

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

DEVIN WOODS,

Appellant

v.

CARL WARE.

Respondent

DOCKET NUMBER WD78040

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: September 29, 2015

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Justine Elisa Del Muro, Judge

Appellate Judges:

Division One
Cynthia L. Martin, P.J., Joseph M. Ellis, and James Edward Welsh, JJ.

Attorneys:

Eryn Peddicord, Kansas City, MO
Michael Townsend, Kansas City, MO

Counsel for Appellant
Co-Counsel for Appellant

Attorneys:

Steven Coronado, Kansas City, MO
Paul Gordon, Kansas City, MO

Counsel for Respondent
Co-Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**DEVIN WOODS, Appellant, v.
CARL WARE, Respondent**

WD78040

Jackson County

Before Division One Judges: Martin, P.J., Ellis, and Welsh, JJ.

Devin Woods appeals the circuit court's grant of summary judgment in favor of Carl Ware on Woods's claim of negligence. Woods contends that the circuit court erred in finding that the doctrine of official immunity shielded Ware from liability.

Affirmed.

Division One holds:

(1) To the extent that Woods contends that he controverted Ware's statement of facts by objecting to the affidavits that Ware relied on as support for the statements, his contention is without merit because the circuit court did not rely on the affidavits in granting Ware's motion for summary judgment.

(2) The eleven additional facts identified by Woods as material did not create genuine issues of fact as to the applicability of Ware's defense of official immunity.

(3) Ware pleaded specific facts showing that he was entitled to claim official immunity as an affirmative defense. As a coach hired by a public school district, Ware was a public employee entitled to official immunity for his discretionary acts. Ware was performing a discretionary act when he supervised and conducted the wrestling practice when Woods was injured. Because a discretionary duty was involved, Ware's exercise of that discretion is protected by the doctrine of official immunity. The circuit court, therefore, did not err in granting summary judgment in favor of Ware. No genuine issues of material fact remained, and Ware was entitled to judgment as a matter of law.

Opinion by James Edward Welsh, Judge

September 29, 2015

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