

Ex-High School Athlete Takes Football Injury Suit To Justices

By [Jonathan Capriel](#) · [Listen to article](#)

Law360 (June 24, 2022, 5:27 PM EDT) -- A former high school football player is asking the [U.S. Supreme Court](#) to revive his civil rights lawsuit against a Texas school district over multiple concussions he suffered during practices, in a bid to overturn the Fifth Circuit's rejection of the "state-created danger" doctrine.

Former student-athlete Chase Yarbrough asked the justices in [his bid filed Thursday](#) to bring the Fifth Circuit in line with most other appeals courts, which have recognized the doctrine that a state "may be liable for private violence if it created or exacerbated the danger."

The Fifth Circuit acknowledged in its opinion, which [ended Yarbrough's lawsuit in March](#), that it was creating a circuit split, his attorney, Seth Kretzer of the Law Office of Seth Kretzer, told Law360 on Friday.

"We want the Supreme Court to make a uniformed rule for the entire country so that we don't have a situation where Chase would win in California but lose in Texas," Kretzer said.

Yarbrough claimed the Santa Fe Independent School District and its employees violated his 14th Amendment right to bodily integrity when they created the conditions that caused his concussions.

Over several weeks in August and September 2016, coaches ordered Yarbrough, then a high school sophomore, to participate in drills where he would repeatedly collide head-to-head with other players, the suit claims. He likely suffered multiple concussions during that time.

The Supreme Court petition notes a specific instance where, on Sept. 21, 2016, Yarbrough was ordered to run this drill with "an older, more skilled and substantially larger player."

"After practice in September 2016 in which he experienced head-to-head contact, Yarbrough vomited," the petition to the high court said. "Rather than inform his parents or

instruct Yarbrough to seek medical treatment, his coaches required him to continue to attend practice and participate in the head-to-head drills."

The other athlete, identified as C.P. in court records, is considered a nonstate actor who caused Yarbrough's injury.

The coaches and district essentially "set the table" for Yarbrough to get hurt by telling him to "play through the pain" and shirking its duty to protect him from C.P. and the harsh drills, Kretzer said.

Kretzer also noted that many professional football players have sued the NFL and received settlements for similar training calling for head-to-head contact.

"If school districts can't be held civilly liable, if you can't sue them, if they are immune, then these football players like Chase Yarbrough aren't going to have any place to go to get compensation for their lifelong injuries," he said.

In its decision, which upheld a lower court's dismissal in favor of the school district, the Fifth Circuit said it has "repeatedly declined to recognize the state-created danger doctrine." But the panel also noted that even if the court were to recognize the doctrine, it would not be applicable to Yarbrough's suit.

The panel said football does not meet the bar to be considered a "qualifying danger." On top of that, Yarbrough did not plead that the school district acted with "deliberate indifference."

"Football is dangerous. But football does not present such an immediate or specific danger to the players that schools and coaches can be held liable for any injuries that result," the panel said. "Indeed, courts have frequently rejected civil rights claims based on football injuries — some of which involved more glaring and unreasonable dangers than those at bar."

Attorneys for the district were not immediately available.

Yarbrough is represented by Seth Kretzer of the Law Office of Seth Kretzer, Sherry Scott Chandler of Chandler Law Firm LLP, and Brad Terry Bryant of [Terry Bryant Accident &](#)

[Injury Law.](#)

Santa Fe ISD was represented in the Fifth Circuit by Jonathan Griffin Brush, Amy Dawn Demmler and Clay Thomas Grover of [Rogers Morris & Grover LLP.](#)

The case is Chase Yarbrough v. Santa Fe Independent School District et al., case number unavailable, in the U.S. Supreme Court