Rel: October 27, 2023

SUPREME COURT OF ALABAMA

OCTOBER TERM, 2023-2024

SC-2022-0981

Ex parte Dr. Lisa N. Herring and Dr. John C. Lyons, Jr.

PETITION FOR WRIT OF MANDAMUS

(In re: Tynesha Tatum, as personal representative of the Estate of Courtlin La'Shawn Arrington, a deceased minor, and as parent and next friend of G.T., a minor child enrolled at Huffman High School

v.

Dr. Lisa N. Herring et al.)

(Jefferson Circuit Court: CV-18-901975)

COOK, Justice

This case arises from the death of Courtlin La'Shawn Arrington, a 17-year-old girl who was inadvertently shot and killed by a classmate on the campus of Huffman High School in Birmingham. After Courtlin's death, her mother, Tynesha Tatum, as the personal representative of Courtlin's estate, commenced a wrongful-death action in the Jefferson Circuit Court against Dr. Lisa N. Herring, who was the Superintendent of Birmingham City Schools at the time of the shooting, and Dr. John C. Lyons, Jr., the principal of Huffman High School. In her complaint, Tatum alleged that Herring's and Lyons's wanton failure to provide adequate security at Huffman High School caused Courtlin's death.

Herring and Lyons moved the trial court for a summary judgment, arguing, among other things, that the action against them was barred by the doctrine of State-agent immunity. Following the trial court's denial of their summary-judgment motion, Herring and Lyons petitioned this Court for a writ of mandamus directing the trial court to enter a summary judgment in their favor on the ground of State-agent immunity. Because there is no evidence indicating that Herring's or Lyons's allegedly wanton conduct violated any specific, mandatory directive, we

conclude that State-agent immunity bars Tatum's action against them. We therefore grant the petition and issue the writ.

Facts and Procedural History

On March 7, 2018, Michael Barber, a junior at Huffman High School ("the school"), and another student, Malcolm Evans, walked out of the school cafeteria and exited the building through a side door. Barber and Evans then departed from the school's campus in Evans's vehicle. The two students drove to a nearby bank, where Barber cashed a paycheck, before returning to the school's campus. After arriving in the student parking lot, Barber retrieved his loaded 9-millimeter handgun from Evans's vehicle and put it in his shorts. Barber called another student who was inside the school building and asked that student to let him in through a side door of the school building.[1] Although the side door was locked from the outside, there was nothing to prevent the student who was inside the school building from opening the side door to let Barber into the school building. After entering the school building, Barber went to his history class. When that class ended, Barber

[1]Metal detectors were not installed at that side-door entrance.

attempted to go to the school field house for his last class of the day. For reasons unknown, a faculty member who was monitoring the hallway at that time prevented him from entering the field house.

After being denied access to the field house, Barber walked into another class and sat down. Although Barber was not a student in that class, the teacher allowed him to stay. At some point, Barber left that classroom. Barber went to the bathroom and then loitered in the hallway, where he struck up a conversation with one of Courtlin's classmates. Courtlin, who was standing nearby, spotted the handgun in Barber's shorts. When Barber took the handgun out of his shorts to show it to Courtlin, the gun went off and Courtlin was killed.

In May 2018, Tatum, as personal representative Courtlin's estate, commenced the instant action against Herring and Lyons. As previously noted, in her complaint, Tatum asserted a wrongful-death claim, alleging that Herring's and Lyons's wanton misconduct caused her daughter's death.[2] In May 2022, Herring and Lyons filed a joint motion for a

[2]The City of Birmingham and three fictitiously designated parties were also named as defendants. Tatum, however, voluntarily dismissed her claims against those defendants in April 2022. In addition to wrongful-death damages, Tatum, as parent and next friend of her then minor son, G.T., who attended Huffman High School, also sought

summary judgment, arguing, among other things, that they were entitled to State-agent immunity because the claim against them was based on actions that clearly fell within the categories of conduct recognized as entitling a State agent to immunity set forth in Ex parte Cranman, 792 So. 2d 392 (Ala. 2000).[3]

