

IN THE CIRCUIT COURT FOR KNOX COUNTY, TENNESSEE

BOY DOE, a child under 18, b/n/f)
 MOTHER DOE,)
)
 Plaintiffs,)
)
 v.)
)
 KNOX COUNTY, TENNESSEE; KNOX)
 COUNTY BOARD OF EDUCATION; J.J. JONES,)
 SHERIFF OF KNOX COUNTY, in his official)
 Capacity; M. SPANGLER, OFFICER,)
 KNOX COUNTY SHERIFF'S DEPARTMENT,)
 Individually and in Her Official Capacity;)
 S. RUTCH, OFFICER,)
 KNOX COUNTY SHERIFF'S DEPARTMENT,)
 Individually and in His Official Capacity;)
 OFFICER WALL, SCHOOL RESOURCE)
 OFFICER, GIBBS HIGH SCHOOL, Individually)
 and in His Official Capacity, ONE UNKNOWN)
 OFFICER OF THE KNOX COUNTY SHERIFF'S)
 DEPARTMENT, Individually and)
 in His Official Capacity; LYNN HILL,)
 PRINCIPAL, GIBBS HIGH SCHOOL,)
 in His Official Capacity; MIKE DRIVER,)
 ASSISTANT PRINCIPAL,)
 GIBBS HIGH SCHOOL, in His Official Capacity,)
)
 Defendants.)

RB
 2008 OCT -5 P 2:05
 No. 149109

1791-588

COMPLAINT

The Plaintiffs, Boy Doe, b/n/f Mother Doe, by their attorneys, upon information and belief, and for their causes of action against the Defendants, say as follows:

I. STATEMENT

1. On October 6, 2008, Boy Doe was arrested at Gibbs High School for allegedly wielding a box cutter; prosecuted, for among other offenses, carrying a box cutter; and incarcerated in the Knox County Juvenile Detention Facility. A school security recording of the incident reveals that Boy Doe did not possess a box cutter, knife, or any other weapon. His arrest was without

probable cause, and all charges were dismissed by the Knox County Juvenile Court. As a result of his unlawful arrest, incarceration, and prosecution, Boy Doe has suffered severe psychological and emotional harm. In this action, he and his mother seek compensation for the injuries caused by the reckless, malicious, willful, and negligent actions of the Defendants.

II. JURISDICTION & VENUE

2. The Knox County Circuit Court has jurisdiction of this damage action. Tenn. Code Ann. §§ 16-10-101 and 20-4-101. The Court also has jurisdiction of Plaintiff's claims under 42 U.S.C. § 1983 through its jurisdictional counterpart, 42 U.S.C. § 1343. Venue is proper in Knox County, Tennessee.

III. PARTIES

3. Boy Doe is a 17-year-old citizen and resident of Knox County Tennessee. Mother Doe, his mother and next friend in this action, is a citizen of Knox County, Tennessee and resides with her son in Knox County, Tennessee. The identities of the Plaintiffs are known to the Defendants.

4. Defendant Knox County, Tennessee, is the governmental entity responsible for the actions of law enforcement personnel of the Knox County Sheriff's Department pursuant to Tenn. Code Ann. § 8-8-302, and may be served with process by and through the Knox County Law Director Bill Lockett at Suite 612, City-County Building, 400 Main Street, Knoxville, Tennessee, 37902-2405.

5. Defendant Knox County Board of Education may be served with process through its attorney, Martha Haren McCampbell, at her office located at 912 South Gay Street, Andrew Johnson Building, Knoxville, Tennessee 37902.

6. The Defendant J.J. Jones is the duly elected Sheriff of Knox County, and is the government official responsible for the training and supervision of the Knox County Sheriff's Department's officers, agents and employees. He is sued in his official capacity.

7. Defendant M. Spangler was a Knox County Sheriff's Officer at Gibbs High School in October, 2008. She is sued in both her individual and official capacities.

