

**STATE OF VERMONT
DEPARTMENT OF LABOR**

Estate of David St. Germain

Opinion No. 01-25WC

v.

By: Beth A. DeBernardi
Administrative Law Judge

Rutland Northeast Supervisory Union

For: Michael A. Harrington
Commissioner

State File No. SS-00368

RULING ON DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

APPEARANCES:

James A. Valente, Esq., for Claimant
Wesley M. Lawrence, Esq., for Defendant

ISSUE PRESENTED:

Is Defendant entitled to judgment in its favor and dismissal of this workers' compensation claim as a matter of law based on either 21 V.S.A. § 649 or 21 V.S.A. § 601(11)(J)(ii)?

EXHIBITS:

Defendant's Exhibit A:	May 18, 2020 hiring letter
Defendant's Exhibit B:	August 10, 2021 marriage certificate
Defendant's Exhibit C:	January 28, 2022 email from the Superintendent to the decedent
Defendant's Exhibit D:	February 10, 2022 performance plan
Defendant's Exhibit E:	February to May 2022 psychotherapy records of Kimberlee Moyer
Defendant's Exhibit F:	2022-2023 school year principal's contract
Defendant's Exhibit G:	Materials relating to the Title IX investigation ¹
Defendant's Exhibit H:	December 28, 2022 letter summarizing a December 23 meeting
Defendant's Exhibit I:	January 3, 2023 response to the December 28, 2022 letter
Defendant's Exhibit J:	January 23, 2023 letter re: paid administrative leave
Defendant's Exhibit K:	<i>Vermont State Board of Education Manual of Rules and Practices</i>
Defendant's Exhibit L:	January 26, 2023 email and mid-year evaluation
Defendant's Exhibit M:	January 27, 2023 email and resignation letter
Defendant's Exhibit N:	January 27, 2023 out-of-work note and transmittal email
Defendant's Exhibit O:	Various police reports from January 29, 2023 to August 10, 2023
Defendant's Exhibit P:	February 8, 2023 autopsy report
Defendant's Exhibit Q:	Death certificate
Claimant's Exhibit 1:	January 2023 medical summary from psychologist Jack Jessup

¹ This Exhibit includes additional documents submitted by Defendant on October 25, 2024 with its Reply.

BACKGROUND:

Considering the evidence in the light most favorable to the non-moving party, *State v. Delaney*, 157 Vt. 247, 252 (1991), there is no genuine issue as to the following material facts:

1. Defendant hired the decedent, David St. Germain, on July 1, 2020, as the principal of Barstow Memorial School in Chittenden, Vermont. *Defendant's Statement of Undisputed Material Facts* (“*Defendant's Statement*”), ¶ 1; *Defendant's Exhibit A*.
2. On August 7, 2021, the decedent married Lisa St. Germain. *Defendant's Statement*, ¶ 2; *Defendant's Exhibit B*.
3. On January 28, 2022, Defendant's former superintendent, Jeanne Collins, sent an email to the decedent informing him that she was “strongly considering recommending a non-renewal of your contract for the 2022-2023 school year” and telling him that they would meet the following Monday. *Defendant's Exhibit C*. Her email referenced past discussions of ongoing issues and allegations of unprofessional conduct. Superintendent Collins noted that, if she thought it was appropriate to recommend non-renewal after her Monday meeting with the decedent, she would do so on Monday night, January 31, 2022, in executive session. *Defendant's Statement*, ¶ 3; *Defendant's Exhibit C*.
4. On February 10, 2022, Defendant placed the decedent on a performance improvement plan, although the parties disagree about what the plan was intended to remedy. The parties agree that the plan was closed by March 28, 2022, but they disagree about the reasons for closure. *Defendant's Statement*, ¶ 4; *Claimant's Statement of Disputed Material Facts* (“*Claimant's Statement*”), ¶ 4; *Defendant's Exhibit D*.
5. From February 2022 to May 2022, the decedent received counseling from Kimberlee Moyer, a licensed psychotherapist. His presenting problem was asking for help “unpacking things” in his personal life that he thought had affected his work. Defendant's Statement includes excerpts from the counseling records, including the decedent's worry that he might be fired from his job and his history as a victim of childhood abuse. *Defendant's Statement*, ¶ 5; *Defendant's Exhibit E*. The decedent also expressed a belief that his current behavior was connected to his past trauma, causing him to feel anxious. *Claimant's Statement*, ¶ 5; *Defendant's Exhibit E*.
6. The parties quote different excerpts from the decedent's counseling records. Defendant quotes the records to show that the decedent made mistakes and wanted to make things right. *Defendant's Statement*, ¶ 6; *Defendant's Exhibit E*. Claimants quotes the records to show that many people were supportive of the decedent and that the criticism of him came from an anonymous app similar to an anonymous comment box. *Claimant's Statement*, ¶ 6; *Defendant's Exhibit E*.
7. On May 3, 2022, the decedent reported to Ms. Moyer that his anxiety was significantly reduced and that he did not see a reason to continue therapy. She wrote: “He has closed the door to trauma work. It's too frightening for him at this time.” *Defendant's Exhibit E*. This is the last treatment note from Ms. Moyer. *Defendant's Statement*, ¶ 7; *Defendant's*