Tatum filed a response to the summary-judgment motion, arguing that Herring and Lyons were not entitled to State-agent immunity because, she said, "they acted 'beyond their authority' in violating and/or failing to enforce several policies and rules designed to ensure the safety of students in the Birmingham City School System." Attached to Tatum's response were several exhibits, including the expert report and deposition testimony of Kenneth S. Trump, the president of a Cleveland-based consulting firm specializing in school safety. Herring and Lyons

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declaratory and injunctive relief against Herring and Lyons. During the pendency of the case, however, G.T. reached the age of majority and graduated from Huffman High School. The trial court subsequently dismissed Tatum's claims for declaratory and injunctive relief as moot -- leaving only the wrongful-death action against Herring and Lyons.

[3]Although Ex parte Cranman was a plurality decision, the restatement of State-agent immunity set forth in Ex parte Cranman was adopted by a majority of this Court in Ex parte Butts, 775 So. 2d 173 (Ala. 2000), and was later codified at § 36-1-12, Ala. Code 1975.

moved to strike several of the evidentiary submissions attached to Tatum's response. The trial court, however, declined to strike Trump's expert report or deposition testimony.

A summary-judgment hearing took place on June 29, 2022. On August 11, 2022, Tatum moved to supplement her response to the summary-judgment motion with the signed affidavit of Jamesse Tolliver, a witness who alleged that she had seen Barber walk into the school building with a gun on the day of the shooting and had called the school office to report the incident. Herring and Lyons moved to strike Tolliver's affidavit on August 12, 2022. On September 30, 2022, the trial court entered an order denying Herring and Lyons's motion for a summary judgment.[4] Herring and Lyons subsequently filed their mandamus petition.

Standard of Review

> "'While the general rule is that denial of a summary-judgment motion is not immediately reviewable by an appellate court, the exception to the general rule is that a denial of a motion for a summary judgment grounded on a claim of immunity is immediately reviewable by a petition

[4]The trial court had not yet ruled on Herring and Lyons's motion to strike Tolliver's affidavit when it entered the order denying their motion for a summary judgment.

> for a writ of mandamus ....'
>
> "Ex parte Wood, 852 So. 2d 705, 708 (Ala. 2002).
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> > "'A writ of mandamus is an extraordinary remedy, and is appropriate when the petitioner can show (1) a clear legal right to the order sought; (2) an imperative duty upon the respondent to perform, accompanied by a refusal to do so; (3) the lack of another adequate remedy; and (4) the properly invoked jurisdiction of the court.'
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> "Ex parte BOC Group, Inc., 823 So. 2d 1270, 1272 (Ala. 2001).
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> > "'This Court's review of a summary judgment is de novo. Williams v. State Farm Mut. Auto. Ins. Co., 886 So. 2d 72, 74 (Ala. 2003). We apply the same standard of review as the trial court applied. Specifically, we must determine whether the movant has made a prima facie showing that no genuine issue of material fact exists and that the movant is entitled to a judgment as a matter of law. Rule 56(c), Ala. R. Civ. P.; Blue Cross & Blue Shield of Alabama v. Hodurski, 899 So. 2d 949, 952-53 (Ala. 2004). In making such a determination, we must review the evidence in the light most favorable to the nonmovant. Wilson v. Brown, 496 So. 2d 756, 758 (Ala. 1986). Once the movant makes a prima facie showing that there is no genuine issue of material fact, the burden then shifts to the nonmovant to produce "substantial evidence" as to the existence of a genuine issue of material fact. Bass v. SouthTrust Bank of Baldwin County, 538 So. 2d 794, 797-98 (Ala. 1989); Ala. Code 1975, § 12-21-12. "[S]ubstantial evidence is evidence of such weight and quality that fair-minded persons in the exercise of impartial judgment can reasonably

> infer the existence of the fact sought to be proved." West v. Founders Life Assur. Co. of Fla., 547 So. 2d 870, 871 (Ala. 1989).'
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> "Dow v. Alabama Democratic Party, 897 So. 2d 1035, 1038-39 (Ala. 2004)."

