

A Contract to Protect?

On March 30, 1999, high school baseball umpire Wesley Locke was working the plate at Carroll High School in Alabama. After the game, an assault committed by a parent left the umpire seriously injured. The court case that followed went all the way to the state's highest court. The Supreme Court of Alabama's decision in *Locke v. Ozark City Board of Education* is significant for all officials.

As the umpires were leaving the field, Locke was attacked by the parent of a Carroll player, who repeatedly punched him, causing facial and neck injuries, scarring and blurred vision. In the lawsuit that followed, the Ozark City Board of Education, which operates Carroll, maintained that it did not owe a duty to protect umpires from criminal acts of third parties. The trial court agreed and dismissed the case against the school board, leaving Locke's lawsuit to continue only against his attacker.

Locke claimed because the school board failed to provide police protection, it violated its contractual duty.

On appeal, the Supreme Court of Alabama found that the rules and regulations of the governing body, the Alabama High School Athletic

Association (AHSAA), stated school principals have an affirmative duty to provide "adequate police protection" as part of their responsibility to "ensure good game administration and supervision." Those responsibilities were prominently in the AHSAA Coaches Directory. Since the board of education was a member of the AHSAA, it was legally bound to follow its rules.

While the Carroll principal and A.D. were at the game to cheer their team, there were no police officers for security. The attacker testified that, had there been officers escorting the umpires, he would not have committed the assault.

Locke claimed because the school board failed to provide police protection, it violated its contractual duty to the AHSAA and that Locke was a third-party beneficiary of the contract (see sidebar), entitling him to sue. While the lower court dismissed the claim, the state's supreme court reversed the dismissal, allowing Locke to proceed with his suit against the school board.

The school board argued that, although the AHSAA Handbook ascribed to principals the duty to "ensure good game administration and supervision" by providing police protection, those were merely "recommendations" and could not form a lawsuit. Not necessarily, according to the court. The court observed that Locke's association, the Southeast Alabama Umpires Association, which assigned the game, only provided umpires to AHSAA-sponsored events. The court reasoned the association contemplated that umpires would be in need of protection and thus the beneficiaries of such a contractual obligation. The court concluded "game administration and supervision necessarily involve umpires."

While the umpire's case against the school board was later settled, the case continues against the attacker. In the aftermath of the incident, the AHSAA fined Carroll High School \$1,000 and placed it on probation for one year.

Since the supreme court's decision, the Alabama Association of School Boards became involved; and the AHSAA changed the language in the coaches directory to remove the requirement of having police officers present at athletic events. The directory now also sports a disclaimer, stating that the suggestions as to security and the like are, in fact, only "recommendations." Finally, a resolution of the board of control of the association inserted in its publications states that no language in the publications can be considered to be contracts.

For umpires and referees, the case remains an illustration of the importance of securing an attorney in the event you are assaulted and seriously injured.

There could be a contract that gives you the right to recover for your injuries!

Written by Alan Goldberger, an attorney and official from Clifton, N.J., who wrote Sports Officiating: A Legal Guide. This column is for informational purposes and is not legal advice. □

The Reach of 'Contract'

A contract need not state "Contract" on the front in Old English print. A contract is nothing more than two parties, or organizations, agreeing to certain legally enforceable obligations. A contract, therefore, can be found in a handbook of bylaws, rules or regulations of an organization. Members of that organization are often said to have a contract (or agreement) to abide by rules and regulations, since they choose to join the group. If the contract is intended to confer some benefit on a "third party," i.e. a person not party to the contract but who will get some benefit from the contract, that person becomes a "third party beneficiary" to the contract.

So it was with umpire Wesley Locke, who should have benefited from the "contract" between the AHSAA and the member schools that provided for police officers at games. Contracts are often enforced in court in favor of those who may not be a party to the contract, but are the beneficiaries.

The Importance of Counsel

When a lawsuit is indicated, going it alone is not the best practice. A skilled attorney will study all documents published by a governing body or involved association to determine whether a third party beneficiary situation exists. That and other legal theories can mean the difference between winning a losing a lawsuit for an official.