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Parents appeal to revive thrown-out *Bully* lawsuit

FEDERAL JUDGE said he lacked precedent for disability harassment; Tyler Long had Asperger's syndrome

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THE PARENTS OF a 17-year-old Murray County teenager whose suicide figures prominently in a documentary on school bullying have appealed a federal judge's dismissal of their suit against the county school district they claim was liable for their son's death.

An attorney for David and Tina Long, the parents of Tyler Long, filed a notice of appeal June 15—three weeks after Judge Harold Murphy of the Northern District of Georgia threw out the case and ordered the Longs to pay the Murray County School District its legal costs in the 2-year-old suit.

In 2010, the Longs sued the school district and the principal of Murray County High School, where their son attended school, claiming Tyler killed himself because he was relentlessly bullied at school and school officials had failed to protect him. They also embarked on an anti-bullying crusade that included national television



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Plaintiffs attorney Winston Briggs said he doesn't understand the judge's reasoning: "It's possible he needs some guidance from the Eleventh Circuit."

appearances and a role in *Bully*, a documentary that began playing in theaters across the country in April.

Tyler hanged himself in his bedroom closet in 2009. The note he left behind made no mention of bullying as a

reason for taking his own life, and school district attorneys argued that Tyler had significant mental health issues that may have led to his death.

Tyler had Asperger's syndrome, a developmental disorder that is

considered a form of autism. In the weeks before he killed himself, Tyler had also wrecked his car, feared losing his driver's license, had broken up with his girlfriend and, according to his suicide note, had anguished about his relationship with his parents.

The Longs' attorney, Winston Briggs, said the couple decided to appeal because, "We think the judge made an incorrect decision. ... We want to get that overturned."

Briggs also said that in his order, Murphy had noted that some of the issues raised were "an issue of first impression" in the U.S. Court of Appeals for the Eleventh Circuit, which covers Alabama, Florida and Georgia.

In his order granting summary judgment to the Murray County School District, Murphy noted that the Eleventh Circuit cases he reviewed before dismissing the case had offered only "limited guidance" because they didn't involve disability harassment or multiple perpetrators who targeted a single individual.

"The Court," Murphy wrote, "consequently looks to persuasive authority for further guidance."

"I don't know the judge's actual reasoning as to why he issued his order like he did," Briggs continued. "It's possible he needs some guidance from the Eleventh Circuit as to how this case should be tried. ... Hopefully, it will get overturned, and we get a chance to try it."

School district counsel Matthew Moffett said Wednesday that the dismissal "confirms our position from day one that this case was without legal merit and never should have been filed."

"It is unfortunate," he added, "that the plaintiffs intend to appeal this judgment."



FILE PHOTO


Judge Harold Murphy wrote in his summary judgment order that the Eleventh Circuit had offered only "limited guidance" in how to handle harassment of a child with a disability.

In granting the school district's motion for summary judgment, Murphy concluded that school administrators hadn't demonstrated

the school district didn't have a constitutional duty to protect the teen from his fellow students.

But the judge did find that there was "very little question that Tyler was the victim of severe disability harassment."

While noting that school administrators "addressed every reported incident of harassment, collaborated with [Tyler's parents] to develop accommodations for Tyler to prevent future bullying, working to monitor hallways and cafeterias, and implemented anti-bullying programs and policies" they "were not always effective" and "should have done more to protect Tyler."

The case is *Long v. Murray County School District*, No. 4:10-cv-15. 

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—Matthew Moffett,
school district counsel

a deliberate indifference to Tyler's plight or violated the teen's civil rights when they were unable to protect him from instances of bullying that the Longs said had occurred.

Citing previous rulings in school harassment cases by the Eleventh Circuit, none of which involved disabled students, Murphy said