

YOU AND THE LAW

Student-Athlete Dies From Extreme Exhaustion

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Jordan McNair, a 19-year-old freshman offensive lineman at the University of Maryland, collapsed during outdoor spring practice. Testimony from witnesses at the practice revealed that McNair exhibited signs of extreme exhaustion (Dinich, 2018). Additionally, witnesses indicated that he showed difficulty standing in an upright position while running 110-yard sprints under the supervision of the University of Maryland football strength and conditioning coach, Rick Court (Perez, 2018). Eventually, McNair was transported to a local hospital, where it was determined that he had a body temperature of 106 degrees. He died two weeks later due to heatstroke (Dinich, 2018).

Shortly after his death, McNair's parents filed an intent to sue the state of Maryland for more than \$30 million in damages (Ermann, 2018). The filing claimed damages in excess of \$10 million for each parent and \$10 million for the pain and suffering Jordan McNair incurred before his death. Notably named in the lawsuit were DJ Durkin, head Maryland football coach; Wes Robinson, head athletic trainer for the Maryland football team; and Rick Court, head strength and conditioning coach (Ermann, 2018). At the time of the filing, both Durkin and Robinson had been suspended, while Court had left his position at the university (Ermann, 2018).

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Background

On a hot day in May, the Maryland University football team had a conditioning practice in full pads (Perez, 2018). Although McNair had successfully participated in previous practices under such conditions, he began having difficulty breathing and standing upright (Dinich, 2018). However, Court, the head strength and conditioning coach, perceived that McNair was not exerting himself enough and forced him to complete the sprints (Dinich, 2018). As teammates helped him cross the finish line, McNair fell to the ground and began to have a seizure.

After collapsing, McNair was removed from the field by athletic training interns (Perez, 2018). Once he was off the field, members of the coaching and medical staff did not attempt to properly cool down McNair (Dougherty, 2018). As a result, McNair suffered a seizure. While emergency medical services (EMS) were called, little to no directions were given regarding how to get to the off-site location where the team was practicing (Perez, 2018). Further contributing to the confusion was construction on campus during the time, which led to EMS being delayed to the site of the incident. As a result, it took nearly 40 minutes after a 911 call was placed for McNair to arrive at Washington Adventist Hospital (Dougherty, 2018).

Case Analysis

This case is eerily similar to other situations involving football players dying from complications attributed to heatstroke. Korey Stringer, an all-pro offensive tackle for the Minnesota Vikings of the National Football League, died of complications from heatstroke after finishing a preseason practice (*Stringer v. Minn. Vikings Football Club*, 2004). Braeden Bradforth, a defensive lineman for the Garden City Community College football team, died due to heatstroke-related issues following a 2019 practice (Carroll, 2019). In August 2008, 15-year-old Max Gilpin collapsed during practice and died 3 days later due to heatstroke (*Commonwealth of Kentucky v. David Jason Stinson*, 2009).

Negligence

At its core, negligence is the “failure to use reasonable care—doing something which a reasonably prudent person would not do,

or the failure to do something which a reasonably prudent person would do under the same or similar circumstances” (Dobbs, 2001, p. 1). Most lawsuits against coaches for sports-related injuries are usually based upon the theory of negligence (Karns, 1986). As a general rule, “Coaches must be aware of preventable risks to their athletes, and they must take measures to supervise properly and care for their players” (Hurst & Knight, 2003, p. 37).

Ordinary negligence is an unintentional tort comprised of four elements: duty, breach of that duty, proximate cause, and damage. All four elements must exist for negligence to be present. However, it is essential to note that the McNair family went as far as to claim gross negligence (Perez, 2018). This claim was supported by the findings of an investigation into McNair’s death led by Dr. Rod Walters, a well-known expert on athletic training (Maese, 2018). Walters’ report placed significant blame on Maryland trainers and medical staff (Maese, 2018). Specifically, Walters asserted that the staff, including Durkin, Court, and Robinson, were grossly negligent about Jordan McNair’s well-being when he obviously needed urgent medical attention (Maese, 2018).

Gross negligence has been defined as conduct that shows a reckless disregard for the safety of other persons to whom a duty is owed (Dobbs, 2001). An individual who is found guilty of gross negligence knows or should have known, as a reasonable profession, about the potential harm that may occur to another person due to their conduct (Dobbs, 2001). Some perceive that authority figures in football push players too hard, which often leads to heat exhaustion and other noncontact injuries (Charnley, 2005). Athletic coaches often attain results by applying methods that could legally be thought of as “wanton” or “grossly negligent” in any other context (Hurst & Knight, 2003). The courts have adopted a “reckless or intentional” standard, requiring a plaintiff to prove that the defendant’s conduct was either reckless or intentionally harmful (*Knight v. Jewett*, 1992).