Ex parte Jackson Cnty. Bd. of Educ., 4 So. 3d 1099, 1101-02 (Ala. 2008).

Discussion

The question presented by this mandamus petition is whether Herring and Lyons are entitled to a summary judgment in their favor on the basis of State-agent immunity. In Ex parte Cranman, 792 So. 2d 392 (Ala. 2000), this Court restated the test for determining when a State agent is immune from civil liability. See note 3, supra. That test provides, in pertinent part:

> "A State agent shall be immune from civil liability in his or her personal capacity when the conduct made the basis of the claim against the agent is based upon the agent's
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> "(1) formulating plans, policies, or designs; or
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> "(2) exercising his or her judgment in the administration of a department or agency of government, including, but not limited to, examples such as:
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> "(a) making administrative adjudications;
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> "(b) allocating resources;
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> "(c) negotiating contracts;

> "(d) hiring, firing, transferring, assigning, or supervising personnel; or
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> "….
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> "….
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> "(5) exercising judgment in the discharge of duties imposed by statute, rule, or regulation in releasing prisoners, counseling or releasing persons of unsound mind, or educating students.
>
> "Notwithstanding anything to the contrary in the foregoing statement of the rule, a State agent shall not be immune from civil liability in his or her personal capacity
>
> "(1) when the Constitution or laws of the United States, or the Constitution of this State, or laws, rules, or regulations of this State enacted or promulgated for the purpose of regulating the activities of a governmental agency require otherwise; or
>
> "(2) when the State agent acts willfully, maliciously, fraudulently, in bad faith, beyond his or her authority, or under a mistaken interpretation of the law."

Id. at 405.

To invoke the protections of State-agent immunity, a State agent must first demonstrate that the claim against the State agent arises from a function that would entitle him or her to immunity. Giambrone v. Douglas, 874 So. 2d 1046, 1052 (Ala. 2003). If the State agent makes this initial showing, the burden then shifts to the plaintiff to "show that one

of the two categories of exceptions to State-agent immunity recognized in Cranman is applicable." Ex parte Kennedy, 992 So. 2d 1276, 1282 (Ala. 2008).

In their petition, Herring and Lyons ("the petitioners") contend that they carried their initial burden of demonstrating that the claim against them arose from a function that would entitle them to State-agent immunity. According to them, the acts or omissions that form the basis of Tatum's claim relate to their formulation of safety plans, the administration of a school, and the exercise of judgment in educating and supervising students -- conduct that falls squarely within the first, second, and fifth categories of conduct enumerated in Ex parte Cranman and quoted above. See Ex parte Cranman, 792 So. 2d at 405.

Tatum does not dispute that her claim against the petitioners is based on acts that fit within categories of conduct recognized as entitling a State agent to immunity under Ex parte Cranman. Instead, at issue is whether Tatum met her burden of showing, by substantial evidence, that one of the exceptions to State-agent immunity applied. The petitioners contend that Tatum presented no such evidence. Tatum, on the other hand, argues that the trial court properly concluded that there were

genuine issues of material fact concerning the applicability of the "beyond-authority" exception to State-agent immunity in this case.

"A State agent acts beyond authority and is therefore not immune when he or she 'fail[s] to discharge duties pursuant to detailed rules or regulations, such as those stated on a checklist.'" Giambrone, 874 So. 2d at 1052 (quoting Ex parte Butts, 775 So.2d 173, 178 (Ala. 2000)). Importantly, "[t]he rules and/or regulations must be sufficiently detailed so as to '"remove a State agent's judgment in the performance of required acts."'" Burton v. Hawkins, 364 So. 3d 962, 977 (Ala. 2022) (quoting Giambrone, 874 So. 2d at 1055, quoting in turn Ex parte Spivey, 846 So. 2d 322, 333 (Ala. 2002)).

