

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, LYNCHBURG DIVISION

Derrick Brown v. Ben Copeland

No. 6:26-cv-00016 (W.D. Va. May 19, 2026) · No. 6:26-cv-00016 · Decided May 19, 2026

SUMMARY

The United States District Court for the Western District of Virginia considers whether Virginia’s Fraud and Abuse Whistle-Blower Protection Act authorizes an individual-capacity claim against a supervisory employee. The court concludes that the statute’s remedies, including reinstatement and back pay, support only official-capacity claims against supervisors and dismisses the claim against the defendant in his individual capacity. The court also notes additional deficiencies in the plaintiff’s allegations concerning protected activity and causation.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Lynchburg Division
WRITING FOR THE COURT	Norman K. Moon
JURISDICTION	United States District Court for the Western District of Virginia, Lynchburg Division
DECIDED	May 19, 2026
DOCKET	6:26-cv-00016
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the Virginia Fraud and Abuse Whistle-Blower Protection Act claim against him in his individual capacity, arguing that the requested statutory remedies could not be provided by an individual supervisor.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court tests the sufficiency of the complaint, assumes the truth of the alleged facts, and draws all reasonable inferences in favor of the plaintiff.
PRECEDENTIAL VALUE	Unknown; federal district court memorandum opinion and order

TOPICS

- motions to dismiss
- whistleblower
- statutory interpretation
- civil procedure
- employment law

PRACTICE AREAS

civil procedure

employment law

whistleblower

civil rights

statutory interpretation

QUESTIONS PRESENTED

1. Whether the FAWPA authorizes a state or local employee to sue a supervisor in the supervisor's individual capacity.
2. Whether Copeland's motion to dismiss the FAWPA claim should be treated as a statutory-construction issue rather than an Article III standing issue.
3. Whether the complaint separately alleged protected activity under the FAWPA by asserting that Brown expressed an opinion about protecting minority students.

HOLDINGS

1. The FAWPA's limited statutory remedies—reinstatement, back pay, and reinstatement of fringe benefits and seniority rights—are available only against a supervisor sued in an official capacity, not against a supervisor sued in an individual capacity.
2. The argument that Copeland could not provide the requested relief is properly analyzed as a question of statutory construction concerning whether the FAWPA permits relief against supervisors in their individual capacities, rather than as an Article III standing issue.
3. Brown's alleged statement that minority students needed protection, standing alone, was an opinion rather than a report of a legal violation and therefore was not protected activity under the FAWPA.

KEY QUOTATIONS

“The issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims.”

“These remedies are only available against a defendant in his official capacity—not his individual capacity.”

“An individual supervisor (and especially a former supervisor who is no longer employed by the government agency) is in no position to reinstate a plaintiff or to compel the government agency to pay back pay.”

FACTUAL BACKGROUND

Derrick Brown, a former Chief Academic Officer of Lynchburg City Schools, alleged that Ben Copeland, the former Interim Superintendent, retaliated against him after Brown stated that underprivileged and minority students required protection. Brown sought reinstatement and back pay under the FAWPA, but sued Copeland only in his individual capacity. The court concluded that an individual supervisor, particularly a former supervisor no longer employed by the governmental agency, could not provide the statute's remedies of reinstatement, back pay, or restoration of benefits and seniority.

PROCEDURAL HISTORY

Brown filed suit under 42 U.S.C. § 1983 and Virginia's Fraud and Abuse Whistle-Blower Protection Act. Copeland moved to dismiss Count II, the FAWPA claim, for lack of standing or, more accurately, failure to state

a statutory claim because Copeland was sued only individually. The district court granted the motion and dismissed the FAWPA claim against Copeland in his individual capacity.

DISPOSITION

dismissed

CASES CITED

- Edwards v. City of Goldsboro, 178 F.3d 231, 243 (4th Cir. 1999)
- Revene v. Charles Cnty. Comm'rs, 882 F.2d 870, 872 (4th Cir. 1989)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Ray v. Roane, 948 F.3d 222, 226 (4th Cir. 2020)
- United States v. Little, 52 F.3d 495, 498 (4th Cir. 1995)
- Erie R.R. Co. v. Tompkins, 304 U.S. 64, 78 (1938)
- West v. Am. Tel. & Tel. Co., 311 U.S. 223, 236 (1940)
- McClung v. Dr. Allan L. Bergano, D.D.S., P.C. v. City of Virginia Beach, 241 F. Supp. 3d 690, 707 (E.D. Va. 2017)
- Wells v. Liddy, 186 F.3d 505, 528 (4th Cir. 1999)
- Atl. Mach. & Equip., Inc. v. Tigercat Indus., Inc., 419 F. Supp. 2d 856, 859 (E.D. Va. 2006)
- Virginia Soc. for Human Life, Inc. v. Caldwell, 256 Va. 151, 156 (Va. 1998)
- Marsh v. City of Richmond, 234 Va. 4, 11 (Va. 1987)
- City of Richmond v. Sutherland, 114 Va. 688 (Va. 1913)
- Martin v. City of Waynesboro, 87 Va. App. 67, 83-84 (Va. Ct. App. 2026)
- Morrison v. George Mason Univ., 113 Va. Cir. 77 (Va. Cir. 2024)
- Kentucky v. Graham, 473 U.S. 159, 166-167 (1985)
- Ridpath v. Bd. of Governors Marshall Univ., 447 F.3d 292, 306 (4th Cir. 2006)
- Brach v. Conflict Kinetics Corp., 221 F. Supp. 3d 743, 749-50 (E.D. Va. 2016)
- Yesudian ex rel. United States v. Howard Univ., 270 F.3d 969, 972 (D.C. Cir. 2001)
- Lales v. Wholesale Motors Co., 133 Haw. 332, 345, 328 P.3d 341, 354 (Haw. 2014)