8. Defendant S. Rutch was a Knox County Sheriff's Officer at Gibbs High School in October, 2008. He is sued in both his individual and official capacities.
9. Defendant Officer Wall was a School Resource Officer at Gibbs High School in October, 2008. He is sued in both his individual and official capacities.
10. Defendant One Unknown Officer was an employee of the Knox County Sheriff's Department in October, 2008. The Plaintiffs will ascertain the exact name of this Officer during discovery in this action and will serve process on him accordingly. He is sued in both this individual and official capacities.
11. Defendant Lynn Hill is the principal of Gibbs High School, Knox County, Tennessee and is responsible for the legal operation of the school. He is sued in his official capacity.
12. Defendant Mike Driver was an Assistant Principal at Gibbs High School in October, 2008. He is sued in his official capacity.

IV. FACTUAL ALLEGATIONS

13. Boy Doe is a sixteen-year-old special education student at Gibbs High School who suffers from Obsessive-Compulsive Disorder, namely Trichotillomania.
14. This disorder was known by teachers and administrators of Gibbs High School.
15. Upon information and belief, school administrators and teachers knew plaintiff Boy Doe utilized a therapeutic aid to repress symptoms of his Obsessive-Compulsive Disorder.
16. On October 6, 2008, Plaintiff Boy Doe was taunted and physically bullied by two students. This behavior was witnessed by a number of students and captured, in part, by surveillance video.
17. School security officers responded to the incident and physically escorted Plaintiff Boy Doe to the principal's office at Gibbs High School.
18. Despite the fact that Plaintiff Boy Doe did not present a danger to himself or to others, a Knox County Sheriff's Officer brandished a gun and stuck the gun in the rib cage of Plaintiff Boy Doe, placing him in fear of great bodily harm.
19. Upon information and belief, prior to arresting Plaintiff Boy Doe, neither Gibbs High School administrators nor Knox County Sheriff's Department officers conducted any reasonable

investigation to determine what weapon, if any, Plaintiff Boy Doe possessed, or otherwise inquired into his status as a special education student and the need for a stimulus device.

20. Upon information and belief, neither Gibbs High School administrators nor Knox County Sheriff's Office officers conducted a reasonable investigation to determine whether Plaintiff Boy Doe possessed a "box cutter," "knife," or other weapon.

21. Gibbs High School administrators and Knox County Sheriff's Department officers, after searching Plaintiff Boy Doe, knew that he possessed a key ring containing a stimulus device, which could not reasonably be construed as a "box cutter," "knife," or other dangerous weapon specified in Tenn. Code Ann. § 39-17-1309(b)(1).

22. Boy Doe was taken into custody by the Defendants and searched in the Principal's Office at Gibbs High School. Once there, the Defendant M. Spangler pulled out a gun and stuck it in Boy Doe's left ribs.

23. Boy Doe was physically detained, arrested, and physically transported to the Knox County Juvenile Detention Center. Plaintiff Boy Doe was booked and incarcerated until the following day. Despite Plaintiff Boy Doe's special education status, Boy Doe's parents were not contacted by school authorities until after he was transported to the Knox County Juvenile Detention Center.

24. On October 7, 2008, a Juvenile petition was filed in Knox County Juvenile Court. The petition alleged that he committed the offenses of carrying a weapon on school property with intent to go armed, carrying a weapon on school property with intent to go armed and aggravated assault, intentional (sic). Significantly, in the arrest report, the Defendant Mike Driver was listed as the sole witness to the incident. The report stated: "Witness stated that he seen [sic] what appeared to be a box cutter in arrestee's hand."

25. Plaintiff Boy Doe was incarcerated overnight without any accommodations for his special education status. Upon information and belief neither Knox County Schools administrators nor Knox County Sheriff's Department officers related his special education status. The next day, on October 7, 2008, a detention hearing was held. Boy Doe was released to the custody of his mother. Hearing was set for November 19, 2008.

26. On November 20, 2008 all charges were dismissed by a Knox County Juvenile Court Judge.

27. As a result of his unlawful arrest, incarceration, and prosecution, Boy Doe has suffered severe psychological, emotional, and reputational harm.

