

NO. **00CI00886**

JEFFERSON CIRCUIT COURT  
DIVISION \_\_\_\_\_  
JUDGE \_\_\_\_\_  
~~JEFFERSON CIRCUIT COURT~~  
~~DIVISION THREE (3)~~

LASHONA WEBSTER as legal guardian and  
next friend of SHAWNTRACE COLE, A  
MINOR

PLAINTIFFS

And

ASHLEY NICOLE GAITHER

vs.

**COMPLAINT**

ROBERT DEERMAN, in his individual capacity and as an  
employee of the JEFFERSON COUNTY PUBLIC  
SCHOOLS

DEFENDANTS

Kammerer Middle School  
7315 Wesboro Road  
Louisville, KY 40222

Petition and Exhibits Filed  
Summons and 7 con 10 Issued *c/m*

JUN 25 2009

And

BY DAVID L. NICHOLSON, Clerk  
D.C.

PATRICIA PARKER, in her individual capacity and as an  
employee of JEFFERSON COUNTY PUBLIC SCHOOLS

Kammerer Middle School  
7315 Wesboro Road  
Louisville, KY 40222

*Jay Feld*

And

DAVID HILL, in his individual capacity and as an  
employee of JEFFERSON COUNTY PUBLIC SCHOOLS

Kammerer Middle School  
7315 Wesboro Road  
Louisville, KY 40222

And

JEFFERSON COUNTY PUBLIC SCHOOLS BOARD OF  
EDUCACTION

Ⓟ

Jack Conway  
Kentucky Attorney General  
Office of the Attorney General  
700 Capitol Avenue, Suite 118  
Frankfort, Kentucky 40601

\* \* \* \* \*

Comes the Plaintiffs, LASHONA WEBSTER, as legal guardian and next friend of SHAWNTRACE COLE, a minor, and ASHLEY NICOLE GAITHER (hereinafter the "Plaintiffs") by and through counsel, and for their cause of action against the Defendants, ROBERT DEERMAN, PATRICIA PARKER, and DAVID HILL (hereinafter the "Defendants") hereby states as follows:

1. In March 2005 and all other times and dates material hereto, the Plaintiffs were all residents of Jefferson County, Kentucky.
2. On the above referenced date, and all other times and dates material hereto, the Defendant, Robert Deerman (hereinafter "Deerman"), was a resident of Jefferson County, Kentucky, and an employee, agent, and/or servant of Jefferson County Public Schools (hereinafter JCPS), specifically, as an Assistant Principal of Kammerer Middle School (hereinafter "Kammerer") located at 7315 Wesboro Road, Louisville, Kentucky 40222.

3. On that same date, and all other times and dates material hereto, the Defendant, Patricia Parker (hereinafter "Parker"), was a resident of Jefferson County, Kentucky, and an employee, agent, and/or servant of JCPS, specifically, as Principal of Kammerer Middle School (hereinafter "Kammerer") located at 7315 Wesboro Road, Louisville, Kentucky 40222.

4. On that same date, and all other times and dates material hereto, the Defendant, David Hill (hereinafter "Hill"), was a resident of Jefferson County, Kentucky, and an employee, agent, and/or servant of JCPS, specifically, as a security officer at Kammerer Middle School (hereinafter "Kammerer") located at 7315 Wesboro Road, Louisville, Kentucky 40222.

5. The Defendant, Jefferson County Public Schools Board of Education, (hereinafter JCPS) was and is at all times relevant hereto a body corporate and politic, capable of suing and being sued, and is vicariously liable for the actions and negligence of its employees and/or agents named herein under the doctrine of respondeat superior.

6. The events that transpired herein occurred in Jefferson County, Kentucky, and this Court has proper jurisdiction of this action.

#### **FACTS**

7. That the Plaintiffs on or about March, 2005 were passengers on a school bus operated for the use of JCPS students attending school at Kammerer.

8. That on or about March, 2005 there occurred a disturbance on the JCPS school bus which the Plaintiffs were traveling to Kammerer Middle School on. The disturbance did not involve the Plaintiffs. When the bus arrived at Kammerer the Defendants, Deerman and Parker, boarded the bus to resolve the dispute. Upon entering the bus the Defendants smelled what they thought was marijuana. The bus driver indicated that it smelled like it was coming from the

back. The Defendants arbitrarily single out five females in the rear of the bus, which included the Plaintiffs. The Defendants accused these girls of possessing marijuana.

