

# Judge rules lawsuit over student's suicide can proceed

BY TERRIE MORGAN-BESECKER / PUBLISHED: DECEMBER 29, 2018

A federal judge recently denied Western Wayne School District's motion to dismiss a federal lawsuit filed by the parents of a special education student who committed suicide after he learned he had failed several classes.

Ruling in the case of Michael and Dorothy Beam of Waymart, Senior U.S. District Judge A. Richard Caputo said a factual dispute remains regarding whether the district intentionally failed to follow the individualized education plan designed for their 16-year-old son, identified in the complaint by his initials, C.B.

The Beams filed suit in 2015, alleging the district was responsible for their son's 2013 suicide because officials failed to notify them he was struggling academically, which was required under his education plan. Had they known, they would have taken steps that might have prevented his death.

In his ruling, Caputo said there is a question as to whether the district did enough to notify the couple of their son's academic troubles. Caputo said a jury could construe that as a failure to follow his education plan, which would violate Section 504 of the federal Rehabilitation Act and Americans with Disabilities Act.

The ruling allows the Beams to seek compensatory damages under the Rehabilitation Act and ADA, which protect a disabled person from being denied benefits or being discriminated against based on their disability. It is unclear whether a jury will be permitted to consider the suicide in calculating damages should the couple prevail on those counts, however, because Caputo did not rule on that issue.

In court papers, the Beams' attorney, **Andrew Stern** of Philadelphia, argues the district should be held liable for the death because it knew the teen expressed suicidal ideations about his grades and did not do enough to notify his parents of he was failing.

"The defendants acted with deliberate indifference ... thereby creating a high degree of foreseeable risk and probability that their outrageous conduct would lead to C.B.'s death by suicide," Stern said.

Robin Snyder of Scranton, attorney for the district, contends Stern is improperly trying to recast a "failure to prevent suicide" case as a violation of the Rehabilitation Act and ADA. That issue falls under a state law statute for wrongful death, which Caputo previously dismissed in a 2016 ruling.

"The duty to provide an appropriate education is drastically different and in no way equates to any duty to prevent suicide," Snyder said in court papers.

Snyder asked Caputo to rule as a matter of law that the Beams could not seek damages for the death. Caputo did not specifically address that issue, however, leaving the matter in limbo.

The trial in the case is scheduled for April. Snyder recently filed a motion seeking to postpone the case. Caputo had not ruled on the motion as of Friday.