Circuit Court for Baltimore County
Case No. C-03-CV-23-003581

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 929

September Term, 2024

CATHERINE TORNEY

v.

TOWSON UNIVERSITY

Graeff,
Albright,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Eyler, J.

Filed: September 8, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Catherine Torney, appellant, was shot and injured when an unidentified gunman opened fire at a party she was attending on the campus of Towson University (the "University"). She filed suit against the University in the Circuit Court for Baltimore County alleging negligence and negligent training and supervision of its police officers. The University filed a motion to dismiss the complaint for failure to state a claim. The circuit court granted the motion and dismissed the case.

Appellant filed a timely appeal and presents the following issue for our review:

> Did the circuit court err in dismissing [her] Second Amended Complaint on the ground that it did not state a claim upon which relief could be granted?

For the reasons set forth below, we affirm the judgment of the circuit court.

BACKGROUND

On the evening of September 3, 2021 at approximately 10:30 p.m., a crowd of people gathered for an unsanctioned "pop-up party" in Freedom Square at the University. At 11:19 p.m., Corporal Jacqueline Shanahan called her supervisor, Chief Charles J. Herring of the University Police Department, to advise that a gathering of approximately 100 students had formed in Freedom Square. Appellant arrived at the party at approximately 11:30 p.m.

Corporal Shanahan directed Corporal Cedric Lamond McCoy, Corporal Joshua Laycock, and Corporal Wendy K. Farley, the three other officers on duty that night, to engage in a "directed patrol assignment at Freedom Square[,]" which consisted of observing the activity in Freedom Square. At approximately 11:54 p.m., Corporal Shanahan sent a text message to Chief Herring advising that a DJ had started playing music

in Freedom Square, and that the Baltimore County Police Department had informed her that they should be contacted for support if needed. Chief Herring did not respond to that message.

At approximately 12:14 a.m. on September 4, 2021, Corporal Shanahan texted Chief Herring that the crowd had increased to 400 people. He did not respond.

At 2:00 a.m. on September 4, 2021, an unidentified shooter opened fire in Freedom Square, wounding appellant and two other people.

Three days after the shooting, Corporal Shanahan was suspended from duty.

On September 1, 2023, appellant filed a complaint in the circuit court. On February 8, 2024, she amended the complaint, and on March 25, 2024, she filed a Second Amended Complaint. The University filed a motion to dismiss for failure to state a claim upon which relief can be granted. The University argued that appellant had failed to state a cause of action for negligence because the University had no legal duty to protect her from the unidentified shooter. With respect to appellant's negligent training and supervision claim, the University argued that she had failed to plead facts showing that her injuries were the proximate result of the University's failure to use proper care in the supervision and training of its employees.

In opposition, appellant argued that the University had a duty to protect her from the criminal act of a third party and that the harm to her was foreseeable. Appellant also argued that the University voluntarily undertook a duty to protect attendees from the risk of foreseeable harm, which created a special relationship with her, and that her injuries

were the result of deficiencies in the University's training and supervision of its officers, as confirmed in the University police department's internal affairs investigation.

Following a hearing, the circuit court granted the University's motion in an oral ruling.

This timely appeal followed.

STANDARD OF REVIEW

We review *de novo* a trial court's decision granting a motion to dismiss for failure to state a claim. *Sullivan v. Caruso Builder Belle Oak, LLC*, 251 Md. App. 304, 316 (2021). "In conducting this review, we assume that the facts and allegations in the complaint, and any inferences that may be drawn from them, are true and view them in a light most favorable to the non-moving party." *Balfour Beatty Infrastructure, Inc. v. Rummel Klepper & Kahl, LLP*, 451 Md. 600, 609 (2017). We "must determine whether the [c]omplaint, *on its face*, discloses a legally sufficient cause of action." *Pittway Corp. v. Collins*, 409 Md. 218, 234 (2009). Dismissal is proper where the alleged facts and permissible inferences, even if proven, would afford no relief to the plaintiff. *Scarbrough v. Transplant Res. Ctr. of Maryland*, 242 Md. App. 453, 472 (2019).

DISCUSSION

On appeal, appellant argues that (1) she was an invitee, and as an invitee, was owed a duty; (2) even if not an invitee, the University owed a duty based on section 318 of the Restatement (Second) of Torts; (3) the University voluntarily assumed a duty; and (4) the University negligently trained and supervised its employees.

