

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

Kim Laureano, individually and
as n/b/f to Minor J.L.,
Appellant-Plaintiff,

v.

Siobhan Campbell White and
Lamaya Hudson,
Appellees-Defendants

September 28, 2022
Court of Appeals Case No.
22A-CT-188
Appeal from the
Marion Superior Court
The Honorable
John M.T. Chavis, Judge
Trial Court Cause No.
49D05-1810-CT-42163

Vaidik, Judge.

Case Summary

- [1] Kim Laureano, individually and on behalf of her daughter, appeals the trial court's entry of summary judgment for Siobhan Campbell White on Laureano's claim for negligent parental supervision. We affirm.

Facts and Procedural History¹

- [2] Laureano is the mother of J.L., who was born in February 2002. White is the mother of Lamaya Hudson, who was born in May 2000. J.L. and Hudson became friends in middle school and played volleyball together in high school. In August 2017, when J.L. was a sophomore and Hudson was a junior, their relationship started to deteriorate. According to J.L., Hudson started to "bully" her in person and on Snapchat, such as calling her "the B word" and making "false rumors around the school that [she] had a sex tape out." Appellant's App. Vol. II p. 49. In September 2017, Laureano ran into Hudson at a volleyball game and accused her of being "mean" to her daughter. *Id.* at 65. Hudson went home that night and told her mother what Laureano had said. After a volleyball game the next day, Laureano told White that Hudson was being mean to her daughter. Appellant's Br. p. 5; Appellant's App. Vol. II p. 81. Laureano and White did not talk again after that day.

¹ Our review of this case has been hampered by Laureano's incorrect citations to the appendix. As White points out, the page numbers Laureano cites "bear[] [no] relation to the statement the citation purports to document; each cite to the record appears to be at random." Appellees' Br. p. 4 n.1.

[3] About ten months later, on July 22, 2018, Hudson—who had turned eighteen a couple of months earlier—and J.L. were at a party when Hudson attacked J.L., injuring her.

[4] Thereafter, Laureano, individually and on behalf of J.L., sued Hudson and White. As relevant here, the complaint alleges a claim of negligent parental supervision against White:

11. That Defendant Siobhan Campbell White had personal knowledge that Lamaya Hudson engaged in a particular course of conduct that led to the severe injury of Minor J.L. and took no actions to prevent or control the misconduct of her daughter.

Appellant's App. Vol. II p. 26.² White moved for summary judgment, and the trial court entered summary judgment for her. Laureano then filed a motion to correct error, which the court denied.

[5] Laureano now appeals.

² Hudson and White counterclaimed, but the summary judgment being appealed does not involve that counterclaim, which is pending. *See* Cause No. 49D05-1810-CT-42163. Laureano's claim against Hudson also appears to be pending.

Discussion and Decision

- [6] Laureano contends the trial court erred in granting White’s motion for summary judgment.³ We review such motions de novo, applying the same standard as the trial court. *Hughley v. State*, 15 N.E.3d 1000, 1003 (Ind. 2014). That is, “The judgment sought shall be rendered forthwith if the designated evidentiary matter shows that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Ind. Trial Rule 56(C).
- [7] As a general rule, the common law does not hold parents liable based on the tortious acts of their minor children. *Wells v. Hickman*, 657 N.E.2d 172, 176 (Ind. Ct. App. 1995). But there are four common-law exceptions to this general rule. *Id.* The exception Laureano relies on is “where the parent fails to exercise control over the minor child although the parent knows or with due care should know that injury to another is possible.” *Id.* (quotation omitted). This exception is known as the tort of “parental failure to control” or “negligent parental

³ Laureano also argues the trial court erred in striking Hudson’s mental-health records and a website about depression because the court deprived her “of relevant admissible evidence to **defend Defendant Hudson’s counter claim.**” Appellant’s Br. p. 10 (emphasis added). Although the trial court struck the material for purposes of White’s motion for summary judgment, the court said the material may be relevant to the other claims:

Any arguments regarding the admissibility of Dr. Diedre Story’s records or information found on websites in the context of either the prosecution or defense of Siobhan White’s Counterclaim and/or Plaintiffs’ claim against Lamaya Hudson may be presented to this Court when those arguments are ripe and relevant.

Appellant’s App. Vol. II p. 21. Because the court said that it would revisit the admissibility of the material for purposes of the counterclaim, we do not address this issue further here.

supervision.” *Id.* at 177; *Shepard by Shepard v. Porter*, 679 N.E.2d 1383, 1389 (Ind. Ct. App. 1997), *reh’g denied*. Under this tort,

a duty attaches when there has been a failure to control and the parent knows or should have known that injury to another was reasonably foreseeable. Specifically, the parent must know or should have known that the child had a habit of engaging in the particular act or course of conduct which led to the plaintiff’s injury.

Wells, 657 N.E.2d at 178. The parent’s negligence “is a separate act of negligence independent of the child’s wrongful act.” *Id.* at 177.

[8] As White highlights, the tort of negligent parental supervision applies only when the parent’s child is a minor. Here, it is undisputed that Hudson was not a minor at the time of the July 22, 2018 attack. Accordingly, White did not have a duty to exercise control over Hudson on that date. Nevertheless, Laureano claims that Hudson engaged in “bullying and misconduct” before she turned eighteen. *See* Appellant’s Br. p. 10. Laureano, however, doesn’t identify any established tort theory that would apply to Hudson’s conduct when she was a minor. As White points out, Laureano argued below that “Indiana has long recognized the torts of intimidation, harassment and bullying.” *See* Appellant’s App. Vol. II p. 99 (citing Indiana criminal-code provisions as support); *see also* Tr. p. 64 (acknowledging that intimidation, harassment, and bullying are “crimes,” not torts). However, she doesn’t renew this argument on appeal and has therefore waived it. Accordingly, we affirm the trial court’s entry of

summary judgment for White on Laureano’s claim for negligent parental supervision.⁴

[9] Affirmed.

Riley, J., and Bailey, J., concur.

⁴ There is also a statute that imposes liability on parents:

Except as provided in section 2 of this chapter, a parent is liable for not more than five thousand dollars (\$5,000) in actual damages arising from harm to a person or damage to property knowingly, intentionally, or recklessly caused by the parent’s child if:

- (1) the parent has custody of the child; and
- (2) the child is living with the parent.

I.C. § 34-31-4-1; *see also* I.C. § 34-6-2-21(d) (defining “child” as “an unemancipated person who is less than eighteen (18) years of age”). Section 34-31-4-1 doesn’t require that a parent be found negligent for liability to attach; it “makes a parent strictly liable for the knowing, intentional or reckless tortious acts of the parent’s minor child.” *Wells*, 657 N.E.2d at 176.

White argues Laureano has waived any claim under Section 34-31-4-1 for four reasons: (1) Laureano did not cite the statute in her complaint; (2) Laureano did not cite the statute on summary judgment; (3) although Laureano cited the statute in her motion to correct error, new issues can’t be raised in a motion to correct error; and (4) although Laureano cites the statute on appeal, she does not make a cogent argument. Appellees’ Br. pp. 9-10. Notably, Laureano didn’t file a reply brief responding to White’s argument that she has waived any claim under Section 34-31-4-1. We agree with White that Laureano has waived any claim under the statute.