9. The five females, including the plaintiffs, were all taken to the Principal's office where all were subjected to searches. These searches occurred separately and alone inside the Defendant's, Deerman's, office. The Plaintiffs, including the other females, requested to contact their parents to be present during the searches and were denied. During the search the females were require to remove their shoe's and shocks, unbuckle their belts, unbutton their pants, and unzip their pants and shack their pants. They had their waistlines physically touched searched by the Defendant, Deerman, while their pants were undone. They were required to lift up their bras while their shirts remained on and jump up and down. They also had their hair pick through afterwards. The searches were all preformed behind closed doors, without the presence of police officers or female staff.

10. No marijuana was found on the five females, including the Plaintiffs. However they were detained in the Principal's office the entire day, from the moment they arrived at school, until the time they left. During this time, the five females were not allowed to attend classes, but subjected to individual interrogations from all of the Defendants which lasted from 20 to 30 minutes for each interrogation. The Plaintiffs were threatened during these interrogations that they would not be allowed to ride the bus every again, and were threatened by telling them they would not be allowed to attend the 8<sup>th</sup> grade graduation.

11. During the time that the five females were detained in the principal's office there were continuously denied the ability to contact their parents. They were denied the ability to eat lunch. They were denied the ability to leave the office and school facilities. At the end of the school day they were denied admittance to JCPS bus services, and were force to find

accommodations on other public transportation because they were denied the use of school phones so as to contact their parents.

12. The Defendants never found any marijuana. The Defendants never gave the females any official disciplinary action or punishment. The parent of the Plaintiffs, as well as the parents of the other girls, were never contacted about the incident, and were not told that their children would not be allowed on the school bus and would taking public transportation home. Both the Plaintiffs had never been on public transportation before this time.

13. The occurrence of this event took place when the Plaintiffs were 13 years of age and 14 years of age, respectively. As a result of this incident the Plaintiffs missed 8 days of school as a result of the extreme indignities and humiliation they suffered.

### COUNT I

14. Plaintiffs restate and reallege each and every allegation set forth in the paragraphs above as if fully set forth herein.

15. While in the care and custody of JCPS and the administrators of Kammerer Middle School, specifically, the Defendants, Parker, Hill, and Deerman, the Plaintiffs were wrongfully accused of possessing marijuana without probable cause or individualized suspicion.

16. Without reasonable grounds to suspect that a search would turn up evidence of such marijuana the Plaintiffs were randomly chose out of a group of students and subjected to a search by the Defendant, Deerman, which violated their legitimate expectation of privacy, was grossly intrusive as the plaintiffs were physically touched around and inside the waist lining of their pants, and the searches had little to do with advancing the schools system's need for the protection of the health and safety of the student body as there was only suspicion of the

presence of marijuana and no individual suspicion as to who possessed it or if it was even present.

17. The actions of the Defendants, under the color of their authority as JCPS educational administrators of Kammerer Middle School, a JCPS School in Jefferson County, Kentucky, as hereinabove set out, deprived the Plaintiffs of the Constitutional Rights guaranteed to them as a citizen of the United States, by U.S. Const. Amend. IV, under 42 U.S.C. § 1983.

18. As a result the Plaintiffs have suffered damages including humiliation, embarrassment, extreme indignities, and mental anguish in an amount in excess of the minimum dollar amount necessary to establish the jurisdiction of this court.

### **COUNT II**

19. Plaintiffs restate and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

20. While the Plaintiffs were in the care and custody of JCPS and the administrators of Kammerer Middle School, specifically, the Defendants, Parker, Hill, and Deerman, the Plaintiffs were subjected to an unwarranted and illegal physical search of their possessions and person which violated their constitutional rights guaranteed by the U.S. Const. Amend. IV, under 42 U.S.C. § 1983.

21. During this illegal search the Defendant, Deerman, intentionally assaulted and battered the Plaintiffs by intentionally put his hands on their waists and within the waist line of their pants while they were behind closed doors, and without the presence of police officers or other female staff.