Exhibit E. Claimant’s Statement includes additional information from the counseling records about Defendant’s deciding to retain the decedent’s contract and the decedent’s relief over that decision. However, the records also show that the decedent was still struggling with his childhood trauma, the discussion of which caused him anxiety. Concerning his history of childhood trauma, Ms. Moyer noted that the decedent’s “unprecedented ‘soul searching’ on previously avoided issues was ‘reawakened’ by [his] issues at school.” *Claimant’s Statement*, ¶ 7; *Defendant’s Exhibit E.*

8. On July 15, 2022, the decedent entered into a new principal’s contract for the 2022-2023 school year. *Defendant’s Statement*, ¶ 8; *Defendant’s Exhibit F.*
9. On August 31, 2022, one of the decedent’s colleagues filed a formal complaint of sexual harassment, alleging that the decedent had engaged in ageist and misogynist behavior and had made unsolicited physical contact with her. The decedent was informed of the complaint on September 6, 2022. He responded to the investigator’s report on the allegations, through counsel, on October 31, 2022. *Defendant’s Amended Statement of Undisputed Material Facts* (“*Defendant’s Amended Statement*”), ¶ 9. Claimant asserts that these allegations caused the decedent acute distress. *Defendant’s Statement*, ¶ 9; *Defendant’s Exhibit G and Claimant’s October 23, 2023 Appeal of the Form 2 Denial*, at 2; *Claimant’s Statement*, ¶ 9. The sexual harassment complaint was later dismissed on February 6, 2023, due to the decedent’s death. *Defendant’s Amended Statement*, ¶ 9.
10. Defendant contends that, because it is a public school subject to Title IX, it was obligated to investigate the claims of workplace sexual harassment made against the decedent. *Defendant’s Statement*, ¶ 10. Although Claimant does not dispute that public schools are obligated to investigate sexual harassment complaints, it disputes that the allegations made against the decedent in August 2022 would constitute sexual harassment sufficient to trigger an obligation to investigate under Title IX, even if the allegations were true. *Claimant’s Statement*, ¶ 10; *Defendant’s Exhibit G.*
11. On December 28, 2022, Defendant’s new superintendent, Kristin Hubert, wrote a letter to the decedent sharing some of her performance concerns. She indicated that she would likely recommend to the Board that they not issue a contract to the decedent for the 2023-2024 school year. Her letter ended with a suggestion that the decedent take the winter recess to reflect on his leadership goals and ways to ensure that the current school year would end smoothly. She wrote that they would have another discussion at the mid-year evaluation meeting on January 6, 2023. *Defendant’s Statement*, ¶ 11; *Defendant’s Exhibit H.*
12. On January 3, 2023, Claimant acknowledged Superintendent Hubert’s letter and expressed disappointment that she had not shown any concern for his well-being, despite the strain he was under. He ended his letter: “In closing, before I move on from Barstow Memorial School, I look forward to the opportunity to work with you to alleviate anyone else’s concerns and ensure a smooth ending to the 2022-2023 school year.” *Defendant’s Statement*, ¶ 12; *Defendant’s Exhibit I.*

