

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1700**

Doe A.S.,
Appellant,

vs.

St. John the Evangelist Episcopal,
Respondent,

St. Paul, Episcopal Church in Minnesota,
Respondent.

**Filed June 8, 2026
Affirmed
Rasmusson, Judge**

Ramsey County District Court
File No. 62-CV-24-2447

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Considered and decided by Larkin, Presiding Judge; Cochran, Judge; and
Rasmusson, Judge.

NONPRECEDENTIAL OPINION

RASMUSSEN, Judge

This case arises out of a grant of summary judgment in favor of respondents St. John the Evangelist Episcopal, St. Paul (St. John) and Episcopal Church in Minnesota (ECMN). Appellant Doe A.S. challenges the summary-judgment dismissal of his general-negligence, negligent-supervision, and negligent-retention claims against respondents.¹ These claims originate from sexual abuse committed by a third party purportedly acting as respondents' employee or volunteer. A.S. asserts that the district court erred in determining as a matter of law that respondents owed no duty of care to A.S. and that the third party did not have an employment relationship with respondents. Because we conclude that the district court did not err in its legal conclusions, we affirm.

¹ In his complaint and throughout his briefing, A.S. refers to his "vicarious liability claim." Vicarious liability operates as a theory of liability that allows one party to be held responsible for the actionable conduct of another based solely on their relationship. *Sutherland v. Barton*, 570 N.W.2d 1, 4-5 (Minn. 1997) (discussing the difference between "direct liability" and "vicarious liability" in the context of a negligence claim). Minnesota courts consistently characterize vicarious liability as a mechanism for extending existing tort liability to related parties, requiring an underlying cause of action against the agent before vicarious liability can attach to the principal. *See id.* at 6-7. Because A.S. raises only direct liability claims and brings no underlying cause of action against an agent, tortious liability cannot be extended to respondents under a theory of vicarious liability. Accordingly, we do not further address this theory of liability in this opinion.

FACTS

Parties and Third-Party Actor

St. John is an Episcopal congregation located within the diocese of ECMN. ECMN is a regional branch of the Episcopal Church in the United States of America that supports and oversees congregations across Minnesota.

During the relevant time period, A.S. was a youth member of St. John. At the age of 10 or 11, A.S. began participating in youth organizations at church. In addition to youth groups run by St. John, A.S. participated in other programs, including Minnesota Teens Encountering Christ (TEC), a retreat movement that offered youth-led weekend experiences focused on personal faith, community, and spiritual growth.

Kirby Maze, the third-party actor, was a member of St. Mary's Episcopal Church, another Episcopal congregation in St. Paul. He participated in TEC as a youth. Once he became an adult, he returned to the program as a volunteer.

Abuse

A.S. testified that he first met Maze at St. John during a Sunday coffee hour. A.S. was attending Sunday service, and Maze was visiting the church to attend a TEC event. Maze encouraged A.S. to attend a TEC retreat in the future. This was the only time that A.S. and Maze interacted at St. John.

During a TEC retreat in 2017, Maze asked A.S. if he had Snapchat and the two exchanged username information. Between 2017 and 2019, A.S. had contact with Maze at various TEC events where Maze served in leadership roles. A.S. testified that, during this time, he did not believe that the two had any relationship outside of TEC events.

In 2017 or 2018, an account associated with a person named “Miley Oliver” added A.S. on Snapchat. A.S. did not know how this person obtained his contact information. A.S. testified that he and “Miley” started flirting via Snapchat, eventually exchanging sexually explicit photographs of themselves. Shortly after these interactions began, A.S. became uncomfortable and attempted to terminate communications with “Miley.” In response, “Miley” demanded additional photographs and threatened to distribute previously shared photographs to A.S.’s friends and family. The record is clear that none of the interactions between A.S. and “Miley” occurred during a church function or on church property.

These threats continued until A.S.’s senior year in high school when A.S. disclosed the situation to his mother.² Before informing his mother, A.S. had never told anyone about his contact with “Miley.” A.S. and his mother reported the threats to law enforcement who eventually determined that “Miley” was Maze. The state prosecuted and convicted Maze.

St. John learned about Maze’s abuse of A.S. from A.S.’s mother when she sought pastoral care after making the report to law enforcement. ECMN appears to have learned about Maze’s abuse of A.S. through contact from a criminal investigator. After this communication, ECMN prohibited Maze from any involvement in diocesan youth events.

² The exact date of the disclosures to A.S.’s mother, St. John, and ECMN are unclear from the record.