Negligence

To prevail on a negligence claim, a claimant must demonstrate the existence of a duty, a breach of that duty, a causal connection between the breach of duty and the injury suffered, and damages.[1] *Hancock v. Mayor & City Council of Baltimore*, 480 Md. 588, 603 (2022). "The analysis of a negligence action usually begins with the question of whether a duty existed[,]" *Corinaldi v. Columbia Courtyard, Inc*., 162 Md. App. 207, 218 (2005), which is an issue of law that this Court reviews without deference. *Hancock*, 480 Md. at 603.

> As a general rule, assuming invitee status,
>
> > there is no duty to protect a victim from the criminal acts of a third person in the absence of a statute, contract, or other relationship between the party in question and the third person, which imposes a duty to control the third person's conduct, or between the party in question and the victim, which imposes a duty to protect the victim.

Corinaldi, 162 Md. App. at 219; *accord Veytsman v. New York Palace, Inc.*, 170 Md. App. 104, 114 (2006) (recognizing the general rule that "'there is no duty to control a third person's conduct so as to prevent personal harm to another, unless a special relationship exists either between the actor and the third person or between the actor and the person injured'" (cleaned up) (quoting *Ashburn v. Anne Arundel Cnty*., 306 Md. 617, 628 (1986))); *Valentine v. On Target, Inc.*, 353 Md. 544, 551-52 (1999) ("'[A] private person is under

[1] Appellant's status as a student was unclear. She did not allege in her Second Amended Complaint that she was a student of the University, though she stated in her opposition to the University's motion to dismiss that she was a student of the University. In either case, appellant's status as an invitee would not necessarily require that she also be a student, and for purposes of the motion to dismiss, the University did not dispute appellant's assertion that she was an invitee.

no special duty to protect another from the criminal acts by a third person[.]'" (quoting *Scott v. Watson*, 278 Md. 160, 166 (1976))); *see also* Restatement (Second) of Torts § 315 (1965) (explaining that there is no duty to control a third person's conduct so as to prevent physical harm to another absent the existence of a special relationship between the actor and third person, or between actor and the other). "The duty may be based on knowledge of events, or on past experience that indicates a likelihood of conduct by third persons in general, or conduct by a particular individual who is likely to harm an invitee." *Corinaldi*, 162 Md. App. at 221.

In *Corinaldi*, this Court identified "three possible factual scenarios when an injured party seeks to hold the possessor of land liable for injuries inflicted by the intentional act of a third person." *Id.* at 223. The first category involves claims "based on an asserted duty to eliminate conditions that contributed to the criminal activity, such as providing security personnel, lighting, locks, and the like . . . based on knowledge of prior similar incidents, not on knowledge of facts relating to the incident in question and prior to its culmination." *Id.* The second category involves a claim based on the landowner's knowledge "with respect to prior conduct of the *assailant* that allegedly made the assault foreseeable and preventable." *Id.* at 224. The third category "is not based on prior similar incidents, either generally or involving the unknown [assailant]," but rather, it "is based on an assertion that [the landowner] had knowledge of events occurring on the premises, prior to and leading up to the assault, which made imminent harm foreseeable." *Id.*

The facts in *Corinaldi* fit the third factual scenario. *Id.* In *Corinaldi*, between 8:00 p.m. and 11:00 p.m. on the day in question, a large group, a majority of whom were high

school students, gathered in two adjoining hotel rooms for a birthday party. *Id.* at 213. There was evidence that some of the guests had consumed alcoholic beverages, and one or two hotel employees became aware that guests were admitting additional persons into the party through a side door to the hotel. *Id*. at 214. Sometime after 9:00 p.m., after receiving a complaint, one hotel employee asked guests to quiet down and to stop letting people in through the side door. *Id.* at 214. At 10:30 p.m., the hotel manager, who was not on the premises but had been advised of the circumstances by the employees on duty, told them to ask the guests to leave. *Id.* at 215. One of the employees did so, but guests continued to arrive. *Id.* Shortly thereafter, some of the male attendees got into an argument and some threatened violence. *Id.* At 10:35 p.m., the host of the party separated the arguing guests and put them into separate connecting rooms. *Id.* At 10:45 p.m., the host of the party advised the employee at the front desk that the party was out of control and that someone had a gun. *Id.* Approximately ten minutes later, a call to 911 was placed by a hotel employee. *Id.* A police officer arrived three minutes later. *Id.* at 215-16. Between 10:53 p.m. and 10:55 p.m., before police arrived, one of the guests was shot and killed when another party guest shot through a closed door in the adjoining room. *Id.*

This Court reversed the entry of summary judgment in favor of the hotel on the negligence claim, holding that a reasonable jury could have determined that the injury to the guest was foreseeable, based on the evidence that hotel staff were advised prior to the shooting that a party attendee had a gun. *Id*. at 228. This Court further held that a jury could find that the shooting was preventable when approximately ten minutes elapsed between the notification of the gun and the 911 call, and the evidence showed that an officer

responded to the hotel within three minutes of receiving the 911 call. *Id*.