According to Tatum, she presented the trial court with evidence showing that Lyons acted beyond his authority by failing to discharge duties imposed by (1) the Birmingham Board of Education's policy manual ("the policy manual"), (2) the Birmingham City Schools' written job description for the position of school principal ("the job description"), and (3) the Birmingham City Schools' Code of Student Conduct ("the Code of Student Conduct"), and that Herring acted beyond her authority by failing to discharge duties imposed by § 16-12-3(a), Ala. Code 1975.

In analyzing whether Tatum met her burden of showing that the petitioners acted beyond their authority, the threshold question is whether a rule or directive in the policy manual, the job description, the Code of Student Conduct, or § 16-12-3(a) set forth a sufficiently specific, mandatory duty governing the conduct of the petitioners at issue in this case. If we determine that such a rule or directive does impose a sufficiently specific, mandatory duty on the petitioners, we must then ask whether Tatum presented substantial evidence demonstrating that the petitioners violated that duty.

I. The Policy Manual

Before the trial court, Tatum argued that Lyons acted beyond his authority by failing to comply with § 6.25.7 of the policy manual. As relevant here, § 6.25.7 provides:

> "6.25.7 Local School Requirements -- Each Birmingham City School shall do all of the following:
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> "a. Develop and implement evidence-based practices to promote a school environment that is free of harassment, intimidation, violence, and threats of violence.
>
> "b. Develop and implement evidence-based practices to prevent harassment, intimidation, violence, and threats of violence based, at a minimum, on the criteria established by this policy, and to intervene when such incidents occur."

(Emphasis added.)

A. Whether § 6.25.7 sets forth a sufficiently specific, mandatory duty

Although § 6.25.7 requires "[e]ach Birmingham City School" to "[d]evelop and implement evidence-based practices to prevent … violence … based, at a minimum, on the criteria established by this policy," it does not impose that duty on any individual employee. (Emphasis added.) Because the mandatory language in § 6.25.7 is not specifically directed at school principals, it is not clear that Lyons was tasked with the duty set forth in § 6.25.7. See Murey v. City of Chickasaw, [Ms. 1210384, Mar. 17, 2023] ____ So. 3d ____, ____ (Ala. 2023) (concluding that jail-operations policy that did not "explicitly outline whether the booking jailer or a subsequent jailer" was responsible for completing paperwork could not serve as basis for applying the "beyond-authority" exception); see also Shell v. Butcher, 339 So. 3d 226, 232 (Ala. 2021) (concluding that broadly phrased municipal-jail policy did not constitute a sufficiently detailed rule because some provisions of the policy did "not indicate which correctional officer [was] tasked with the duty stated in the provision, and other provisions [were] ambiguous").

Furthermore, even assuming that § 6.25.7 of the policy manual

obligates school principals to develop and implement evidence-based practices to prevent violence, § 6.25.7 does not detail how, when, and under what circumstances principals must perform that duty. See Shell, 339 So. 3d at 233 (concluding that municipal-jail policy requiring that "a jail nurse must be notified" was not a sufficiently detailed rule "because the policy [did] not specify 'when, who or under what conditions a jail nurse must be notified.'") Thus, § 6.25.7 does not -- by itself -- constitute "a set of 'detailed rules and regulations,' the violation of which will cause a State agent to lose his or her immunity." Ex parte Kennedy, 992 So. 2d at 1286.

Further, although § 6.25.7 generally references "criteria established by this policy," Tatum does not identify -- and the submissions to this Court do not reflect -- what those specific criteria might be.

For all of these reasons, § 6.25.7 of the policy manual is not sufficiently detailed to qualify as a basis for applying the "beyond-authority" exception to State-agent immunity in this case. See Ex parte Ingram, 229 So. 3d 220, 229 (Ala. 2017) (recognizing that the "beyond-authority" exception does not apply when the "relevant guideline leaves

room for the exercise of any discretion or professional judgment by the employee in relation to the particular circumstances with which the employee may be presented").

B. Whether the summary-judgment evidence raises a fact issue as to whether Lyons's conduct violated § 6.25.7

Even assuming that Lyons was bound by § 6.25.7 of the policy manual and that § 6.25.7 adequately detailed a particular course of action he needed to take in educating and supervising students, Tatum did not present the trial court with substantial evidence demonstrating that Lyons violated § 6.25.7.