Negligence Claims and Procedural Posture

In April 2024, A.S. filed a lawsuit against respondents alleging that “[a]s a direct result of ECMN and St. John’s negligent conduct, [A.S.] suffered” harm caused by Maze. A.S. further alleged that respondents negligently supervised and retained Maze as an employee or volunteer.

Both St. John and ECMN moved for summary judgment. They argued that summary judgment on A.S.’s negligence claim was appropriate because they did not owe him a duty of care. They further argued that summary judgment on A.S.’s negligent-supervision and negligent-retention claims was appropriate because Maze was never an employee of St. John or ECMN.

Following a hearing on the motions, the district court determined that neither respondent owed A.S. a duty of care to prevent harm caused by Maze because “Maze’s conduct was not foreseeable.” It also determined that no dispute of material fact existed regarding Maze’s employment status with St. John or ECMN. The district court therefore granted summary judgment to respondents on A.S.’s general-negligence, negligent-supervision, and negligent-retention claims.

A.S. filed a motion to reconsider, requesting that the district court review its decision to grant respondents’ motions for summary judgment in light of the opinions expressed in an expert report. The district court denied A.S.’s motion on the grounds that it “considered the opinions but did not find them persuasive under the facts of this case.”

A.S. appeals.

DECISION

A.S. argues that the district court erred by granting summary judgment in favor of respondents. Summary judgment is appropriate only when “there is no genuine issue as to any material fact and [a party] is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.01. Appellate courts review a grant of summary judgment de novo to determine “whether there are any genuine issues of material fact and whether the district court erred in its application of the law to the facts.” *Com. Bank v. W. Bend Mut. Ins. Co.*, 870 N.W.2d 770, 773 (Minn. 2015). A genuine issue of material fact exists if a rational trier of fact, considering the record as a whole, could find for the nonmoving party. *Frieler v. Carlson Mktg. Grp., Inc.*, 751 N.W.2d 558, 564 (Minn. 2008). In conducting this review, appellate courts “view the evidence in the light most favorable to the nonmoving party . . . and resolve all doubts and factual inferences against the moving parties.” *Rochester City Lines, Co. v. City of Rochester*, 868 N.W.2d 655, 661 (Minn. 2015). However, the nonmoving party “may not establish genuine issues of material fact by relying upon unverified and conclusory allegations, or postulated evidence that might be developed at trial, or metaphysical doubt about the facts.” *Dyrdal v. Golden Nuggets, Inc.*, 689 N.W.2d 779, 783 (Minn. 2004); *see also* Minn. R. Civ. P. 56.05 (articulating the appropriate remedy when a party “fails to properly support an assertion of fact or fails to properly address another party’s assertion of fact”).

I. The district court did not err by granting summary judgment on A.S.’s general-negligence claim.

A.S. first argues that the district court erred when it determined that respondents did not owe him a duty of care and therefore granted summary judgment on his general-negligence claim. Specifically, A.S. argues that a genuine issue of material fact exists as to whether the harm Maze caused him was foreseeable to respondents.

“Negligence is the failure to exercise the level of care that a person of ordinary prudence would exercise under the same or similar circumstances.” *Doe 169 v. Brandon*, 845 N.W.2d 174, 177 (Minn. 2014). “A defendant in a negligence action is entitled to summary judgment when the record reflects a complete lack of proof on any of the four elements necessary for recovery: (1) the existence of a duty of care, (2) a breach of that duty, (3) an injury, and (4) the breach of that duty being the proximate cause of the injury.” *Louis v. Louis*, 636 N.W.2d 314, 318 (Minn. 2001). This case turns on the first element of a negligence claim: the existence of a duty of care.

“The existence of a duty of care is a threshold question because a defendant cannot breach a nonexistent duty.” *Doe 169*, 845 N.W.2d at 177. Minnesota law adheres to the general common-law rule that “a person does not owe a duty of care to another . . . if the harm is caused by a third party’s conduct.” *Id.* at 177-78. Under this rule, respondents would not owe a duty of care to A.S. because the harm was caused by Maze, a third party. But there are two exceptions to this general rule. The first is “when there is a special relationship between a plaintiff and a defendant and the harm to the plaintiff is foreseeable.” *Id.* at 178. We refer to this as the special-relationship exception. The second

is when “the defendant’s own conduct creates a foreseeable risk of injury to a foreseeable plaintiff.” *Domagala v. Rolland*, 805 N.W.2d 14, 23 (Minn. 2011). We refer to this as the own-conduct exception. If either the special-relationship or the own-conduct exception applies, a negligent defendant may be held liable to a plaintiff for harm caused by a third party. *Fenrich v. Blake Sch.*, 920 N.W.2d 195, 202 (Minn. 2018).