13. On January 23, 2023, a separate complaint was filed against the decedent alleging that he had “deviated from the guidelines for using physical restraint on a student suffering from a behavioral meltdown.” *Defendant’s Statement*, ¶ 13; *Claimant’s October 23, 2023 Appeal of the Form 2 Denial*, at 2. No determination was ever made as to this complaint. *Claimant’s Statement*, ¶ 13.
14. On January 23, 2023, Superintendent Hubert informed Claimant in writing that he would be placed on paid administrative leave effective January 24, 2023 while Defendant investigated the complaint of physical restraint. *Defendant’s Statement*, ¶ 14; *Defendant’s Exhibit J*.
15. The decedent was placed on administrative leave on January 24, 2023. *Defendant’s Statement*, ¶ 15; *Defendant’s Exhibit J*.
16. Pursuant to the *Vermont State Board of Education Manual of Rules and Practices*, school districts are required to investigate all complaints regarding the use of restraint and issue written findings within 30 days. *Defendant’s Statement*, ¶ 16; *Defendant’s Exhibit K*.
17. The decedent was prepared to defend himself against the new complaint, but “the allegations triggered a release of emotion related to his childhood trauma. He became paranoid and was fixated on the idea that he might bear some similarity to the person who had abused him. This was a thought [he] could not bear.” *Defendant’s Statement*, ¶ 17, quoting *Claimant’s October 23, 2023 Appeal of the Form 2 Denial*, at 2. The decedent recognized that he was experiencing a serious mental health event and immediately contacted psychotherapist Kimberlee Moyer. She referred him to Jack Jessup, a Rutland psychologist with a trauma-informed approach. *Defendant’s Statement*, ¶ 17; *Claimant’s October 23, 2023 Appeal of the Form 2 Denial*, at 2.²
18. On January 26, 2023, Superintendent Hubert emailed the decedent his mid-year evaluation. She wrote in her cover letter:

I will recommend that the board not issue you a contract for the 2023-2024 school year. If by close of business on Friday, January 27th, we have not received your resignation for the end of the 2022-2023 school year, I will officially warn a special Barstow Board Meeting. On January 31st, the Barstow School Board will vote to accept a recommendation of non-renewal in public session.

Defendant’s Statement, ¶ 18; *Defendant’s Exhibit L*.

19. Defendant’s Statement sets forth the decedent’s entire mid-year evaluation. The evaluation notes both his successes and his alleged shortcomings, including lack of leadership and unsatisfactory interactions with employees. It further alleges that the decedent made improvements when he was placed on a performance improvement plan, but after that plan was closed, he “slid back into the same undesirable behaviors.” The

² For purposes of this motion, Defendant does not dispute these allegations made in Claimant’s Appeal of the Form 2 Denial.

report concluded: “We cannot tolerate a school leader who meets expectations when under scrutiny, but then declines to do his job the right way when the scrutiny is lifted.” *Defendant’s Statement*, ¶ 19; *Defendant’s Exhibit L*.

20. The mid-year evaluation was followed by a review evaluating the decedent’s “Performance on Standards.” This review listed nine attributes and included boxes for the reviewer to check for each one. The “Needs Improvement” box was checked for seven attributes, and the “Proficient” box was checked for two. The decedent was not assessed as “Exemplary” for any attributes. *Defendant’s Statement*, ¶ 20; *Defendant’s Exhibit L*.
21. On the morning of Friday, January 27, 2023, the decedent emailed Superintendent Hubert to tender his resignation, effective the last day of his current contract, which was June 30, 2023. *Defendant’s Statement*, ¶ 21; *Defendant’s Exhibit M*.
22. In the email to which his resignation letter was attached, the decedent asked for some time to develop a response to the mid-year evaluation before he signed it. *Defendant’s Statement*, ¶ 22; *Defendant’s Exhibit M*.
23. The decedent saw his primary care provider, Kristin Sperber, PA-C of Rutland’s Community Health Center, on January 27, 2023. She wrote him an out-of-work note until after his next appointment with her on February 10, 2023. *Defendant’s Statement*, ¶ 23; *Defendant’s Exhibit N*. The decedent also had his first counseling session with psychologist Jack Jessup that day. *Claimant’s Exhibit I*.
24. Claimant was already on a paid leave of absence at the time PA Sperber wrote the out-of-work note. *Defendant’s Statement*, ¶ 24; *Defendant’s Exhibits J and N*.
25. On the morning of Saturday, January 28, 2023, the decedent wrote an email to Superintendent Hubert noting that the “events of the past few years” had taken a toll on his health. He attached the out-of-work note from his primary care provider and informed Ms. Hubert that he would not be able to return to work for at least two weeks. *Defendant’s Statement*, ¶ 25; *Defendant’s Exhibit N*. Claimant’s Statement adds some context about the decedent’s medical leave, including that he was seeking treatment from psychologist Jack Jessup for panic attacks and that he felt overwhelmed with anxiety. At their first counseling session, Mr. Jessup provisionally diagnosed the decedent with post-traumatic stress disorder, and he scheduled a follow-up appointment for February 3, 2023. *Claimant’s Statement*, ¶ 25; *Claimant’s Exhibit I*.
26. On Sunday morning, January 29, 2023, the decedent told his wife that he was going out for a drive, but he did not say where he was going. At her suggestion, he took the family dog with him. The decedent then drove from his home in Vermont to Queensbury, New York. *Defendant’s Statement*, ¶ 26; *Defendant’s Exhibit O*, at 1, 5; *Claimant’s Statement*, ¶ 26.
27. During the late morning of January 29, 2023, the decedent checked into the Queensbury Econo Lodge. *Defendant’s Statement*, ¶ 27; *Defendant’s Exhibit O*.