V. CAUSES OF ACTION

28. For each of the causes of action pleaded in this section of the Complaint, the factual allegations contained in paragraphs 1-27 of this Complaint are incorporated as if fully set out.

29. Without having probable cause to arrest Boy Doe, the law enforcement officer Defendants, in concert with the Defendants employed by the Defendant Knox County Schools, maliciously arrested and proximately caused the prosecution of Boy Doe, thus committing the tort of malicious prosecution.

30. Without having probable cause to arrest Boy Doe, the law enforcement officer Defendants falsely imprisoned Boy Doe.

31. Without having probable cause to arrest, prosecute, or incarcerate Boy Doe, the law enforcement officer Defendants, acting under color of state law, with deliberate indifference, contrary to the policies of the Knox County Board of Education and the Knox County Sheriff's Department, and in violation of 42 U.S.C. § 1983, contravened Boy Doe's rights under the Fourth and Fourteenth Amendments to the United States Constitution.

32. By unlawfully arresting, incarcerating, and prosecuting Boy Doe, the law enforcement officer Defendants, in concert with the Defendants employed by the Defendant Knox County Schools, committed the torts of assault and battery, false arrest and imprisonment, malicious prosecution, and intentional infliction of emotional distress.

33. Defendants Knox County and the Knox County Board of Education were negligent in the training and supervision of the Knox County Sheriff's Officers as it relates to the investigation and arrest of Plaintiff Boy Doe, a special education student.

34. As a direct and proximate cause of the Defendants' malicious, reckless, willful, deliberately indifferent, unconstitutional, and negligent conduct, Plaintiff Boy Doe has suffered mental anguish and emotional distress, psychological injuries, and economic damages.

COMMON LAW ACTIONS OF FALSE ARREST, FALSE IMPRISONMENT AND ASSAULT AND BATTERY

35. For each of the causes of action pleaded in this section of the Complaint, the factual allegations contained in paragraphs 1-34 of this Complaint are incorporated as if fully set out.

36. At the time Boy Doe was detained and arrested by Knox County Sheriff's officers, they were acting as a part of their regular and official employment as police officers for the Knox County Sheriff's Department, possessing an official uniform, insignia, weapon, and badge issued by the Knox County Sheriff's Department for Knox County.

37. The Knox County Sheriff's officers negligently and recklessly, without taking any reasonable or prudent steps to determine if Boy Doe had committed a criminal/juvenile offense, without Boy Doe's or his parents' consent or permission, arrested the Plaintiff and placed him in their police cruiser.

38. After the unlawful arrest, which was made without probable cause, Boy Doe was transported to the Knox County Juvenile Detention Center, where he was processed, booked, and unlawfully and forcibly detained in the Knox County Juvenile Detention Center; all of these actions were conducted against his will.

39. Subsequently the criminal allegations contained in the petition against Boy Doe were dismissed by a Knox County Juvenile Court Judge.

40. Plaintiff further alleges that the acts, conduct and behavior of the defendants, directly and proximately caused the Plaintiff to suffer severe emotional and psychological injuries, embarrassment and humiliation as a result of being unlawfully arrested and detained.

41. Plaintiff alleges that the acts of the Knox County Sheriff's officers, Knox County, and Knox County Board of Education officials and agents, and remaining defendants and their agents, individually and/or collectively constituted the actions of false arrest and false imprisonment of Boy Doe.

NEGLIGENT SUPERVISION AND TRAINING

42. For each of the causes of action pleaded in this section of the Complaint, the factual allegations contained in paragraphs 1-39 of this Complaint are incorporated as if fully set out.

43. At all time relevant, Knox County and the Knox County Board of Education were governmental entities within the meaning of Tenn. Code. Ann. § 29-20-102(3).

44. The Defendant Knox County Sheriff Officer were at all relevant times employees under the Tennessee Governmental Tort Liability Act as defined in Tenn. Code Ann. § 29-20-102(2).