Both the special-relationship and own-conduct exceptions require the injury to be foreseeable before any duty is imposed. *See id.* at 205-07; *Bjerke v. Johnson*, 742 N.W.2d 660, 667 (Minn. 2007). Although Minnesota caselaw has not explicitly stated that the foreseeability standards are identical across the special-relationship and own-conduct exceptions, courts apply similar objective-reasonableness frameworks when evaluating whether specific dangers were foreseeable. *See, e.g., Fenrich*, 920 N.W.2d at 205-07; *Bjerke*, 742 N.W.2d at 667-69. Accordingly, we analyze the foreseeability question as it pertains to both exceptions.

Foreseeability as to duty of care is “ordinarily properly decided by the court” as a matter of law. *Domagala*, 805 N.W.2d at 27 (quotations omitted). But in “close cases,” the question of foreseeability should be submitted to the jury. *Id.* As the parties’ arguments focus on summary-judgment evidence, we consider this evidence to determine whether a genuine issue of material fact exists as to foreseeability.

Foreseeability turns not on “whether the precise nature and manner of the plaintiff’s injury was foreseeable, but whether ‘the possibility of an accident was clear to the person of ordinary prudence.’” *Id.* at 27 (quoting *Connolly v. Nicollet Hotel*, 95 N.W.2d 657, 664 (Minn. 1959)). Accidents “within the realm of any conceivable possibility” are not

necessarily foreseeable. *Whiteford by Whiteford v. Yamaha Motor Corp., U.S.A.*, 582 N.W.2d 916, 918 (Minn. 1998). Instead, appellate courts consider “whether the specific danger was objectively reasonable to expect.” *Id.*

We must determine whether, considering the record as a whole, a rational trier of fact could find that it was objectively reasonable for respondents to expect Maze would abuse A.S. A.S. argues that a genuine issue of material fact exists as to the foreseeability of the harm inflicted by Maze. To support his argument, he relies on (1) evidence associated with an incident involving Maze at an overnight TEC event, (2) evidence associated with a contact-information sheet collected and distributed by TEC, (3) testimony of a former TEC volunteer, and (4) an expert-witness report. We analyze each piece of evidence below, drawing all reasonable factual inferences in favor of A.S. *Rochester City Lines, Co.*, 868 N.W.2d at 661.

First, A.S. relies on an email sent by the Director of Children, Youth, and Family Ministry (the director) to the Bishop of the Episcopal Church and a TEC volunteer. The email describes a 2019 TEC event where Maze—who had recently graduated from high school—attempted to sleep in a church loft with “one or two other youth.” At the time, Maze “was over 18 and was participating in the [TEC] event as a young adult.” At the instruction of the director, Maze did not sleep in the loft.

The timing and substance of this email do not support A.S.’s argument that this situation created a genuine issue of material fact. As to timing, the undisputed facts in the record demonstrate that Maze’s sexual abuse of A.S. started in 2017 or 2018. Therefore, this incident occurred at least one year *after* Maze started abusing A.S., undermining any

argument that the conduct was foreseeable. Further, the email was sent on May 17, 2023. There is no indication in the record that respondents knew of the 2019 incident prior to the email being sent, and A.S. does not claim that its contents were communicated earlier to the respondents. In terms of substance, the email describes a recent high school graduate, albeit an adult, attempting to sleep in the same location as “two youth” from a “group of teens and adults.” Uncontroverted testimony in the record described these individuals as Maze’s friends who “were around [his] age” and “grew up in TEC” with him. A.S. was not among them. The director ultimately prohibited Maze from sleeping in the same location as the youths. Even taken in the light most favorable to A.S., this scenario does not make Maze’s off-site, online sexual abuse objectively reasonable for respondents to expect.

Next, A.S. relies on evidence associated with a contact-information sheet collected and distributed by TEC. At TEC events, participants had the option to complete a contact-information sheet to share their name, phone number, and social-media accounts with other TEC attendees. We understand A.S.’s argument to be that he *may* have completed this sheet and Maze *may* have accessed A.S.’s social-media information from the sheet.

