

McAll v. Mobile County School Board

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Angie McAll was hurt in a cheerleader stunt at Murphy High School and sued Mobile County in what the newspapers called a friendly lawsuit for 5 million dollars. I want to examine this case and discuss the ramifications that it has had for Alabama.

It was alleged in the complaint that the defendants were, jointly and individually, guilty of negligence in failing to properly monitor and instruct cheerleading activities, failing to provide safety training and instruction in cheerleading activities and in failing to provide proper safety equipment for cheerleading practice.

The defendants specifically denied the material allegations of the complaint with respect to duty or breach thereof and each separate allegation of negligence. In addition, there were a number of affirmative defenses asserted by the defendants including contributory negligence, assumption of risk, sovereign immunity, substantive immunity and limitation of damages.

At the time of this accident, Angie McAll was a seventeen-year-old student at Murphy High School in Mobile at the conclusion of her junior year. She had recently been selected as a varsity cheerleader for her senior year. She had been actively cheerleading for at least the last two years having been a junior varsity cheerleader as a sophomore and a varsity cheerleader as a junior. In addition to those activities, she was a third degree black belt in taekwondo, karate, and had been active in softball for a number of years.

Cynthia Stanley was the Murphy cheerleader sponsor, having been appointed to that position by her principal, Paul Sousa. It was a voluntary position for which she received no additional compensation.

At the time of this accident, the cheerleader squad at Murphy was attempting a stunt described as a suspended back flip from a basket toss. Essentially two members of the squad grasp each other's arms and form a tight basket (tossers) in which the person who attempts the flip (flyer) stands. On either side of the tossers, but slightly to the rear, are two other members of the squad (bases) each holding two additional girls on their shoulders (shoulder standers). Behind each shoulder stander is a girl who acts as a spotter for the shoulder standers and then during the flip aspect of the stunt as a spotter for the flyer. The ultimate effort is to land the flyer on the shoulders of the remaining member of the squad who likewise acts as a spotter during the rotational part of the flip. There are ten members of the squad. During

the course of the trick, the flyer is in constant contact with the shoulder standers holding their hands, hence the description of the flip as “suspended.”

The squad had first been taught this particular stunt a number of days prior to the day of the accident by a young man named Marcus Johnson who was a certified staffer for the National Cheerleader Association (NCA) and who had been a cheerleader at the University of South Alabama. He had been retained by the squad for the purpose of teaching them skills and for the purpose of teaching them stunts that they could use in competition at the Universal Cheerleader Association (UCA) camp which they planned to attend that summer. He had been at Murphy approximately four weeks, two days a week, two hours a day. While the squad had successfully completed the flip with Angie McAll landing on the floor in days prior to the day of the accident, they had never successfully completed the flip with Angie McAll landing on the bases’ shoulders. It had been attempted once or twice prior to the day of the accident but without total success.

For some period before the accident, the squad practiced outside. It was hot and the squad elected to move into the band room where it was cool. Shortly after they arrived in the band room, as was her usual practice, Cynthia Stanley arrived to supervise their activities.

In preparing for the UCA camp, the squads had used certain guidelines promulgated by that organization. Those guidelines recommended, among other things, that the squads be placed under the direction of a qualified and knowledgeable sponsor or coach and limited the type of stunts that could be performed, making specific references to the use of tumbling mats and activities on concrete surfaces. At the time of the accident, the surface of the floor in the band room was concrete covered by a commercial carpet. No mats were in use.

Several years prior to this accident, Murphy High School adopted a set of cheerleader rules. They are essentially directed toward eligibility, academic requirements, conduct and responsibility and a demerit system for infractions. In addition, the school system had proposed certain guidelines for high school cheerleaders. These guidelines specifically define the role that Cynthia Stanley played in relation to the cheerleader squad as a sponsor. They do not suggest that she is to be considered as a teacher or a coach. In fact, that is an opinion shared by virtually all of the girls who were on the cheerleading squad including the plaintiff, Angie McAll. They describe Cynthia Stanley as a sponsor and consider her more a “business manager” rather than a teacher or a coach. In fact, she does not select or teach stunts to the members of the squad. That is a function of the staffers who are retained by the squad and who come to Murphy High School independently and the instructors at the camps the squad attends. Cynthia Stanley did not select or teach the stunt that was being attempted at the time Angie McAll was hurt.

While the evidence was somewhat in conflict as to specifically what occurred when Angie McAll was hurt, the substance of it is as follows: After warming up on the day of the accident and practicing for a short period outside, the squad moved into the band room. Cynthia Stanley was present and was observing the squad’s effort at this stunt. All appeared normal as the squad set up and prepared to attempt the stunt. Each part of the overall stunt was in place and steady. At the appropriate cadence, the tossers tossed Angie McAll (the flyer) into the air so that she could do the suspended back flip landing on the bases’ shoulders. She did not rotate but,

rather, in a tucked position came crashing to the floor on her back. She sustained a fracture dislocation of the spine at the twelfth thoracic vertebra rendering her at the time a complete paraplegic.

