

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
OCT 10 2006
By: JAMES W. MCCORMACK, CLERK
DEP. CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

CHRIS LOWRY, by, through, and with
his Mother WENDY CROW;
COLTON DOUGAN, by, through, and with
his Father FRANK DOUGAN
and Mother LEIGH DOUGAN; and
MICHEAL JOSEPH, by, through, and with
his Mother HEIDI JOSEPH

PLAINTIFFS

VS.

CIV. NO. 5-06 CV00000262 JLH

WATSON CHAPEL SCHOOL DISTRICT;
CHARLES DANIEL KNIGHT, WATSON CHAPEL
SCHOOL DISTRICT SUPERINTENDENT,
in his Individual and Official Capacities; and
WATSON CHAPEL SCHOOL BOARD
PRESIDENT CHARLES DANIEL;
VICE PRESIDENT SANDRA C. BOONE;
SECRETARY DONNIE HARTSFIELD; and
MEMBERS DANNY HOLCOMB; JIM JOHNSON;
MAXINE NELSON; and JOHN TREGLOWN,
In their Individual Capacities

DEFENDANTS

COMPLAINT

INTRODUCTION

Plaintiffs Chris Lowry, Wendy Crow, Colton Dougan, Frank Dougan, Leigh Dougan, Micheal Joseph, and Heidi Joseph bring this action against the Defendants for declaratory relief, preliminary and permanent injunctive relief, damages, and attorneys' fees and costs, pursuant to 28 U.S.C. §§ 2201 and 2202, Rule 65 of the Federal Rules of Civil Procedure, and 42 U.S.C. §§ 1983 and 1988 for the unconstitutional infringement of their rights to free speech as guaranteed by the First and Fourteenth Amendments to the Constitution of the United States.

JURISDICTION AND VENUE

1. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) in that this is an action arising under the First and Fourteenth Amendments to the Constitution of the United States and is one brought to redress deprivation of federal constitutional rights by Defendants under color of law, in contravention of the protections of 42 U.S.C. § 1983.

2. This Court has authority to enter a declaratory judgment pursuant to 28 U.S.C. § 2201-2202, and the requested injunctive relief under Rule 65 of the Federal Rules of Civil Procedure. The Court has authority to award attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

3. Venue is proper in this district and division of the Court under 28 U.S.C. § 1391(b)(2), as a substantial part of the events giving rise to this Complaint occurred in the Eastern District of Arkansas, Pine Bluff Division.

PARTIES

Plaintiffs

4. Plaintiff Chris Lowry, ("Lowry") a minor, brings this suit through his parent, Plaintiff Wendy Crow.

5. Lowry is 15 years old and an eighth grade student at Watson Chapel Junior High School, which is owned, operated and controlled by Defendant Watson Chapel School District ("WCSD"), and thus Lowry is subject to the challenged policies, practices, and actions of WCSD.

6. Plaintiff Colton Dougan, ("Dougan") a minor, brings this suit through his parents, Plaintiffs Frank and Leigh Dougan.

7. Dougan is 14 years old and a ninth grade student at Watson Chapel Junior High School, which is owned, operated and controlled by Defendant WCSD, and thus Dougan is subject to the challenged policies, practices, and actions of WCSD.

8. Plaintiff Micheal Joseph, ("Joseph") a minor, brings this suit through his parent, Plaintiff Heidi Joseph.

9. Joseph is 16 years old and a tenth grade student at Watson Chapel High School, which is owned, operated and controlled by Defendant WCSD, and thus Joseph is subject to the challenged policies, practices, and actions of WCSD.

Defendants

10. Defendant WCSD is an Arkansas public school district organized under Arkansas state law, and is a regulatory and administrative body responsible for all schools and school employees in the WCSD.

11. Defendant WCSD is responsible for the policies, practices, and actions complained of by Plaintiffs.

12. Defendant Charles D. Knight "Knight" is Superintendent of WCSD, and as such, is directly responsible for implementing the policies, practices, and actions complained of by plaintiffs.

13. Defendants Charles Daniel, Sandra C. Boone, Donnie Hartsfield, Danny Holcomb, Jim Johnson, Maxine Nelson, John Treglown, (collectively referred to as "Board") are members of the WCSD's Board of Directors, and are responsible for the policies, practices, and actions complained of by plaintiffs.

14. During all times mentioned in this Complaint, each of the Defendants was acting under color of local and state law.

15. Defendants WCSD, Knight, and the Board have the responsibility for directing the actions of School District employees, including principals and assistant principals, administrative assistants, counselors, teachers, and other school personnel.

16. Defendants WCSD, Knight, and the Board have constitutional and statutory responsibility for the policies, practices, and procedures of the WCSD, and are responsible for maintaining the WCSD in conformity with law.

STATEMENT OF MATERIAL FACTS

17. WCSD has a student apparel policy that prohibits the wearing of any "towel, scarf, bandana, do-rag, shirt, string, chain, jewelry, special button, insignia, label, marking, different-colored stitching, fringe, brad, stud, picture, logo, ribbon, embroidery, initials, monogram, special buckle, or other form of adornment" from being worn "on or over any part of the uniform, except the school name, school logo, or school insignia."