28. Some time later that day, the decedent committed suicide in his motel room bathtub, using a razor blade to cut his blood vessels open. *Defendant's Statement*, ¶ 28; *Defendant's Exhibits O and P*.
29. That same day, the decedent's wife, Lisa St. Germain, filed a missing person's report and contacted the Warren County, New York Sheriff's Office for a welfare check on her husband. She reported that he was possibly suicidal. *Defendant's Statement*, ¶ 29; *Defendant's Exhibit O*.
30. In response to the call from Mrs. St. Germain, a patrol officer was dispatched to the Econo Lodge. *Defendant's Statement*, ¶ 30; *Defendant's Exhibit O*.
31. The police arrived at the Econo Lodge late that afternoon and found the decedent's body in his motel room bathtub. *Defendant's Statement*, ¶ 31; *Defendant's Exhibit O*.
32. The Patrol Officer recounts the following statement from Mrs. St. Germain:

She stated that due to recent events going on at David's work he had become suicidal. She further stated that earlier in the week he made a comment while on the roof of their house that he should just dive off head first and end it. He also saw his primary care doctor over his recent depression and was prescribed a prescription to help combat it. Lisa said that this morning, David handed her a key to their fire safe box and said something about if you need this or you will need this and made a comment about wanting to end it all.

Defendant's Statement, ¶ 32; *Defendant's Exhibit O*, at 1.

33. The investigator's supplemental report recounts his conversation with Mrs. St. Germain as follows:

In sum and substance, David was recently dealing with stress at work, as a school principal including an ongoing personnel investigation in regards to allegations made against him. St. Germain also recently started making suicidal in nature comments. Lisa also discovered a note which listed passwords for his computer.

Defendant's Statement, ¶ 33; *Defendant's Exhibit O*, at 5.

34. After speaking with Lisa St. Germain, the Warren County Coroner, Paul Bachman, MD, completed his report on January 30, 2023. Mrs. St. Germain told Dr. Bachman that the decedent was under considerable stress at work, and she referenced the investigation about a student being restrained. She further told Dr. Bachman that the action brought back memories of the decedent's childhood abuse and that he was suffering from panic attacks and nightmares. When he failed to return from a drive with the family dog, she

contacted the police. Dr. Bachman's report also confirmed the discovery of razor blades in the decedent's motel room. *Defendant's Statement*, ¶ 34; *Defendant's Exhibit P*, at 10.