At oral argument before this Court, Tatum argued that Lyons had violated § 6.25.7 by failing to develop or implement any "plan" or any "practices" to prevent violence. In her answer to the mandamus petition, Tatum cites Trump's expert report stating that Lyons violated § 6.25.7, and Lyons's deposition testimony indicating that he did not take certain security measures at the school, as evidence indicating that Lyons failed to follow the directive set forth in § 6.25.7.

As an initial matter, § 6.25.7 of the policy manual requires only that "[e]ach Birmingham City School" "[d]evelop and implement evidence-

based practices to prevent … violence … based, at a minimum, on the criteria established by this policy." Section 6.25.7 does not require schools to take any of the specific security measures suggested by Tatum -- like convening a safety committee, ensuring that metal detectors are consistently operational during school hours, installing metal detectors at side entrances, designating school personnel to monitor metal detectors and security-camera feeds, or drafting a written security "plan." Thus, Lyons's deposition testimony indicating that he did not implement the safety measures suggested by Tatum is not evidence indicating that Lyons violated § 6.25.7.

Furthermore, although Trump, in his expert report, generally stated his opinion that Lyons had violated § 6.25.7, he did not (1) specifically opine that there were no practices to prevent violence in place at the school or (2) cite evidence indicating that Lyons had failed to implement any safety-related practices. See Bradley v. Miller, 878 So. 2d 262, 266 (Ala. 2003) ("An expert witness's opinion that is conclusory, speculative, and without a proper evidentiary foundation cannot create a genuine issue of material fact.") In fact, the petitioners presented the trial court with undisputed evidence showing that some practices to

prevent violence were implemented at the school; the petitioners summarized that evidence in their reply to Tatum's response to their summary-judgment motion:

> "At least two School Resource Officers (SROs) were assigned to [the school] on March 7, 2018 and were present on the premises. (Depo. of Lyons, p. 107; Depo. of [John Baker, Chief of Security for Birmingham City Schools at the time of the shooting], p. 39) In March 2018, [the school] used stand-alone mobile metal detectors and wands to detect metal, including illegal firearms. (Depo. of Lyons, pp. 67, 72) The wands and metal detectors are used for security and as deterrents. (Depo. of Lyons, p. 102; Depo. of [Dr. Mark Sullivan, Chief of Staff for Birmingham City Schools at the time of the shooting], p. 33) [The school] had surveillance cameras in its main office, lunchroom and on both floors in March 2018. (Depo. of Lyons, pp. 94-96) Dr. Lyons assigned teachers and staff to monitor various areas inside and outside of the school building during and after school, during class change, and in the lunchroom. (Aff. of Lyons) Principal Lyons requested that faculty, staff, and students report any student disciplinary issues or threats to individuals or Board property. (Id.) [The school's] administrators, including Principal Lyons, enforced the Board's Student Code of Conduct. (Id.)"

For these reasons, Tatum's contention that Lyons failed to develop or implement any safety-related practices is not supported by competent summary-judgment evidence. Thus, even if we were to conclude that § 6.25.7 of the policy manual set forth a sufficiently specific, mandatory directive governing Lyons's conduct, the summary-judgment evidence did not create a fact issue as to whether Lyons acted beyond his authority

by violating § 6.25.7 of the policy manual.

II. The Job Description

The job description for principals of Birmingham City Schools sets forth the "[j]ob [g]oal" of "providing leadership, supervision, and organization in support of the educational development of each student." (Emphasis added.) Before the trial court, Tatum argued that Trump's expert testimony that Lyons "failed to provide leadership, supervision, and organization related to effectively and efficiently supervising his school … as it related to school safety and security as stated in the district's job goal for principals" was an additional basis for concluding that Lyons had acted beyond his authority.