18. Lowry, Dougan, and Joseph are students in the WCSD.

19. Lowry, Dougan, and Joseph are three of many students at WCSD who , on October 6, 2006, wore small, black armbands to protest the district's uniform policy and the District's enforcement of their policy.

20. Lowry, Dougan, and Joseph wore the armbands only on their arms, and not over any part of their school uniform.

21. The wearing of the armbands did not violate the uniform policy.

22. Lowry, Dougan, and Joseph were subjected to discipline for wearing the armbands to protest the school district's uniform policy and practices.

23. Lowry, Dougan, and Joseph would like to wear their armbands to protest this policy and not face discipline for it.

24. Lowry has received one disciplinary slip this year for a one day-suspension for a violation of the school uniform policy for wearing a black lanyard with his school identification card instead of the school-issued yellow lanyard, which says "Watson Chapel Wildcats" all over it.

25. The uniform policy does not state that the lanyard is required to be the school-issued yellow lanyard.

26. During the week prior to October 6, 2006, Lowery talked to his mother, Plaintiff Wendy Crow ("Crow") and his friends about wearing armbands to protest the Defendants' policies and actions in enforcing the policy.

27. Crow has had contact with many students and parents of students in the Watson Chapel School District who also disagree with the school district's uniform policy and the way it is being enforced.

28. Crow made black armbands for the students to wear. The armbands are a quarter-inch wide, and solid black with no writing. Crow and other parents passed out over 206 black armbands for the students to wear.

29. It was planned and publicized in the *Pine Bluff Commercial* newspaper and on several TV news programs that the WCSD students would wear the armbands on Friday, October 6, 2006, to protest the uniform policy and its enforcement.

30. On Thursday, October 5, 2006, Watson Chapel High School employees announced that any student wearing a black armband to school would be suspended for three days, and they would miss their mid-term exams, which had been moved up a week.

31. Watson Chapel Junior High School officials announced to junior high students that anyone wearing an armband would be punished.

32. Announced punishment for wearing the armbands included taking of the students' school identification cards.

33. The identification cards are required for all students attending classes at WCSD.

34. Many parents did not let their children wear the armbands because of the schools' threats of suspension and the consequences that suspension would have for their children.

35. All officers of any WCSD organization must maintain a good disciplinary record. These school organizations include: Student Council, Beta Club, cheerleading squad, Stepperettes, Future Business Leaders of America, Family Career Community Leaders of America, Future Teachers' Organization, Drama Club, French Club, Spanish Club, Key Club, WET Club, Chess Club, First Priority/Prayer Group, Art Club, Fellowship of Christian Athletes, VICA, Quiz Bowl, Engineering Team, CAP Team, Band, Choir, and ICT.

36. Friday, October 6, 2006, Lowry wore to one of the black armbands to school.

37. As soon as Lowry stepped foot on the school's front driveway, a teacher told him that he was in trouble for wearing an armband. The Assistant Principal, Dr. Johnson, told him to go to the library. On his way to the library, Principal Webb took him to his office, where he waited until Assistant Principal Glover told him to go to the library, and accompanied Lowry there.

38. In the library, there were two Pine Bluff police officers and a Jefferson County Sheriff's Deputy, in uniform and armed, who appeared to be in charge of the students.

39. About 24 students were in the library waiting to be called in for armband-related violations.

40. Students were called out of the library one by one. Lowry was the last called, after three class periods, and he was sent to Principal Webb's office.

41. Principal Webb confiscated Lowry's armband.

42. Principal Webb called Lowry's mother, Crow, and told her to come pick Lowry up for a second uniform violation. Principal Webb gave Lowry a disciplinary slip for a one-day suspension.

43. Principal Webb then sent Lowry to in-school suspension in the "box," which is a dim room connected to the gym, and Lowry waited there for 15 minutes until his mother arrived.

44. Lowry wears two necklaces to school every day; both fit snugly around his neck. He has not been disciplined for any uniform violations due to his wearing of these necklaces.

45. One of Lowry's necklaces has seashells on it with a small skull in the middle. The other is a hemp-like rope necklace with a small glass pendant in the middle. Once this year the school secretary wanted Lowry to take off the necklace with the small skull because she said it looked satanic, but she dropped the matter when Lowry protested.

46. Plaintiff Colton Dougan has had no school uniform violations or school disciplines of any kind from WCSD.

47. Dougan disagrees with the Defendants' uniform policy and its enforcement.

48. On October 6, 2006, Dougan wore his black armband to school and to all of his classes until the end of third period, which is just before lunch.

49. Dougan saw no disruption of the school or any classes on account of the armbands.

50. At the end of third period, a teacher saw Dougan's armband and sent him to the principal's office.

51. Principal Webb called Dougan in, and asked him if anyone had called his parents. Dougan said no, and Principal Webb asked Dougan where he had gotten his armband. Dougan told him that he had gotten it from his parents.