In reaching this result, we relied on the Supreme Court of Maryland's decision in *Todd v. Mass Transit Administration*, 373 Md. 149 (2003). In that case, a bus passenger was struck in the back of the head by one of approximately fifteen youths who had boarded the bus after the passenger. *Todd*, 373 Md. at 152. After a short verbal exchange, the entire group physically attacked the passenger and continued attacking him for four to five minutes before the driver stopped the bus and activated the panic alarm. *Id*. at 153. In reversing summary judgment in favor of the bus company, the Court concluded that a jury could reasonably find that the driver had ample time to act to remove the threat of the assault and to prevent the assault. *Id.* at 163.

Appellant asserts that the facts of this case fit within the third *Corinaldi* scenario and, as in *Corinaldi*, give rise to a duty. She contends that the events at the party that preceded the shooting, specifically, the "boisterous, unruly, and disorderly crowd" of more than 400 persons, evidence of alcohol and cannabis use in the crowd, efforts by the DJ to establish order, and recommendations by two University police officers to their supervisor that the crowd be dispersed, demonstrate that the imminent harm was foreseeable. Appellant contends that there is no distinction between the foreseeability of harm resulting from a large and unruly crowd, whether it be "jostling or shoving" in the crowd or a shooting. She argues that the precise nature of the harm need not have been foreseeable, so long as "'the actual harm fell within a general field of danger which should have been anticipated.'" *Segerman v. Jones*, 256 Md. 109, 132 (1969) (quoting *McLeod v. Grant*

Cnty. Sch. Dist. No. 128, 255 P.2d 360 (Wash. 1953)).

The important distinction between the facts in the present case and those in *Corinaldi* and *Todd* is that here, the University police had no opportunity to remove the threat of harm of gunfire or protect appellant from the threat because they were not aware of the imminent threat until after the shooting occurred. As we noted in *Corinaldi*, a noisy, large gathering of young people, even one that includes arguments among the attendees, is insufficient to signal that violence might be imminent. *See also Smith v. Dodge Plaza Ltd. P'ship*, 148 Md. App. 335, 345-46 (2002) (holding that two prior instances involving violence, neither with a weapon, was insufficient to impose a duty on a nightclub to protect a patron who was attacked by a third party with a knife); *Veytsman*, 170 Md. App. at 119-21 (holding that there was insufficient evidence of potential violence at a wedding venue that would give rise to a duty on the part of the venue to protect appellants or prevent their assault).

In order for the University to be liable for the intentional criminal act of a third party, there must be some evidence of knowledge of an event occurring on the premises prior to the harmful act which made imminent harm foreseeable. Here, there was no allegation that a gun was present or a shooting was imminent prior to the shooting in question.

Negligent Training and Supervision

Appellant alleged that the University was liable for the negligent training and supervision of its employees. In support of her allegation, she claimed that Corporal Shanahan failed to follow general directives on notifying her superiors of the disorderly

crowd, she failed to contact the Baltimore County Police Department for assistance, she and the other officers failed to disperse the crowd, and that she was suspended as a result of her actions relating to the incident. Without allegations of specific failures in training and supervision, she argues that negligent training or supervision was the cause of the errors.

In Maryland, the tort of negligent training and supervision "like any negligence action, requires the plaintiff to prove the existence of four elements: (1) the defendant owed a duty to the plaintiff; (2) the defendant breached that duty; (3) the plaintiff suffered actual injury; and (4) the injury proximately resulted from the defendant's breach." *Jones v. State*, 425 Md. 1, 18 (2012). Under the public duty doctrine, "police officers ordinarily may not be held liable for failure to protect specific persons because they owe no duty, as the first element of a negligence action requires, to those individuals." *Muthukumarana v. Montgomery Cnty*., 370 Md. 447, 486-87 (2002); *see also Ashburn*, 306 Md. at 628.

