

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

CLIFTON WILLIAMS,	)	
	)	
Plaintiff,	)	CIVIL NO. ST-07-CV-187
	)	
vs.	)	ACTION FOR DAMAGES,
	)	ASSAULT AND BATTERY,
	)	NEGLIGENCE
	)	
GOVERNMENT OF THE VIRGIN ISLANDS,	)	JURY TRIAL DEMANDED
DEPARTMENT OF EDUCATION, JESSE	)	
JAMES and EDWARD JAMES,	)	
	)	
Defendants.	)	
	)	

MEMORANDUM OPINION

Defendant Edward James¹ moves the Court to dismiss the Complaint as to him. He argues that Plaintiff Clifton Williams's Second Amended Complaint fails to state a claim. Because recent rulings from the Supreme Court of the United States require plaintiffs to provide sufficient facts to state a claim that is plausible on its face, and because the Court finds that Williams has failed to do so in this case, it will grant the Motion to Dismiss. However, Williams will have an opportunity to amend his Complaint.

FACTS

Williams filed his Complaint in this case because, he alleges, he was physically assaulted and battered at Charlotte Amalie High School. He claims that another student, Defendant Jesse James ("James"), caused his injuries. He is suing the Government of the Virgin Islands, as well as James's father, Edward James.² Williams's claims against the Government need not be addressed here. Williams's counsel has stated in conferences that his claims against Edward James derive from Edward James's negligent supervision of James.

Williams's Second Amended Complaint, filed on June 6, 2008, mentions Edward James once. In paragraph three, it states, "Defendants Edward James and Mary Doe James are the parents of Defendant Jesse James." Subsequent paragraphs detail James's alleged history of misbehavior and the alleged failure of the High School to deal with James in an appropriate

¹ Edward James and Jesse James are represented by Joss N. Springette, Esq., of the Law Offices of Clive Rivers. Plaintiff Clifton Williams is represented by Vincent A. Fuller Jr., Esq. The Government of the Virgin Islands is represented by George W. H. Phillips, Esq., Assistant Attorney General.

² The Court dismissed from this matter Jesse James's mother, Mary Doe James, on September 2, 2010. Despite the provision in the Order of that date requiring the parties to file subsequent pleadings reflecting her dismissal, both Plaintiff and Defendants continue to file papers and pleadings with the original caption. As she is no longer in the case, Mary Doe James does not belong in the caption.

fashion. The Complaint does not actually refer to negligent supervision, either in those terms or in any terms loosely related to it.

On December 3, 2010, Edward James filed his Motion to Dismiss, which Williams opposed on December 13, 2010. Edward James did not file a reply.

DISCUSSION

The Court finds that Williams's Complaint is insufficiently pled. It will grant the Motion to Dismiss but provide Williams with an opportunity to move to amend his Second Amended Complaint.

As the District Court of the Virgin Islands noted, "The Supreme Court's recent decisions in *Bell Atlantic v. Twombly*³ . . . and *Ashcroft v. Iqbal*⁴ . . . have significantly altered pleading standards."⁵ It is no longer sufficient for plaintiffs to show that there are *any* facts that could support their claims.⁶ Instead, they must plead sufficient facts to show that their claim for relief is plausible on its face.⁷

In considering a motion to dismiss based on the sufficiency of the complaint, a court in this circuit must proceed through a three-step analysis.⁸ "First, the court must 'tak[e] note of the elements a plaintiff must plead to state a claim.'"⁹ Second, the court separates conclusions from well-pled factual allegations.¹⁰ Finally, assuming the truth of the well-pled facts, the court determines "whether they plausibly give rise to an entitlement for relief."¹¹

"For a claim to be facially plausible, the plaintiff must plead 'factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.'"¹² This standard "does not require a showing of probability but does require more than [a] 'sheer possibility'" that the plaintiff will succeed on her claims.¹³

Considering Williams's Second Amended Complaint, the Court finds only one reference to Edward James. In paragraph three, Williams states only that "Defendants Edward James and Mary Doe James are the parents of Defendant Jesse James." The subsequent paragraphs state the

³ *Bell Atl. v. Twombly*, 550 U.S. 544 (2007).

