va. Code § 18A-1-l (e).

A teacher's aide is considered a "service" rather than "professional" employee. *Hazelwood v. Mercer Co. Bd. Of Educ.*, 200 W.Va. 205,488 SE.2d 480 (1997). West Virginia law provides, in relevant part, that "The board is authorized to employ such service personnel, including substitutes, as is deemed necessary for meeting the needs of the county school system. W.Va. Code § 18A-2-5. According to the Code, "[b]efore entering upon their duties service personnel shall execute with the board a written contract." *Id.* Our Court has long held that "[w]hen a statute is clear and unambiguous and the legislative intent is plain, the statute should not be interpreted by the courts, and in such case it is the duty of the courts not to construe but to apply the statute." *State v. General Daniel Morgan Post No. 548, Veterans of Foreign Wars*, 144 W. Va. 137, 107 S.E.2d 353, 359 (1959) (citations omitted). Consequently, Dr. Akers had no authority to employ or terminate the Respondent.

The Respondent executed a "Contract of Employment for Substitute Service Personnel" for the 2018-2019 school year. AR at p. 576. The Contract specified that "[t]he Employee [Amanda Shrewsbury] is employed by the Board as a substitute...." *Id.* And, as commentators have noted, "[t]he power to remove or dismiss is generally vested in the school board or authorities who have the power of employing teachers and of controlling and managing the school." 78 C.J.S. Schools

and School Districts § 399. Dr. Akers, even as the former Superintendent, is not the school board, and cannot terminate the Respondent's contract of employment with the county. Consequently, Dr. Akers cannot be sued for the Plaintiff's alleged wrongful termination of employment.

Therefore, the lower Court erred in failing to provide any independent analysis regarding claims asserted against Dr. Akers. Also, the lower court erred in not finding that Counts I and II of the Respondent's Complaint must be dismissed against Petitioner Dr. Akers as she was not capable of terminating the Respondent's employment and the Respondent's employment was never terminated.

V. THE CIRCUIT COURT OF MERCER COUNTY ERRED IN FINDING THAT A GENUINE ISSUE OF MATERIAL FACT EXISTED AS TO THE NEGLIGENT SUPERVISION CLAIMS ASSERTED AGAINST THESE PETITIONERS.

The Respondent's Brief, for the first time, seems to argue that the basis of its negligent supervision claim is not the result of the conduct of Ms. Belcher but the conduct of some other Board employee. However, the lower court's reasoning for not granting Petitioners' Motion with regard to the negligent supervision claim contained in Count V was that the "[Respondent] has established a question of material fact as to negligence. The Defendant had a duty to properly supervise the [Respondent] and [] Belcher and under their supervision, Plaintiff allegedly suffered a battery at the hands of [] Belcher." AR at p. 611. The lower court's reasoning for not granting Petitioners' Motion with regard to the negligent supervision claim contained in Count VII was that "[b]ecause the alleged battery of [Respondent] by [] Belcher is a requisite element of the claim for negligent supervision, and whether the battery in fact occurred is a question of fact for the Jury, [Petitioners], Mercer County Board of Education's and Deborah Aker's, (sic)

Motions for Summary Judgment as to the claim of negligent supervision under Count VII of the Indictment is [denied]." AR at p. 612.

The negligent supervision claim was dismissed against Mr. Hayes and Ms. Belcher. If the lower court found that there was no basis for a negligent supervision claim against the building supervisor at Cumberland Heights, how then was there any genuine issue of material fact as to the negligent supervision against these Petitioners? The Complaint (AR at pp. 15-16) makes clear that the basis for the negligent supervision claim is that the Petitioners negligently supervised employees (i.e. Ms. Belcher) which resulted in an alleged battery on the Respondent.

Despite Respondent's contention and notwithstanding the qualified immunity argument above, any negligent supervision claim against these Petitioners in Counts V and VII should also have been dismissed as the alleged conduct of Ms. Belcher not negligent, but was intentional and criminal.

This Court has noted that the failure to allege underlying claims of negligence results in the failure of a negligent supervision claim:

> Although our body of caselaw concerning negligent supervision is sparse, our current definition of this cause of action requires, as a predicate prerequisite of a negligent supervision claim against an employer, underlying conduct of the supervised employee that also is negligent. *See Taylor*, 208 W. Va. at 134, 538 S.E.2d at 725. In *Taylor*, we specifically recognized that ***'[t]he ... claim of negligent supervision must rest upon a showing that the [employer] failed to properly supervise [its employee] and, as a result, [the employee] committed a negligent act which proximately caused the appellant's injury.***' *Id.* This definition of a negligent supervision claim in West Virginia also has been adopted by our federal courts. See, e.g., *Launi v. Hampshire Cty. Prosecuting Attorney's Off.*, 480 F.Supp.3d 724 (N.D. W.Va. 2020) (memorandum opinion and order) (''Plaintiffs alleging negligent supervision or training must first make an underlying showing of a negligence claim as to an employee, and then demonstrate that the employee was negligently trained or supervised.' *Taylor v. Cabell Huntington Hosp., Inc.*, 208 W. Va. 128[, 134], 538 S.E.2d 719, 725 (2000)[(per curiam)].'). ***Therefore, under this Court's current construction of a negligent supervision cause of action, the circuit***

> ***court correctly dismissed the Petitioners' cause of action for negligent supervision in Count 6 of their complaint because all of the allegedly wrongful conduct with which the Petitioners charge the Assistant Principal is intentional—false imprisonment, assault, sexual harassment, and intentional infliction of emotional distress—that, because it is not negligent, cannot form the basis of a negligent supervision claim***. Thus, because all of the acts alleged to have been committed by the Assistant Principal were comprised of intentional conduct, the circuit court correctly ruled that the Petitioners had not made the requisite predicate showing of the Assistant Principal's negligence to support a claim of negligent supervision by the Board and that their claim in this regard should be dismissed. See W. Va. R. Civ. P. 12(b)(6).

C.C. v. Harrison Co. Bd. of Educ., 245 W.Va. 594, 859 S.E.2d 762, 774-5 (2021) (footnote omitted). Indeed, the Respondent does not even identify the acts allegedly unsupervised, stating only that these Defendants "had a duty to supervise the relevant Defendants" and "failed to uphold [his] duty of supervision along with negligently retaining the at-fault employees." The lower court's holding that the alleged conduct of the employee which formed the basis of the claim was assault and battery clearly cannot form the basis of any negligent supervision claim.

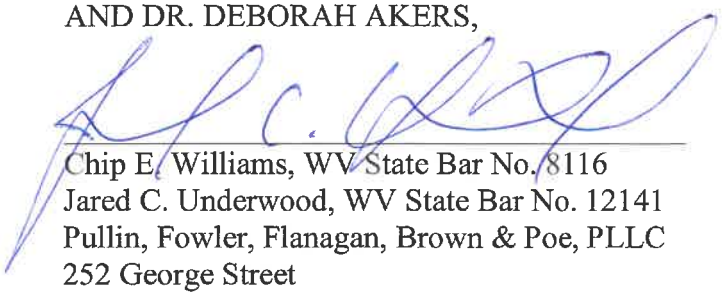
Therefore, the decision of the lower court should be reversed and Counts V and VII of the Respondent's Complaint must be dismissed as a matter of law.

CONCLUSION

WHEREFORE, based upon the above reasons and reasons set forth in Petitioner's Brief, the Petitioners request that this Court reverse the lower court's decision and find that the remaining claims of Respondent not previously dismissed by the lower court are barred by the doctrine of qualified immunity and for the other reasons argued above. The Petitioners also request any and all other relief, in equity or otherwise, that this Court sees fit to grant.

Respectfully Submitted,

MERCER COUNTY BOARD OF EDUCATION
AND DR. DEBORAH AKERS,



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No. 22-745

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THE MERCER COUNTY BOARD OF EDUCATION AND DR. DEBORAH AKERS,

Defendants Below, Petitioners,

v.

AMANDA SHREWSBURY

Respondent Below, Respondent.

From the Circuit Court of Mercer County, West Virginia
The Honorable Mark Wills
Civil Action No. 19-C-108

CERTIFICATE OF SERVICE

The undersigned, counsel of record for Petitioner, Mercer County Board of Education, does hereby certify on this 27th day of February, 2023, that a true copy of the foregoing ***"PETITIONERS' REPLY BRIEF"*** was served upon opposing counsel by depositing same to them in the U.S. Mail, postage prepaid, sealed in an envelope, and addressed as follows:

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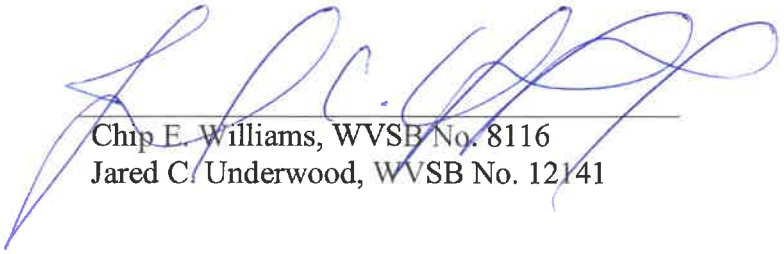

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