22. As a result the Plaintiffs has suffered damages including humiliation, embarrassment, extreme indignities, and mental anguish in an amount in excess of the minimum

dollar amount necessary to establish the jurisdiction of this court.

### COUNT III

23. Plaintiffs restate and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

24. While the Plaintiffs were in the care and custody of JCPS and the administrators of Kammerer Middle School, specifically, the Defendants, Parker, Hill, and Deerman, the Plaintiffs were subjected to an unwarranted physical search of their possessions and person which violated their constitutional rights guaranteed by the U.S. Const. Amend. IV, under 42 U.S.C. § 1983.

25. After the search failed to turn up any marijuana the Plaintiffs were detained in the Principal's office for the remainder of the school day.

26. The Plaintiffs were not given a punishment and no corrective actions or punitive actions were officially taken against them by the school.

27. During this time the Plaintiffs could not and were not allowed to attend class, contact their parent, obtain or eat lunch, and were detained past the time that bus services were available to drive them home or were not allowed on JCPS buses that afternoon. Therefore, the Plaintiff's were force to acquire alternative public transportation because they were not allowed or given access to school phones to contact their parent. In fact, no parent was ever informed of the incident by the school.

28. This detainment constitutes false imprisonment as the Plaintiff's were restrained from their reasonable expectation of liberty within and during school hours as well as after school was let out. This is an unlawful restraint of the plaintiffs' liberty by the Defendants, who detained them and under whose authority they were detained. Specifically, Defendants Parker as

Principal of Kammerer Middle School, Deerman as Assistant Principal, and Hill as Security Officer.

29. As a result the Plaintiffs has suffered damages including humiliation, embarrassment, extreme indignities, and mental anguish in an amount in excess of the minimum dollar amount necessary to establish the jurisdiction of this court.

#### COUNT IV

30. Plaintiffs restate and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

31. Plaintiffs were minors attending school at Kammerer Middle School and where in the care and custody of JCPS and its agents and employees, specifically the Defendants, Parker, Deerman, and Hill, from the moment they stepped on to the school bus.

32. As JCPS employees of Kammerer Middle School in care and custody of its students, the Defendants owned the Plaintiffs the duty of care to use reasonable judgment, methods, and concern with investigating allegations of illegal possession of drugs, searching students, and attempting to seek out the truth of allegations.

33. The Defendants failed to use reasonable care and judgment when investigating the suspicion of the smell of marijuana on the school bus, and arbitrarily singled out the Plaintiffs and three other young girls as possessing marijuana.

34. The Defendants failed to use reasonable care and reasonable methods when conducting a search of the plaintiffs for marijuana by searching them individually, behind closed doors, touching them around the waist and inside waist lining of their pants, and without the presence of police officers or other female staff.

35. The Defendants failed to use reasonable care in attempting to seek out the truth of suspicions of marijuana possession by falsely imprisoning the Plaintiffs in the Principals office for the entire school day, not allowing them to contact their parent, not allowing them to eat lunch, not allowing them to ride the school bus home, and forcing them to find alternative transportation home by refuse them the use of school phones to contact their parent for a ride home.

36. The Defendants failed to return the Plaintiffs to the care and custody of their parent by releasing them from school and not allowing them on the school bus, requiring them to find other transportation, and without a guardian. This was done without informing the Plaintiffs' parent where they were, what they were doing, and without her permission.

37. In this way the Defendants failed to use adequate and proper precautionary measures to protect the Plaintiffs as well as others similarly situated.

38. The wrongful and outrageous conduct of these Defendants wrongfully caused the Plaintiffs to be wrongfully subjected to humiliation, embarrassment, extreme indignities, and mental anguish.

39. The Defendants intentionally sought to force a confession from the Plaintiffs for a wrong doing they did not do. In doing so the Defendants intentionally sought to cause the Plaintiffs emotional distress, humiliation, mental anguish, and physical distress. The Plaintiffs have a common law claim for intentional infliction of emotional distress.

40. As a proximate result of the defendants' intentional outrageous and reckless conduct the Plaintiffs have suffered damages in an amount in excess of the minimum dollar amount necessary to establish the jurisdiction of this court.

**COUNT V**

41. Plaintiffs restate and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

42. As JCPS employees of Kammerer Middle School in care and custody of its students, the Defendants owned the Plaintiffs, as students and all students in their care, a duty of care to protect them from harm and harassment from other students as well as from the teaching staff and school administration.