The undisputed facts in the record discredit this assertion. Even assuming A.S. did complete such a form and include his social-media information, A.S. testified that he voluntarily exchanged social-media information directly with Maze at Maze’s request. Furthermore, it is unclear how this evidence supports a determination that the specific danger was objectively reasonable for respondents to expect. Here, the specific danger is

Maze's online, off-site sexual abuse of A.S. The existence and distribution of the contact-information sheet are not related to respondents' knowledge of Maze's propensity for sexual abuse. Without such information, the contact-information sheet alone is not sufficient to make Maze's conduct foreseeable to respondents. Taken in the light most favorable to A.S., completion of the contact-information sheet with possible access by Maze does not make Maze's subsequent off-site, online abuse foreseeable.

A.S. then relies on testimony given by a TEC volunteer (the volunteer). A.S. identifies the volunteer's general concerns about the TEC program, including that "the program was not doing a good job of keeping the 18- [to] 21-year-old age group apart from the youth group." A.S. also highlights the volunteer's specific concerns about Maze, including that he wanted to leave his designated young-adult group to participate as an adult leader," and he "kept wandering to where the young people were" during a TEC event. Nothing in the volunteer's testimony suggests that she communicated her concerns to St. John or ECMN. And even if she did, her testimony suffers from the same substantive concern as the email discussed above. That is, a rational trier of fact could not find that Maze's online, off-site sexual abuse of A.S. outside of TEC events was objectively reasonable to expect based on the volunteer's concerns about Maze.

Finally, A.S. relies on an expert-witness report as establishing a factual dispute. As the district court noted in its order denying reconsideration, this report "offers little to assist the court in determining whether there is a material fact dispute regarding the foreseeability of A.S.'s injury." The expert asserts that "if not for" the TEC program, "A.S. would have never met [Maze] and Maze would have never had access to A.S.'s personal information

to be able to groom, manipulate, and abuse him.” But, as the district court notes, “that assumption does not speak to the question of whether it was ‘objectively reasonable’ to anticipate Maze” would sexually abuse A.S. Accordingly, this evidence does not establish a genuine issue of material fact as to foreseeability.³

Viewing the evidence in the light most favorable to A.S., no reasonable jury could conclude that the online, off-site sexual abuse at issue was a foreseeable consequence of the parties’ relationship or respondents’ conduct. We draw this conclusion when reviewing each individual piece of evidence and when reviewing them together for their cumulative effect. Accordingly, no duty arose as a matter of law, and summary judgment was appropriate.

³ A.S. attempts to analogize respondents to an entity discussed in *Doe 169*. There, a victim of sexual abuse by a church volunteer brought an action against the volunteer, church, and church’s District Council, alleging negligence and negligent supervision. *Doe 169*, 845 N.W.2d at 176-77. The supreme court held that the District Council’s recommendation to renew the ministerial credentials of the volunteer did not create a duty of care. *Id.* at 175, 179.

A.S. contends that “ECMN is the same as [the church, Emmanuel Christian Center (ECC)]” and “St. John is closer to ECC than it is to [the church’s District Council].” A.S. appears to find this distinction important based on his further assertion that “ECC in *Doe 169* could have owed a duty to the victim based on their vetting, training, and supervising of the volunteers.” But this latter assertion is unsupported by *Doe 169* because ECC was not a party on appeal. Doe and ECC settled before the case reached the supreme court. *Id.* at 177 n.1. ECC’s liability was therefore never litigated or decided. A.S.’s attempt to analogize respondents to a settling party mentioned in *Doe 169* cannot establish liability. Moreover, this argument fails to address the central question of foreseeability—the dispositive question before us on appeal.

II. The district court did not err by granting summary judgment on A.S.'s negligent-supervision or negligent-retention claims.

Both negligent-supervision and negligent-retention claims require foreseeability of harm and evidence that the employer knew or should have known of the employee's problematic behavior but failed to take appropriate remedial action. *See Yunker v. Honeywell, Inc.*, 496 N.W.2d 419, 423-24 (Minn. App. 1993), *rev. denied* (Minn. Apr. 20, 1993); *M.L. v. Magnuson*, 531 N.W.2d 849, 857-59 (Minn. App. 1995), *rev. denied* (Minn. July 20, 1995). Even assuming that the other elements of these claims were met, A.S. would still need to prove that Maze's sexual abuse was "foreseeable misconduct." *M.L.*, 531 N.W.2d at 858. Based on the foreseeability analysis above, there is no genuine issue of material fact as to the foreseeability of Maze's sexual abuse of A.S. Accordingly, the district court did not err when it granted summary judgment on A.S.'s negligent-supervision and negligent-retention claims.

Affirmed.