35. A toxicology report confirms that the only substance in the decedent's blood was caffeine. *Defendant's Statement*, ¶ 35; *Defendant's Exhibit P*, at 14.
36. The decedent's death certificate identifies suicide as the manner of death. *Defendant's Statement*, ¶ 36; *Defendant's Exhibit Q*.
37. Defendant states: "[The decedent] intended to kill himself." *Defendant's Statement*, ¶ 37; *Defendant's Exhibits C-O*. In the body of its summary judgment motion, Defendant states that the decedent indisputably "planned" his suicide. *Defendant's Motion for Summary Judgment*, at 15. In support of both statements, Defendant cites the circumstances surrounding the decedent's suicide.³ Based on the circumstances cited by Defendant, there can be no genuine dispute that the decedent planned his suicide. However, I decline to make a finding that he "intended" to commit suicide, as that term is used in the statute. For the reasons explained *infra*, the compensability of the claim does not turn on the voluntariness of the decedent's intent to kill himself, but rather on a chain of causation analysis linking the work injury to his suicide.
38. At the time of his suicide, the decedent was on paid administrative leave. He had been notified that his contract would not be renewed for the following school year, and he had resigned his position as principal effective at the end of the current school year. *Defendant's Statement*, ¶ 38; *Defendant's Exhibits C-O*.
39. Defendant contends: Claimant's psychological condition and suicide, to the extent they were work-related, related to a disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by the employer. *Defendant's Statement*, ¶ 39; *Defendant's Exhibits C-O*. Claimant responds: The decedent's condition did not relate to a disciplinary action. It initially related to a disciplinary *investigation* to which he objected as unfounded and procedurally improper. Then, it related to the *substance of a complaint* (not a disciplinary action) that caused him to fear that he was similar in certain ways to his childhood abuser. *Claimant's Statement*, ¶ 39. These competing statements create a genuine issue of disputed material fact concerning whether Claimant's suicide related to an adverse job action.

CONCLUSIONS OF LAW:

Standard for Summary Judgment

1. Defendant seeks summary judgment on the grounds that this claim is barred by 21 V.S.A. § 649 and/or by 21 V.S.A. § 601(11)(J)(ii). Section 649 is an affirmative defense barring

³ Defendant cites the following circumstances: The decedent threatened suicide in the past. He gave his wife his Internet passwords and the key to their fire safe. He drove across state lines, checked into a motel, ran the bathwater, and severed his blood vessels with a razor blade from a newly purchased package. He was not under the influence of drugs or alcohol at the time. See *Defendant's Motion for Summary Judgment*, at 15.

compensation when a claimant willfully intended to injure himself. Section 601(11)(J)(ii) excludes compensation for mental conditions that result from certain good faith job actions taken by the employer.

2. Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment in its favor as a matter of law. *Samplid Enterprises, Inc. v. First Vermont Bank*, 165 Vt. 22, 25 (1996). The non-moving party is entitled to the benefit of all reasonable doubts and inferences. *State v. Delaney*, 157 Vt. 247, 252 (1991); *Toys, Inc. v. F.M. Burlington Co.*, 155 Vt. 44, 48 (1990).
3. Summary judgment is appropriate only when the facts in question are clear, undisputed or unrefuted. *State v. Heritage Realty of Vermont*, 137 Vt. 425, 428 (1979). Summary judgment is unwarranted where the evidence is subject to conflicting interpretations, regardless of the comparative plausibility of the facts offered by either party or the likelihood that one party or the other might prevail at trial. *Provost v. Fletcher Allen Health Care, Inc.*, 2005 VT 115, ¶ 15.

Statutory Exclusion of Willful and Intentional Injuries

4. Defendant first contends that 21 V.S.A. § 649 bars this claim as a matter of law. Section 649 provides as follows:

Compensation shall not be allowed for an injury caused by an employee's willful intention to injure himself, herself, or another or by or during his or her intoxication or by an employee's failure to use a safety appliance provided for his or her use. The burden of proof shall be upon the employer if he or she claims the benefit of the provisions of this section.

5. Defendant relies on the statutory language of "an employee's willful intention to injure himself" as the basis for barring this suicide claim. Citing the circumstances surrounding the decedent's suicide, Defendant contends that there is no dispute that his suicide was a willful and intentional injury. Although I have found no genuine issue of material fact that the decedent *planned* his suicide, I declined to find no general issue of material fact as to whether his suicide was willful and intentional. See Background Section, Finding of Fact No. 37, *supra*. Further, Claimant contends that some suicides demonstrate a cry for help, not a willful intention to die.⁴
6. In 1926, the Vermont Supreme Court considered the compensability of an employee's suicide in *McKane v. Capital Hill Quarry Co.*, 100 Vt. 45 (1926). This 99-year-old case expressly adopted the reasoning of the Supreme Judicial Court of Massachusetts, as set forth in *Sponatski's Case*, 220 Mass. 526 (1915).