⁴ *Ashcroft v. Iqbal*, -- U.S. --, 129 S. Ct. 1937 (2009).

⁵ *Acosta v. Hovensa, LLC*, No. 1:08-CV-0089, 2010 WL 695963 (D.V.I. Feb. 23, 2010). Notably, neither Williams nor Edward James cite the correct standard for Rule 12(b)(6) motions to dismiss in the wake of *Twombly* and *Iqbal*.

⁶ *Jones v. L.S. Holdings, Inc.*, ST-06-CV-145, 2010 WL 893086, at *2 (V.I. Super. Ct. Feb. 25, 2010).

⁷ *Twombly*, at 557 ("The need at the pleading stage for allegations plausibly suggesting (not merely consistent with) agreement reflects the threshold requirement of Rule 8(a)(2) that the 'plain statement' possess enough heft to 'show that the pleader is entitled to relief.'" (internal citations omitted)).

⁸ *Santiago v. Warminster Tp.*, No. 10-1294, -- F.3d --, 2010 WL 5071779, at *4 (3d Cir. Dec. 14, 2010).

⁹ *Id.* (quoting *Iqbal*, 129 S.Ct. at 1947).

¹⁰ *Id.* (quoting *Iqbal*, 129 S.Ct. at 1950).

¹¹ *Id.*

¹² *Jones*, 2010 WL 893086, at *3 (quoting *Iqbal*, 129 S.Ct. at 1950).

¹³ *Id.*

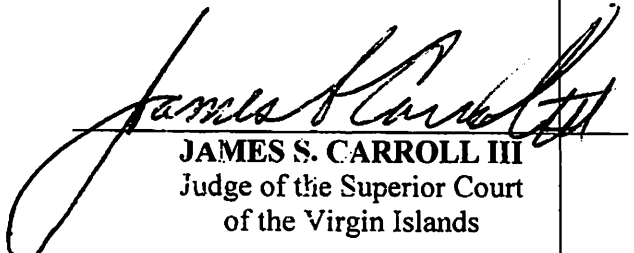
facts—that Williams was assaulted by James and that he was at Charlotte Amalie High School, where administrators knew of James's dangerous proclivities—but it contains no other reference to Edward James, nor does it even reference negligent supervision either in explicit or implicit terms. In fact, Williams notified the Court and opposing party of his claim of negligent supervision only in a status conference.

To prove a claim of negligent supervision, a plaintiff must show sufficient facts to prove that the parent (1) knew or had reason to know she or he had the ability to control the child *and* (2) knew or should have known of the “necessity and opportunity for exercising such control.”¹⁴ In addition to pleading the parent's duty, the plaintiff must also show that the duty was breached and that the breach was the cause of the harm.¹⁵

Taking as true the factual allegations in the Second Amended Complaint, Williams shows that Edward James is James's father, that James had a history of assaulting other students at Charlotte Amalie High School, and that James assaulted Williams. However, none of these facts show that Edward James knew or had reason to know that he had the ability to control James and that he knew or should have known of the necessity and opportunity for exercising that control. None of these facts show that Edward James breached his duty of supervision, or that, if there was a breach, that breach was the proximate cause of the harm Williams suffered.

The Second Amended Complaint states *only* that Edward James is the father of a child that got into trouble. While it is *possible* that Edward James is liable, such a fact is not *plausible* based on the facts in the Second Amended Complaint.¹⁶ Therefore, Williams does not state a claim for negligent supervision that is plausible on its face¹⁷ and Edward James's Motion to Dismiss must be granted.¹⁸ Williams will be granted thirty days to move to amend his Second Amended Complaint, which motion must address whether or not such an amendment would be futile at this time.¹⁹ The determinations made herein will be embodied in a separate Order.