52. Principal Webb asked Dougan for his armband, and Dougan gave it to him.

53. Principal Webb called one of Dougan's parents, and said that Dougan would not be suspended because it was the first time he had violated the uniform policy.

54. Principal Webb told Dougan that he could go back to class, but that he would have a disciplinary slip in his folder.

55. Principal Webb did not give Dougan a copy of the disciplinary slip.

56. Dougan is a member of Beta Club, and under Beta Club rules, he will no longer be eligible to be a member of Beta Club because of this disciplinary action.

57. Every day, Dougan wears a white, stretchy rubber bracelet that is about a half-inch wide to school. The bracelet says "Live Pure: 1 Timothy 4:12." He has not been disciplined for wearing this bracelet.

58. Plaintiff Micheal Joseph likewise had no uniform violations until he wore his black armband to school October 6, 2006.

59. Joseph walked to school the morning of Friday, October 6, 2006, wearing his black armband on his wrist.

60. Joseph was standing in the parking lot before school when Assistant Principal Hayden told Joseph to go to the auditorium and wait until someone came to send him home.

61. Joseph went to the auditorium, and waited for two class periods with other students.

62. The Assistant Principal came to the auditorium and took Joseph outside to talk to her. She gave him a sheet of paper titled "Uniform Violation Report" and told him he was being suspended for one day for wearing a black armband.

63. School policy says that students receive a written warning for the first uniform violation, but Joseph was suspended for his first "violation" on October 6, 2006.

64. A large part of the student body was planning to wear the armbands, but because they heard the school was suspending students, many of the students took their armbands off before school and hid them.

65. WCSD Students were worried that they would not be able to take nine weeks tests, which were moved to this week.

66. By the end of the school day on October 6, 2006, at least six WCSD high school students were disciplined for wearing the armband, and four of those students received a suspension. At least twenty-five WCSD junior high school students were disciplined for wearing the armband, and sixteen of those students received a suspension. At least two WCSD elementary students were required to remove their armbands.

CLAIMS FOR RELIEF

COUNT ONE: WEARING OF ARMBANDS

67. The students' rights to freedom of expression, guaranteed by the First and Fourteenth Amendments to the Constitution of the United States, were violated by Defendants when they were subjected to discipline for wearing black armbands as a symbol of protest.

68. Defendants acted under color of law when they implemented and enforced the policies and practices that bridged the students' right to freedom of expression, as guaranteed by the First and Fourteenth Amendments to the

Constitution of the United States, in violation of the protections of 42 U.S.C. § 1983.

69. If allowed to stand, the Plaintiff students' suspension or any other disciplinary action against them for wearing the black armbands will constitute a permanent part of their scholastic records and will thus be used as a basis for other disciplinary actions, if any, taken by Defendants against the students.

70. If allowed to stand, the Plaintiff students' suspensions for wearing armbands will cause the student Plaintiffs to miss educational opportunities including credits for any homework, quizzes, or tests that they missed on account of the discipline imposed by Defendants.

71. Such disciplinary action will serve as a basis to exclude the students from extra-curricular activities they now participate in, or wish to participate in.

72. Such disciplinary action and its consequences will also serve to affect the students in their applications for college education and employment.

73. Each student Plaintiff has suffered pain, humiliation, embarrassment, and emotional distress due to the actions of the Defendants in violating Plaintiffs' rights under the First Amendment.

RELIEF REQUESTED

74. Plaintiffs request that this Court issue a preliminary and permanent injunction enjoining each and all of the Defendants from disciplining the student Plaintiffs in any way for wearing the black armbands to school.

75. Plaintiffs request that this Court find, declare, and determine that the policies, practices, and actions complained of herein are unconstitutional, and a deprivation of rights guaranteed to Plaintiffs under the First and Fourteenth Amendments to the United States Constitution.

76. Defendants should be ordered to abate and expunge the unlawful discipline of the students. Plaintiffs request that this Court grant a preliminary injunction enjoining Defendants from taking or enforcing the remainder of any disciplinary action against Plaintiffs on account of their armband protest.

77. Defendants should be prevented from using the unlawful discipline to exclude the students from participation in school clubs, activities, and other events, curricular or extra-curricular.

78. Plaintiffs retain their right to add Plaintiffs and claims to ensure that all claims, rights, and persons are fully and adequately represented in this action.

79. Plaintiffs request that nominal and compensatory damages for the acts complained of herein be awarded to each of them and against each of the Defendants.

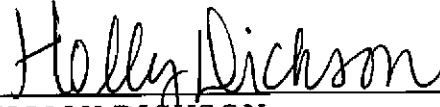
80. Plaintiffs request that this Court award Plaintiffs their costs, including reasonable attorneys' fees, as authorized by 42 U.S.C. §§ 1983 and 1988.

81. Plaintiffs demand their right to a trial by jury.

82. Plaintiffs request that this Court award all other relief to which Plaintiffs are entitled.

WHEREFORE, Plaintiffs pray for the foregoing, and for such other relief as the Court deems equitable and just.

Respectfully submitted,



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