⁴ Claimant cites Myfanwy Maple *et al.*, "Nobody Hears a Silent Cry for Help": Suicide Attempt Survivors' Experiences of Disclosing During and After a Crisis, 24 Arch. of Suicide Res., 498-516 (October 2020). See Claimant's Opposition to Defendant's Summary Judgment Motion, at 5, footnote 1.

7. The worker in *Sponatski* was injured when he got a splash of molten lead in his eye; a month later, he threw himself out a hospital window to his death. The Massachusetts Court drew a distinction between an employee who commits suicide “voluntarily” and one who commits suicide during an “uncontrollable impulse” or in a “delirium of frenzy.” *Sponatski*, 220 Mass. at 530. Under the Rule of *Sponatski’s Case*, adopted by the Vermont Supreme Court in *McKane*, when there is an unbroken chain of causation between a work injury, an uncontrollable impulse or delirious frenzy caused by the work injury, and the injured worker’s suicide, then the worker is eligible for benefits. If, however, the worker commits suicide “voluntarily,” then the suicide is an intervening act that severs the chain of causation, and the worker is not eligible for benefits related to his death by suicide.
8. The *Sponatski* Court’s analytical framework for suicide claims was adopted not only by Vermont in *McKane*, but also by many other jurisdictions during the first half of the twentieth century. As reported by Professor Larson:

Armed with this formula, courts plunged into the murky depths of every conceivable kind of broken and anguished mind, and tried to come up with the cases classified as compensable or not, according to whether the employee died through a voluntary (though insane) choice or through a delirious impulse. The compensable cases are frequently marked by some violent or eccentric method of self-destruction, while the noncompensable cases usually present a story of quiet but ultimately unbearable agony leading to a solitary and undramatic suicide.

3 Lex K. Larson, *Larson’s Workers’ Compensation Law* § 38.02 (Matthew Bender Rev. Ed.).

9. Over time, the courts found the *Sponatski* dichotomy to be an outdated and unhelpful analytical tool. In its place, they focused on the role of work-related pain or despair in an employee’s suicide, even if that suicide was not the result of a delirious impulse. See, e.g., *Harper v. Industrial Comm’n*, 180 N.E.2d 480, 482 (Ill. 1962) (“[The *Sponatski* test] seems to assume that a man’s capacity to choose is a constant, unvariable factor, unaffected by whatever stresses may be brought to bear against it, and so it minimizes to the point of exclusion the possibility that the capacity to choose may itself be impaired as the result of a compensable injury.”); see also 3 *Larson’s Workers’ Compensation Law*, § 38.03 (criticizing the *Sponatski* test for failing to recognize the role pain or despair may play in breaking down a rational individual’s mental processes).
10. In the wake of such criticism, many jurisdictions adopted a new approach, awarding benefits “when a compensable injury gives rise to pain and depression that drive an employee to suicide.” *Cook County v. Industrial Comm’n*, 429 N.E.2d 865, 866 (Ill. 1981); see also, e.g., *George W. Jackson Mental Health Center v. Lambie*, 898 S.W.2d 479, 482 (Ark. Ct. App. 1995) (awarding compensation to a computer programmer whose suicide resulted from stress developed in the course of attempting to implement an unworkable program); *Hammons v. Highland Park Police Dep’t*, 364 N.W.2d 575, 582

(Mich. 1984) (“If the work results in mental injury and the mental injury results in suicide, the suicide is compensable.”).