Importantly, however, the broad goal set forth in the job description is clearly "aspirational in nature" and does not prescribe any specific course of action. Ex parte Kennedy, 992 So. 2d at 1286. Accordingly, this provision of the job description -- written in general and permissive terms -- similarly cannot serve as a basis for invoking the "beyond-authority" exception to State-agent immunity in this case. See id. (concluding that provisions of training manual that were "either aspirational in nature or le[ft] the actor with discretion as to whether the guidance should be

followed in a given situation" could not serve as basis for applying the exception).

III. The Code of Student Conduct

Before the trial court, Tatum further argued that Lyons had abdicated his responsibility to enforce the Code of Student Conduct by failing to take action with respect to Barber's violations of three of the Code of Student Conduct's provisions. Specifically, Tatum alleged that Lyons had failed to enforce provisions of the Code of Student Conduct that prohibited students from (1) leaving the school's campus without permission, (2) using a cell phone during school hours, and (3) possessing a firearm on school property.

Tatum emphasized that, pursuant to the Code of Student Conduct, "[s]chool [a]dministrators … have the responsibility to ... [f]ollow and enforce" the Code of Student Conduct's provisions. (Emphasis in original.) According to Tatum, despite this enforcement responsibility, Barber was "able to simply walk right out of the lunchroom and out the side door of the school, … leave campus, return to the student parking lot, telephone a student in the school to open a side door of the school, and walk right into the school with a loaded 9-millimeter handgun."

Tatum argued that Barber's violation of the rules in the Code of Student Conduct gave rise to a corresponding violation by Lyons and that Lyons acted beyond his authority in violating his duty to enforce the above-mentioned restrictions on student conduct. In support of this proposition, Tatum cited this Court's decision in Ex parte Yancey, 8 So. 3d 299 (Ala. 2008).

In Ex parte Yancey, Charles Alexander Coker, an 11th grade student at Southside High School ("Southside") in Etowah County, was injured after the instructor of his weight-lifting class directed him and other students in the class to clean Southside's field house and carry the filled trash barrels to dumpsters that were located a short distance from the field house. Id. at 301. After Coker and his classmates finished cleaning, one of Coker's classmates "retrieved his pick-up truck from a campus parking lot and drove it to the field house, where the students loaded the trash barrels onto the pick-up truck." Id. Coker then climbed onto the bed of the truck with the trash barrels. Id. As the classmate was driving from the field house to the dumpsters, the truck hit a "dip" in the road. Id. at 302. Coker was ejected from the bed of the truck and sustained severe injuries. Id. Coker's parents sued the weight-lifting

instructor in the Etowah Circuit Court. The instructor subsequently filed a motion for a summary judgment based on State-agent immunity, which the circuit court denied. Id. at 303.

On mandamus review, this Court noted (1) that the instructor had testified at his deposition that "he routinely allowed students to use their pick-up trucks to haul the trash barrels to the dumpsters," id. at 301, and (2) that the student handbook in effect at the time of the incident expressly "prohibited students from going to their vehicles or to the parking lot 'without the permission of Principal or Assistant Principal,'" id. at 306. As we explained:

> "[I]f the handbook limits the student's conduct by forbidding the student from returning to his or her vehicle in the parking lot during the school day, the teacher's authority with respect to permitting or directing the student's conduct must be correspondingly limited. Otherwise, the teacher would become complicit in the violation of the rule, and the rule would be rendered meaningless."

Id. (emphasis added). Because the instructor in Ex parte Yancey had admitted to routinely allowing students to use their vehicles to move the trash barrels, we concluded that there was substantial evidence indicating that he had acted beyond his authority in permitting a "clear violation of the policy set forth in the student handbook." Id. at 307.

Accordingly, we held that the circuit court did not err in denying his motion for a summary judgment. Id.

Crucially, this Court's decision in Ex parte Yancey does not stand for the proposition that educators act beyond their authority any time a student violates a rule governing student conduct. Instead, Ex parte Yancey more narrowly provides that an educator acts beyond his or her authority when the educator is "complicit in the [student's] violation of the rule." Id. at 306 (emphasis added). Here, however, there is no evidence indicating that Lyons "permit[ed] or direct[ed]" Barber to leave the school campus, to use his cell phone during school hours, or to possess a firearm on school premises. Id.