There are various causes assigned for her failure to rotate:

- (1) a proper toss is slightly back rather than straight up, and the tossers failed to toss her properly;
- (2) the hand holders are supposed to maintain their grip throughout the rotation of her flip. They let go;
- (3) the girls behind, designated as spotters, have as a function to catch or deflect a person in an emergency. They did not; or
- (4) Angie McAll herself failed to properly position herself at the time of the toss to facilitate rotation.

Plaintiffs retained the services of Richard Harris and Dr. Ruth Alexander as expert witnesses in this case. In their collective judgment there was a failure here within the school system as a whole and with the individual defendants named to properly or adequately instruct in the sense that poor techniques were used, the squad was not taught progressively, the training was inadequate and insufficient in the sense that certain confusion remained in the minds of some members of the squad as to what their particular functions were and there was no direction as to safety. They found fault throughout the system in the sense that the superintendent has the ultimate responsibility for the program, the principal of the school is in turn responsible to him and the sponsor likewise to the principal and to the girls. They further felt that the obligation to train and to teach was passed on to outside individuals who were not sufficiently skilled in that undertaking.

The defendants contended that the training was indeed adequate. Each of the girls on the squad, save one, had attended at least three summer camps sponsored by either the National Cheerleader Association or the Universal Cheerleader Association where qualified, skilled instructors not only taught technique and stunts but safety with respect to them. In addition, for at least the three years next preceding Angie McAll's injury, the squad itself and independently had retained the services of qualified staffers from the National Cheerleader Association who came to Murphy and reviewed their qualifications, teaching them stunts and improving their skills. The cheerleaders themselves seemed comfortable with the adequacy of the training that they had received and their abilities to do the stunt being attempted at the time Angie McAll was hurt. At least the plaintiff believed she had been adequately trained for she testified that she did not know of any other training that she needed in order to attempt the trick safely.

The experts retained by the plaintiff likewise criticized the nature of the supervision being provided by Cynthia Stanley. It was their view that adequate supervision dictated the use of mats during the learning phase of this stunt for safety, particularly in view of the surface on which the stunt was being performed and closer contact from a spotting standpoint until the stunt was perfected.

While the evidence was in dispute on that issue, Dr. Peter Fuller, retained by the defendants, testified that in his view as an anatomist, given the nature of the injury, the height from which Angie McAll fell and her weight, the mats that were available at Murphy would not have had any effect on the nature of the injury that she received. Likewise, on each occasion when Mrs. Stanley observed the stunt

being taught by Marcus Johnson as well as on each occasion when she observed similar stunts being done at camps conducted by the NCA or the UCA, no mats were used.

The evidence reveals that Angie McAll had been injured on two other occasions cheerleading and was aware that there were risks involved in stunts that cheerleaders perform. She denied a subjective appreciation that she could be injured as severely as she was.

Angie McAll was initially rendered a complete paraplegic at T12-L1. She spent approximately two months in the Springhill Memorial Hospital and regularly underwent rehabilitation. She regained miraculously some function in her lower extremities to the extent that her hip flexors operate, she can extend her knees and ambulate with difficulty using braces and canes. She has some sense in both legs, although not totally. She has no independent automatic bowel or bladder function. The prognosis for the future is guarded although hopeful. In evidence in this case reports addressing the indicated wage loss that might be expected over time and estimating that it will be somewhere between \$302,445 to \$823,680 and estimating her total lifetime medical costs in the future to be somewhere between 1.2 million and 3.1 million dollars.

■ CONCLUSION

The court was advised that an offer of two million one hundred thousand dollars had been made to the plaintiffs by the defendants in this case in full and final settlement of all claims.

The court reviewed the evidence and the suggested settlement offer and was of the opinion that an approval of the same would be in the best interests of this young woman under the circumstances of this case. The evidence was in conflict on each of the various claims made by the plaintiffs, whereas in the court's judgment this settlement would adequately provide for Angie McAll's past and future needs. The settlement was therefore approved.

In February of 1989, an article was written in Alabama School Board Magazine by Dr. Dwight Hester, who is risk management consultant for Alabama School Board. A letter followed to all school boards in Alabama from Donald B. Sweeney, Jr., a member of law firm that represents the State School Board Association.

These writers basically advised the school boards that they should stop tumbling and gymnastics in their cheerleader programs or possibly face litigation similar to the McAll case. The initial reaction was to ground all cheerleaders from tumbling and gymnastics in the program. Later, cheerleaders became a part of the Alabama High School Athletic Association and adopted the National Federation Cheerleading guidelines. The cheerleader camps made stunts non-mandatory to win awards at their summer camps. The cheerleader sponsors became more aware of their responsibilities and the importance of having liability insurance. It would seem that the cheerleader program today is better off because of the McAll suit.