11. In 2021, the New Hampshire Supreme Court joined the majority of jurisdictions applying a chain of causation analysis for interpreting the statutory exclusion of willful and intentional injury to oneself. See *Appeal of Pelmac Industries, Inc.*, 174 N.H. 528 (2021). In *Pelmac*, the Court wrote that the chain of causation test “places the burden on the claimant to prove by a preponderance of the evidence that there was an unbroken chain of causation between the [work-related] injury, the disturbance of mind, and the ultimate suicide.” *Pelmac*, 174 N.H. at 542, quoting *Matter of Death of Stroer*, 672 P.2d at 1161. See also *Southeastern Transportation Authority v. Workers’ Comp. Appeal Bd.*, 255 A.3d 689 (Pa. 2021) (If the chain-of-causation standard is met, a suicide death is considered not intentionally self-inflicted and is, therefore, compensable for workers’ compensation benefits, even if the suicide was carefully planned); *Orzech v. Giacco Oil Co.*, 264 A.3d 608, 625 (Conn. App. Ct. 2021) (suicide caused by depression arising from a compensable injury is compensable regardless of how the suicide occurred).
12. In Vermont, the Commissioner has had at least two occasions to consider the compensability of an injured worker’s suicide since the *McKane* decision in 1926. In *Estate of Fatovich v. Burlington Free Press*, Opinion No. 19-97WC (July 29, 1997), the claimant alleged that the decedent’s work caused his depression, which led him to drown himself in Huntington Gorge. The Commissioner wrote that “[b]oth workers’ compensation law, and the study and treatment of mental illness, have advanced markedly since 1926 and the continuing viability of the *McKane* standard perhaps should be the subject of review.” However, the Commissioner did not review the *McKane* standard in *Fatovich* because the claimant there had not proved that the decedent’s depression was related to his employment in any event.
13. The Commissioner considered the compensability of suicide claims in Vermont again twelve years later. In *Harper v. Mack Molding Co.*, Opinion No. 14-09WC (May 13, 2009), the claimant sustained a compensable thumb injury at work. He developed post-traumatic stress disorder related to his injury and, as a result, he attempted suicide by drowning. Citing the *McKane* decision from 1926, the defendant denied benefits related to the claimant’s suicide attempt. In awarding benefits to the claimant, the Commissioner wrote:

This Department previously has noted that the continued viability of the court’s reasoning in *McKane* is questionable given modern developments in both workers’ compensation law and the study and treatment of mental illness. *Estate of Fatovich v. Burlington Free Press*, Opinion No. 19-97WC (July 29, 1997). The critical inquiry is not whether a suicide can be said to have been planned rather than impulsive. Rather, the key question is simply whether a subsequent injury – here, a suicide attempt – flowed naturally from the original compensable injury – here, Claimant’s thumb injury and resulting PTSD. If it did, then it too should be found compensable. See generally, *2 Larson’s Workers’ Compensation Law*, §§38.01-38.05 (stating that most jurisdictions have turned away from the

type of analysis espoused in *McKane* in favor of the more modern causal connection analysis).

14. Thus, in 2009, Vermont repudiated the “voluntary versus irresistible impulse” dichotomy dating back to *McKane* in favor of the modern chain of causation analysis for the compensability of suicide claims. This decision placed Vermont squarely within the majority of jurisdictions who have done the same. *See 3 Larson’s Workers’ Compensation Law*, § 38 Synopsis (“Suicide under the majority rule is compensable if the injury produces mental derangement and the mental derangement produces suicide.”).
15. Defendant contends that the instant claim is not governed by *Harper* because the decedent here did not sustain a physical injury at work. Although the underlying injury in *Harper* was a thumb injury that caused post-traumatic stress disorder, nothing in the *Harper* decision limits its holding to physical-mental injuries. Rather, *Harper* establishes that compensability turns on whether the employee’s suicide attempt “flowed naturally” from a work-related injury, without requiring the work injury to be a physical one. Accordingly, if employment causes a mental injury, and the mental injury causes the employee’s suicide, then the chain of causation test is met; under those circumstances, Section 649 does not bar the claim as a willful intention to injure oneself.
16. Applying this analytical framework here, I conclude that Defendant has not established, as a matter of law, that the decedent’s suicide severed the natural chain of causation between his alleged work-related stress and his death. Whether Claimant can establish a compensable claim for work-related stress, and whether Defendant can establish that the decedent’s suicide severed the causal chain, will require consideration of the evidence at a formal hearing. Accordingly, this claim is not appropriate for summary judgment determination under 21 V.S.A. § 649.

Statutory Exclusion of Mental Conditions Resulting from Good Faith Job Actions

17. In the alternative, Defendant contends that this claim must fail, as a matter of law, under 21 V.S.A. § 601(11)(J)(ii), which provides as follows:

A mental condition shall not be considered a personal injury by accident arising out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by the employer.