DATED: January 21, 2011


JAMES S. CARROLL III
Judge of the Superior Court
of the Virgin Islands

¹⁴ Restatement (Second) of Torts § 316 (1965).

¹⁵ Restatement (Second) of Torts § 328(A) (1965) (stating the general requirements of proof of negligence).

¹⁶ *Jones*, 2010 WL 893086, at *3 (quoting *Iqbal*, 129 S.Ct. at 1950) (requiring, as part of the plausibility standard, sufficient factual content to allow the Court to “draw the reasonable inference that” the defendant is liable).

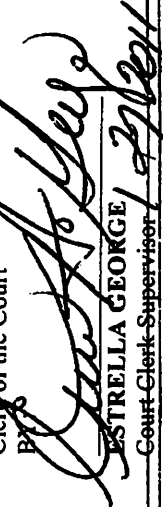
¹⁷ Because the Second Amended Complaint does not mention “negligent supervision”—or, indeed, any particular claim—the Court considered whether it states any other alternative claim against Edward. It does not appear from the facts pled that any other theory of liability is possible, let alone plausible.

¹⁸ *See, e.g., Jones*, 2010 WL 893086, at *5 (dismissing a claim against a defendant because the complaint suggested only that the defendant was the husband of another defendant).

¹⁹ *Phillips v. Cnty. of Alleghany*, 515 F.3d 224, 228 (3d Cir. 2008) (“[I]f a complaint fails to state a claim, unless amendment would be futile, the [court] must give a plaintiff an opportunity to amend her complaint.”).

ATTEST: VENETIA H. VELAZQUEZ, ESQ.

Clerk of the Court

By: 

ESTRELLA GEORGE
Court Clerk-Supervisor

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Plaintiff,

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DEPARTMENT OF EDUCATION, JESSE
JAMES and EDWARD JAMES,

Defendants.

CIVIL NO. ST-07-CV-187

ACTION FOR DAMAGES,
ASSAULT AND BATTERY,
NEGLIGENCE

JURY TRIAL DEMANDED

ORDER

AND NOW, pursuant to the Memorandum Opinion issued in this case today, it is hereby

ORDERED that Defendant Edward James's Motion to Dismiss is **GRANTED**; and it is further

ORDERED that Plaintiff Clifton Williams's claim against Edward James is **DISMISSED without prejudice**; and it is further

ORDERED that Plaintiff Clifton Williams shall have **thirty (30) days** from entry of this Order to move to amend his Second Amended Complaint to properly allege a claim for negligent supervision against Defendant Edward James; and it is further

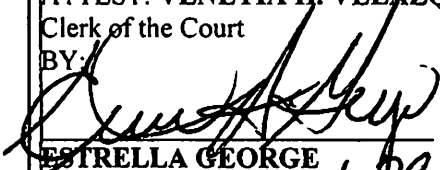
ORDERED that copies of this Order and of the Memorandum Opinion issued in this case today shall be directed to the parties' counsel of record.

DATED: January 27, 2011

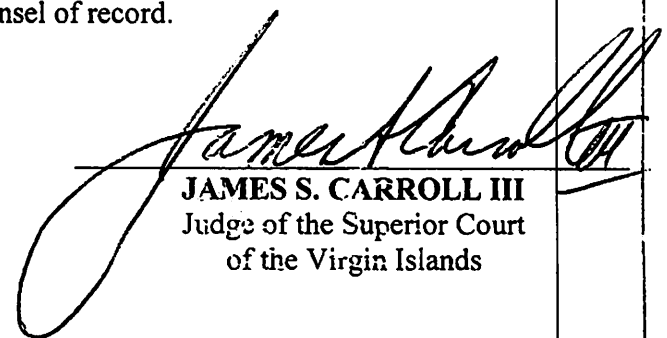
ATTEST: VENETIA H. VELAZQUEZ, ESQ.

Clerk of the Court

BY:


ESTRELLA GEORGE

Court Clerk Supervisor 1/27/2011


JAMES S. CARROLL III
Judge of the Superior Court
of the Virgin Islands