45. Defendant Knox County Board of Education and its agents and administrators at Gibbs High School were at all relevant times employees under the Tennessee Governmental Tort Liability Act as defined in Tenn. Code Ann. § 29-20-102(2).

46. Tenn. Code Ann. § 29-20-205 provides for the removal of sovereign immunity for the injuries suffered by the Plaintiffs as the proximate result of the negligent acts or omissions of the Defendants during the course and scope of their employment with Knox County and/or Knox County Board of Education.

47. The defendants failed to take any reasonable steps toward adequate screening, training, or supervising of school employees and administrators, in addition to Knox County Sheriff's officers, and knew or should have known their failure to do so could result in injury and damages to students and citizens of Knox County.

42 U.S.C. § 1983

48. For each of the causes of action pleaded in this section of the Complaint, the factual allegations contained in paragraphs 1-47 of this Complaint are incorporated as if fully set out.

49. Defendants Knox County and the Knox County Board of Education, by and through their agents, acting in both their official capacities as employees/agents of Knox County and the Knox County Board of Education, and individually, knowingly, intentionally, or with deliberate indifference, and acting under color of State law, violated the rights, privileges and immunities of Plaintiff Boy Doe.

50. Specifically, Plaintiffs allege that the Defendants, and each of them, denied Plaintiff Boy Doe's right to freedom from unreasonable seizures guaranteed to him by the Fourth Amendment and further denied him his liberty interest protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution; and denied the minor Plaintiff of his liberty interests in personal or bodily integrity, as guaranteed to him by the Fourteenth Amendment's Due Process Clause.

51. Plaintiffs allege that Boy Doe, on October 6, 2008, was intentionally and/or recklessly seized by Defendants and was brought against his will, without his consent, to the Knox County Juvenile

Detention Center and Knox County Jail for processing, booking and incarceration, where he was unlawfully imprisoned and detained under the direction of Defendants.

52. Plaintiff further alleges that the Defendants intentionally and/or recklessly failed to expeditiously or timely obtain information readily available to them, which would have revealed to them that there was no probable cause to arrest and detain Boy Doe, especially in light of his special education status and disability.

53. Plaintiff has suffered psychological and emotional injuries resulting from the trauma, humiliation, and embarrassment as a result of his arrest and incarceration. Plaintiff has also suffered mental anguish and emotional distress as a result of the Defendants' actions and/or omissions. As a result of Plaintiff's existing psychological condition, his psychological and emotional injuries were exacerbated as a result of the Defendants' actions.

54. The minor Plaintiff alleges that the Defendants, while acting under color of State law, did deprive him of his constitutional rights to personal or bodily integrity by intentionally and/or recklessly disregarding his personal safety and welfare.

VII. DAMAGES

55. The factual allegations contained in paragraphs 1-54 of this Complaint are incorporated as if fully set out.

56. As a direct and proximate result of the actions and/or omissions of the Defendants, Plaintiff Boy Doe has suffered emotional and psychological trauma, including, but not limited to humiliation, embarrassment, loss of self esteem, depression, Post-Traumatic Stress Disorder, anxiety, self consciousness and other nonpecuniary losses. In addition, the Plaintiff has suffered constitutional deprivations at the hands of State actors, specifically Plaintiff Boy Doe was denied his Fourth Amendment right to freedom from unreasonable seizures, and the Plaintiff was denied his Fourteenth Amendment liberty rights to personal and bodily integrity pursuant to the United States Constitution.

57. Further, the Defendants' actions, conduct, and behavior were performed in such knowing, intentional, malicious and/or completely reckless manner as to justify the imposition of punitive damages.

VIII. PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs request the following relief:

1. Compensatory damages not to exceed \$100,000.00.
2. Punitive damages not to exceed \$100,000.00.
3. A trial by jury.
4. Reasonable attorneys' fees pursuant to 42 U.S.C. § 1988.
5. The costs of this action.
6. All other relief to which the Plaintiffs may be entitled.

RESPECTFULLY SUBMITTED

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