18. Defendant contends that the decedent’s mental condition was caused by his employer’s adverse job actions, including the investigations of both a sexual harassment complaint and a complaint that the decedent improperly restrained a student. Defendant further contends that those actions were taken in good faith as a matter of law, as such investigations are compelled by federal law, state law and certain administrative rules.⁵ Finally, Defendant contends that placing an employee on administrative leave and terminating that employee are logical extensions of the legally required investigations.

⁵ Defendant cites 20 U.S.C. § 1681; 21 V.S.A. § 495h(a)(1); and the *Vermont State Board of Education Manual of Rules and Practices, Series 4507*.

Accordingly, Defendant argues that the decedent's mental stress claim is excluded from the definition of a compensable injury under § 601(11)(J)(ii) as a matter of law.

19. Claimant disputes that the decedent's mental stress was caused by his employer's good faith job actions. Rather, Claimant alleges that the decedent's own actions in restraining a student triggered his post-traumatic stress disorder as a survivor of childhood abuse and caused the mental stress crisis that led to his suicide. Claimant also disputes that the employer's job actions here were taken in good faith.
20. In support of its allegations, Claimant cites to the summary of the decedent's treatment with licensed psychologist Jack Jessup. *See Claimant's Exhibit 1*. That summary shows that the decedent contacted Mr. Jessup on Monday, January 23, 2023, urgently asking for help. That is the same date that the decedent was notified about the improper restraint complaint. At their first counseling session on Friday, January 27, 2023, the decedent brought up his history of childhood abuse and his feeling that he had over-reacted to a student's misbehavior. The decedent committed suicide two days later.
21. Claimant's October 23, 2023 Appeal of the Form 2 Denial includes the following:

. . . . That changed abruptly on January 23, 2023, when a complaint was filed alleging that St. Germain had deviated from the guidelines for using physical restraint on a student suffering from a behavioral meltdown. . . . [T]he allegations triggered a release of emotion related to St. Germain's childhood trauma. He became paranoid and was fixated on the idea that he might bear some similarity to the person who had abused him. This was a thought St. Germain could not bear.

See Defendant's Motion for Summary Judgment, at 18, quoting Claimant's October 23, 2023 Appeal of the Form 2 denial, at 2. The coroner's report also alludes to the alleged connection between the decedent's restraining a student and his mental distress, based on a statement made by the decedent's wife:

[The decedent] has been accused of restraining a child in the course of his work. The case is under formal review. . . . The whole issue of the action has brought back some childhood memories of [the] abuse which he endured.

See Defendant's Exhibit P.

22. In determining whether there is a genuine issue as to any material fact, the Department must accept as true "the allegations made in opposition to the motion for summary judgment, **so long as they are supported by affidavits or other evidentiary material.**" *Huang v. Progressive Plastics, Inc.*, Opinion No. 17-18WC (December 21, 2018), citing *Gauthier v. Keurig Green Mountain, Inc.*, 2015 VT 108, ¶ 14 (emphasis added).
23. In *Brown v. St. Johnsbury Dental Associates*, Opinion No. 16-21WC (August 26, 2021), the claimant asserted a claim for work-related stress. The defendant sought summary

judgment on the grounds that the claimant's stress was related to an adverse job action under 21 V.S.A. § 601(11)(J)(ii). The defendant pointed to a disciplinary notice that it issued to the claimant as the source of her stress, while the claimant alleged that broader work-related stressors were responsible. The Commissioner denied the defendant's summary judgment motion, concluding that a formal hearing was necessary to develop the relevant evidence and weigh its credibility.

24. The same result is required here. Claimant has cited evidentiary material in support of its allegation that the cause of the decedent's mental stress was his own actions in the context of his history of trauma, and not his employer's adverse job actions.
25. Under the circumstances, I cannot conclude, as a matter of law, that the decedent's suicide was caused by Defendant's good faith job actions, as set forth in 21 V.S.A. § 601(11)(J)(ii). Rather, a hearing will be necessary to develop the relevant evidence and weigh its credibility. Accordingly, this claim is not appropriate for summary judgment determination under 21 V.S.A. § 601(11)(J)(ii).

ORDER:

Based on the foregoing, Defendant's Motion for Summary Judgment is hereby **DENIED**.

DATED at Montpelier, Vermont, this 26 day of January 2025.

Michael A. Harrington
Commissioner