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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4133-15T1

ANDREW K. BONNER, JR.,

Plaintiff-Appellant,

v.

CUMBERLAND REGIONAL HIGH
SCHOOL DISTRICT,

Defendant-Respondent.

Argued May 24, 2017 – Decided June 27, 2017

Before Judges Accurso and Manahan.

On appeal from Superior Court of New Jersey,
Law Division, Cumberland County, Docket No.
L-860-14.

Andrew K. Bonner, Jr., appellant, argued the
cause pro se.

Stefani C. Schwartz argued the cause for
respondent (Schwartz Simon Edelstein & Celso
LLC, attorneys; Ms. Schwartz, of counsel and
on the brief, Saiju George, on the brief).

PER CURIAM

Plaintiff Andrew K. Bonner, Jr. appeals the grant of summary
judgment in favor of defendant Cumberland Regional School District

Board of Education.¹ We affirm for the reasons set forth in the comprehensive fourteen-page written opinion of Judge Darrell M. Fineman. We add only the following.

This matter arises out of alleged incidents of bullying and harassment perpetrated against plaintiff while he was a student at Cumberland Regional High School (CRHS) from September 2010 through June 2013. In 2009, CRHS adopted a "Harassment, Intimidation, and Bullying" policy (HIB) providing for the procedure for filing a complaint, the investigation process, and the punishment for violations of the HIB.²

The HIB defines "harassment, intimidation, or bullying" as

any gesture, any written, verbal or physical act, or any electronic communication, as defined in N.J.S.A. 18A:37-14, whether it be a single incident or a series of incidents that:

1. Is reasonably perceived as being motivated by either any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic;
2. Takes place on school property, at any school-sponsored function, on a school

¹ Defendant was improperly pled as Cumberland Regional High School District.

² The policy was revised in 2011, and again in 2014.

bus, or off school grounds, as provided for in N.J.S.A. 18A:37-15.3;

3. Substantially disrupts or interferes with the orderly operation of the school or the rights of other students; and that
 - a. A reasonable person should know, under the circumstances, that the act(s) will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his/her person or damage to his/her property; or
 - b. Has the effect of insulting or demeaning any student or group of students; or
 - c. Creates a hostile environment for the student by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

In accordance with the policy, plaintiff and his parents filed a HIB complaint with CRHS on November 29, 2012. The complaint alleged plaintiff was the victim of pervasive harassment by students, teachers, and coaches.

Thereafter, John Mitchell, principal of CRHS and HIB coordinator, together with Joseph Spoltore, a bullying specialist, conducted an investigation into plaintiff's complaint, which included interviews with all involved parties. On December 3, 2012, both Mitchell and Spoltore concluded plaintiff's claims were

unfounded based on their inability to obtain sufficient corroborating evidence and the inconsistencies in plaintiff's recounting of the alleged predicate events. By letter dated December 10, 2012, plaintiff and his parents were advised of the HIB investigation results. Plaintiff did not appeal the findings to the New Jersey Commissioner of Education pursuant to N.J.S.A. 18A:37-15(b)(6)(e).

On October 24, 2014, plaintiff filed a complaint against defendant alleging, amongst other claims, negligence, "reckless endangerment of numerous children," violations of the HIB policy, the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -42, public transportation laws, medical privacy laws, and/or "intellectual property theft." Defendant filed an answer and an amended answer. Prior to the expiration of discovery, defendant moved for summary judgment, which was denied without prejudice. After the conclusion of discovery, defendant again moved for summary judgment. On April 11, 2016, the judge granted summary judgment in favor of defendant. This appeal followed.

Plaintiff raises the following arguments on appeal:

POINT I

[PLAINTIFF] WAS NOT AFFORDED THE OPPORTUNITY
TO APPEAL THE HIB FINDING AND [DEFENDANT'S]
HIB INVESTIGATION PROCESS WAS FLAWED.

POINT II

A STUDENT HAS A RIGHT TO ACHIEVE AN EDUCATION
FREE OF HARASSMENT AND [PLAINTIFF'S] CLAIMS
AS OUTLINED CONSTITUTE HIB UNDER THE NJLAD.

POINT III

DISCLOSURE OF [PLAINTIFF'S] MEDICAL
INFORMATION WAS IN VIOLATION OF FERPA.

Our review of a ruling on summary judgment is de novo, applying the same legal standard as the trial court. Nicholas v. Mynster, 213 N.J. 463, 477-78 (2013). Summary judgment must be granted if "the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." Town of Kearny v. Brandt, 214 N.J. 76, 91 (2013) (quoting R. 4:46-2(c)).

Thus, we consider, as the judge did, whether "the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party." Ibid. (quoting Brill v. Guardian Life Ins. Co., 142 N.J. 520, 540 (1995)). If there is no genuine issue of material fact, we must then "decide whether the trial court correctly interpreted the law." Massachi v. AHL Servs., Inc., 396

N.J. Super. 486, 494 (App. Div. 2007), certif. denied, 195 N.J.
419 (2008). We accord no deference to the trial judge's
conclusions on issues of law and review issues of law de novo.
Nicholas, supra, 213 N.J. at 478.

Having considered appellant's arguments in light of the
discovery record, our standard of review and the controlling law,
we find them to be without sufficient merit to warrant discussion
in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION

SUPREME COURT OF NEW JERSEY
C-596 September Term 2017
080173

ANDREW K. BONNER, JR.,

PLAINTIFF-PETITIONER,

V.

ON PETITION FOR CERTIFICATION

CUMBERLAND REGIONAL HIGH
SCHOOL DISTRICT,

DEFENDANT-RESPONDENT.

FILED

FEB 09 2018

Mark Nease
CLERK

To the Appellate Division, Superior Court:

A petition for certification of the judgment in A-004133-15
having been submitted to this Court, and the Court having
considered the same;

It is ORDERED that the petition for certification is
denied.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at
Trenton, this 6th day of February, 2018.

Stuart Nease

CLERK OF THE SUPREME COURT

**Additional material
from this filing is
available in the
Clerk's Office.**