In order to pursue a legally cognizant claim for negligent training and supervision, appellant was required to set forth facts showing that the officers in question owed a duty to her specifically, distinct from the general public. Absent that, even assuming a negligent act, it could not be a proximate cause of appellant's injuries. *See Muthukumarana*, 370 Md. at 487 (noting that the public duty doctrine precludes a tort action against a police officer absent the existence of a special duty owed to a particular "class of persons rather than to the public at large" (cleaned up)). There was no special relationship between appellant and the police officers or the University that would make the public duty doctrine inapplicable. We conclude that the circuit court did not err in dismissing her negligent training and

supervision claim. *See Ashburn*, 306 Md. at 627 ("[N]egligence is a breach of a duty owed to one, and absent that duty, there can be no negligence.").

Restatement (Second) of Torts

Appellant argues alternatively that the University, as a premises owner under section 318 of the Restatement (Second) of Torts, had a duty to protect her by controlling the conduct of the shooter. Section 318 provides that a property owner may be liable to invitees for actions of third persons under certain circumstances:

> If the actor permits a third person to use land or chattels in his possession otherwise than as a servant, he is, if present, under a duty to exercise reasonable care so to control the conduct of the third person as to prevent him from intentionally harming others or from so conducting himself as to create an unreasonable risk of bodily harm to them, if the actor
>
> (a) knows or has reason to know that he has the ability to control the third person, and
>
> (b) knows or should know of the necessity and opportunity for exercising such control.

Restatement (Second) of Torts § 318.

As the University points out in its brief, there is no allegation in the Second Amended Complaint that the University granted the shooter permission to be on the property of the University. The shooter's identity was unknown and the "pop-up" party was not a sanctioned event at the University.

Even assuming that the unidentified shooter had permission to be in attendance at the party, there is no legal duty owed by a landowner in the absence of evidence that the landowner knew or should have known of the need to exercise such control over the conduct of others. *See id.*; *see also Mitchell v. Rite Aid of Maryland, Inc*., 257 Md. App.

273, 328 (holding that lessee had no duty to provide heightened security measures to protect employees from shooter where claimants did not establish that an attack was "a reasonably foreseeable criminal act"), *cert. denied*, 483 Md. 579 (2023). In this case, there was no allegation of an imminent threat of violence on the premises or the presence of a gun that would make the attack on appellant foreseeable and give rise to a duty on the part of the University to exercise control over the shooter.

Voluntary Assumption of Duty

Appellant further argues that the University was liable because it had voluntarily undertaken a duty of care to protect her, and it breached that duty. She asserts that she acted in reliance on the University's police department to protect her from harm.

As discussed above, in addressing claims of negligence on the part of police officers in executing their law enforcement duties, Maryland courts apply the public duty doctrine. *Ashburn*, 306 Md. at 628. The public duty doctrine states that, absent a special relationship, "liability for failure to protect an individual citizen against injury caused by another citizen does not lie against police officers." *Id.* Because police officers owe a duty to protect the public at large, they ordinarily may not be held liable for failure to protect specific persons. *Muthukumarana*, 370 Md. at 486. To prevail on a claim against a law enforcement officer for negligence, a claimant must establish the existence of a special relationship by showing that "the law enforcement officer affirmatively acted to protect the specific victim or a specific group of individuals like the victim, thereby inducing the victim's specific reliance upon the law enforcement [officer's] protection." *Cooper v. Rodriguez*, 443 Md. 680, 717 (2015) (cleaned up).

Appellant argues that she was relying on the University "to protect her well-being." Appellant's Second Amended Complaint does not allege any facts supporting the existence of a special relationship between her and the University police. To the contrary, the facts alleged to show that the University police took no affirmative action to protect appellant any differently than they would protect the public at large. Because appellant failed to allege sufficient facts to show that the University police officers created a special relationship with her upon which she relied, the circuit court did not err in dismissing her negligence claim. *See, e.g.*, *Ashburn*, 306 Md. at 635 (holding that a police officer had no duty to prevent an allegedly drunk driver from injuring a pedestrian); *Howard v. Crumlin*, 239 Md. App. 515, 525-26 (2018) (stating that a police officer who responded to 911 call was not liable for caller's death where complaint failed to adequately allege existence of a special relationship between caller and the officer).

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. APPELLANT TO PAY COSTS.