43. The Defendants knew, or should have known, that their failure to exercise due care in the performance of investigating allegations of possession of marijuana, conducting searches of those accused of possession, and using reasonable means to seek out the truth from those accused would cause the Plaintiffs severe emotional distress.

44. The Defendants failure to use reasonable care and judgment when investigating the suspicion of the smell of marijuana on the school bus which caused them to be arbitrarily singled out the Plaintiffs and three other young girls as possessing marijuana.

45. The Defendants failure to use reasonable care and reasonable methods when conducting a search of the plaintiffs for marijuana resulted in the Plaintiffs being searched individually, behind closed doors, by a school administrator who touched them around the waist and inside the waist lining of their pants, and without the presence of police officers or other female staff.

46. The Defendants failure to use reasonable care in attempting to seek out the truth of suspicions of marijuana possession resulted in the Plaintiffs being falsely imprisoned in the Principals office for the entire school day, without allowing them to contact their parent, without allowing them to eat lunch, without allowing them to ride the school bus home, and forcing them

to find alternative transportation home by refuse them the use of school phones to contact their parent for a ride home.

47. The Defendants failure to use reasonable care to return the Plaintiffs to the care and custody of their parent resulting in releasing them from school without allowing them on the school bus, requiring them to find other transportation, and without a guardian. This was done without informing the Plaintiffs' parent where they were, what they were doing, and without her permission.

48. In this way the Defendants were negligent in failing to use adequate and proper precautionary measures to protect the Plaintiffs as well as others similarly situated.

49. The Defendants' negligence has proximately caused the Plaintiffs to suffer emotional distress, humiliation, mental anguish, and physical distress. Plaintiffs have a common law claim for negligent infliction of emotional distress.

50. As a proximate result of the defendants' negligence, outrageous conduct, gross negligence, and/or reckless conduct of the Defendants, Deerman, Parker, and Hill, the Plaintiffs have suffered damages in an amount in excess of the minimum dollar amount necessary to establish the jurisdiction of this court.

#### **COUNT VI**

51. Plaintiffs restate and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

52. That this Defendant, JCPS, is an employer and/or operator and is vicariously liable for the negligent and wrongful conduct of its employees, Deerman, Parker, and Hill, as complained of herein.

53. That the Defendant, JCPS, was negligent in failing to use adequate and proper precautionary measures to protect the Plaintiffs as well as others similarly situated.

54. That the wrongful and outrageous conduct of this Defendant, JCPS, in conjunction with the other named Defendants, wrongfully deprived the Plaintiffs of their constitutional rights guaranteed to them as a citizen of the United States, by U.S. Const. Amend. IV, under 42 U.S.C. § 1983.

55. That as a result of the Defendant's, JCPS, negligence, outrageous conduct, gross negligence, and/or reckless conduct and the outrageous conduct of the Defendants, Deerman, Parker, and Hill, the Plaintiffs suffered permanent and irreparable harm including, extreme indignity, emotional distress, humiliation, mental anguish, and physical distress, all of which exceed the jurisdictional threshold of this Court.


\*\*\*                      \*\*\*                      \*\*\*

WHEREFORE, the Plaintiffs, LaShona Webster, as the legal guardian and next friend of Shawntrice Cole, a minor, and the Plaintiff Ashley Nicole Gaither demand judgment against the Defendants, Robert Deerman, Patricia Parker, David Hill, and JCPS as follows:

1. For all compensatory damages for any and all amounts which will fairly and reasonably compensate them for the damages incurred as a result of the Defendants' wrongful actions and negligence in an amount to be determined at trial;
2. For all costs incurred herein, including a reasonable attorney's fee;

3. For punitive damages, where applicable, in an amount to be determined by a jury;
4. For trial by jury; and
5. For any and all other relief to which the plaintiff may be justly entitled, including the right to amend this Complaint if necessary.

Respectfully submitted,

  
\_\_\_\_\_  
Johnny B. Bruce  
JONES & BRUCE, PLLC  
2208-A Dundee Road  
Louisville, Kentucky 40205  
Tel. (502) 456-0400  
*Counsel for Plaintiffs*