Duty

A duty is a special relationship between two or more parties that may be created by statute, contract, or common law (Dobbs, 2001). According to *Knight v. Jewett* (1992), college coaches possess a heightened duty of ordinary care because of their previous experiences. Five years later, the court in *Searles v. Trustees of St. Joseph’s*

College (1997) expanded that duty for reasonable care for the health and safety of student-athletes to include athletic trainers as well as coaches.

The court in *Kahn v. East Side Union High School District* (2003) asserted that the duty owed by coaches “while far from being the insurer of students’ safety, is also very differently situated in knowledge, training, experience, and responsibilities from the casual football player whose duty we considered in *Knight*” (p. 66). Since coaches are often hired because of their experience and knowledge of the sport, and because they have increased duty to decrease the risk of injury to all participants, it is not a stretch that they should possess an advanced level of damage foreseeability and provide the appropriate reasonable standard of care (Miller & Wendt, 2012). Thus, although coaches cannot eliminate all the risks that occur in sports, there is an overall understanding that coaches owe a duty not to foreseeably increase the risks inherent in the sport (*Kahn v. East Side Union High School District*, 2003).

Breach of Duty

Hekmat (2002) described the reasonable person standard as the minimum level of care that compels an individual to avert producing risks that expose others to harm. The court in *Knight v. Jewett* (1992) stated that a coach

may be found to have breached a duty of care to a student or athlete only if the instructor intentionally injures the student or engages in conduct that is reckless in the sense that it is “totally outside the range of the ordinary activity” involved in teaching or coaching the sport. (p. 318)

As a result, a coach would breach their duty to athletes on their teams by failing to act as a reasonable person would in a similar position (*Kleinknecht v. Gettysburg College*, 1993).

Foreseeability and Proximate Cause

When a duty is revealed between parties, foreseeability of harm also exists (*Griggs v. BIC Corporation*, 1992). Csillan (2019) stressed that football players wearing full pads and uniforms, combined with

the hot, humid weather in many regions in the late spring and early autumn, are particularly susceptible to heat-related pathologies. In *Mintz v. State* (1975), the theory of foreseeability was applied to establish the proximate cause of the injuries rather than outlining the degree of the duty owed. Owens (2007) stated that “proximate cause assumes the existence of actual causation and inquires into whether the relationship between the wrong and harm was sufficiently close” (p. 1674). Mainly, if an unsafe condition (i.e., heat) was foreseeable and harm occurred, the proximate cause (i.e., forcing the athlete to complete the task or lack of emergency response) may be the reason for the damage (*Stowers v. Clinton Central School Corporation*, 2006). Additionally, McNair also had a vitamin D deficiency and was taking medication for ADHD (Dinich, 2018), which automatically increases the onset of heatstroke or heat exhaustion. Since the athletic trainers involved should have known this information, it may be considered an additional proximate cause of McNair’s deteriorating condition.

Damage

Damage may be the most recognizable element of negligence (Hekmat, 2002). Damage means that the harm an individual experienced is the proximate result of another individual, with whom they have a duty, breaching that duty (Fischer, 1999). The damage must be shown to negatively impact the victim’s health and wellness; a relatively insignificant injury that affects the normal duties of an individual is not sufficient to prove damages (*Griggs v. BIC Corporation*, 1992).

Conclusion

While the McNair family was hoping to use the legal system to hold the university and coaches involved fully accountable, this case eventually was settled out of court. In the view of the Walters’ report, heat-related deaths such as McNair and others are catastrophic situations that can be avoided. Paradoxically, the unnecessary aspect of heat-related deaths among intercollegiate football players offers organizations the chance to manage the risks of such occurrences and decrease their frequency.

Risk Management Strategies

While the National Federation of State High School Associations (NFHS) and the National Collegiate Athletic Association (NCAA) have adopted heat-related illness guidelines, this section offers some risk management suggestions for high school and college sports teams and staff:

1. Offer training symposium on heat-related illnesses on a regular basis and require all coaching and medical personnel to attend.
2. Post signs or posters that illustrate the early signs of heat-related illness such as muscle cramping, dizziness, nausea, thirst, and incoherence, among others.
3. Discuss misperceptions regarding heat-related illnesses such as thirst being a poor indicator that the athlete needs hydration or that exercising in the heat makes the athlete tougher.
4. Develop a schedule to acclimatize the athlete to the heat. Individuals who are not acclimatized to the heat or inadequately conditioned are at increased risk of heat-related illness.
5. Since heat-related illnesses may be self-reported, include the athletes in the discussions and encourage them or teammates to report any heat-related illness symptoms as soon as possible.
6. Create an emergency action plan to include informing the EMT on the location of the incident, the best route, and who will meet them at the building.

By comprehending these risks, football coaches and athletic trainers may continue, or initiate, programs designed to protect the athletes by educating them about the signs, symptoms, and effects of heat-related illnesses.

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