In her response to the summary-judgment motion, Tatum broadly argued that Lyons had acted beyond his authority because, she asserted, no "faculty member ever prevented Barber from doing whatever he wanted[,] whenever he wanted …." However, the failure to prevent misconduct does not, alone, establish complicity in the misconduct. As discussed above, the instructor in Ex parte Yancey explicitly testified to giving the students in his weight-lifting class permission to use their personal vehicles to carry the trash barrels to the dumpsters. In contrast,

at his deposition, Lyons testified that he "had no reason to anticipate, suspect, or believe that … Barber would sneak a gun into the building …." Tatum's response to the summary-judgment motion also cited no evidence indicating that Lyons (1) knew that Barber had violated any rules or (2) authorized Barber's violations.[5] For these reasons, the facts in this case are readily distinguishable from the facts in Ex parte Yancey, and we cannot conclude that Tatum met her burden of demonstrating

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[5]As previously noted, following the summary-judgment hearing, Tatum moved to supplement her response to the summary-judgment motion with the affidavit of Jamesse Tolliver, who alleged that she had "seen a student walk into [the school building] with a loaded handgun" and had called the school office to report the incident. (Emphasis added.) According to Tolliver's affidavit, the office employee who answered her call told her that she would notify Lyons of the incident. The petitioners subsequently moved to strike Tolliver's affidavit as untimely and irrelevant, but the trial court had not yet ruled on that motion when it entered its order denying the petitioners' summary-judgment motion.

In any event, Tolliver's affidavit testimony is not evidence indicating that Lyons was actually ever notified of her report. Furthermore, even if it can be reasonably inferred from Tolliver's testimony that Lyons was made aware of what Tolliver says she witnessed, it is undisputed (1) that Tolliver told the office employee that she had seen "a student," rather than Barber in particular, walk into the school building with a loaded handgun and (2) that Tolliver did not know the identity of the armed student at the time of the shooting. Thus, Tolliver's affidavit testimony does not amount to evidence indicating that Lyons knew of, or allowed, Barber's possession of a firearm on the school premises.

that Lyons had acted beyond his authority by failing to prevent Barber's violations of the Code of Student Conduct's provisions.

IV. Section 16-12-3(a), Ala. Code 1975

Finally, before the trial court, Tatum contended that Herring had acted beyond her authority by violating the duty imposed by § 16-12-3(a), Ala. Code 1975. As relevant here, § 16-12-3(a) provides that the "city superintendent of schools … shall see that the laws relating to the schools and the rules and regulations of the city board of education are carried into effect."

In her response to the summary-judgment motion, Tatum asserted that, consistent with the principles set forth in Ex parte Yancey, "a violation of rules or regulations by a high school principal constitutes a corresponding violation by the school superintendent who is charged with enforcing those rules and has failed to do so." Thus, according to Tatum, Herring acted beyond her authority by failing to "'see that … the rules and regulations of the city board of education are carried into effect.'"

As previously discussed, however, our decision in Ex parte Yancey does not stand for the proposition that a State agent charged with enforcing a rule acts beyond his or her authority whenever he or she fails

to prevent a violation of that rule. Because Tatum did not show that Herring was complicit in, or otherwise permitted, any violations of the "rules and regulations of the city board of education," § 16-12-3(a), she did not meet her burden of showing that Herring had acted beyond her authority.

Conclusion

For the foregoing reasons, we conclude that Tatum has not shown, by substantial evidence, that one of the exceptions to State-agent immunity applies in this case. Accordingly, the petitioners are entitled to State-agent immunity under the test set forth in Ex parte Cranman, and we direct the trial court to enter a summary judgment in their favor.

PETITION GRANTED; WRIT ISSUED.

Parker, C.J.,* and Shaw, Wise, Bryan, Sellers, Mendheim, Stewart,* and Mitchell, JJ., concur.

*Although Chief Justice Parker and Justice Stewart were not present for oral argument of this case, they have reviewed a recording of that oral argument.