

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION

E.F., a minor, by and through,  
LAQUARBASHAUN FORD,  
his mother,

Plaintiff,

v.

TROUP COUNTY SCHOOL SYSTEM,  
DAVID SHUMATE,  
in his individual and official capacity,  
and ALTON WHITE, in his individual  
and official capacity,

Defendants.

CIVIL ACTION

NO. \_\_\_\_\_

**VERIFIED COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF AND DAMAGES**

Plaintiff E.F., by and through his mother, Laquarbashaun Ford, brings this action under 42 U.S.C. § 1983 to enforce E.F.’s First and Fourteenth Amendment rights. E.F. is an African-American public high school senior and aspiring rap artist who was expelled from school by Defendants for making a music video. The music video was recorded off-campus during the summer months and bore no relation to the school setting. E.F. uploaded his music video to the social media site YouTube. It was Defendants who brought the music video to school, then used it to expel E.F. from school.

The music video is a video of E.F. performing a song with music. The music video does not mention or refer to another student, teacher, school administrator, or school in general. At the time Defendants expelled E.F., the music video did not disturb the operation of the school system. The music video, still currently on YouTube, continues to have no effect on the operation of the school system other than the school system having one less student attending classes—E.F.

Defendants punished E.F. with a one-year expulsion based on E.F.'s expression. Defendants will not provide E.F. with any educational services until January 2020. When E.F. starts alternative school to satisfy the second semester of his year-long expulsion, he will be subject to the same vague and overbroad school rules that infringe upon his constitutional rights. Defendants' actions and policies have caused a substantial chilling effect on E.F.'s protected speech.

Plaintiff E.F. respectfully requests that this Court grant his requested relief on the grounds that (1) Defendants violated E.F.'s First Amendment right to freedom of speech and expression, and (2) Defendants' code of conduct provisions used to expel E.F. are unconstitutionally vague and overbroad, providing Defendants' arbitrary discretion to sanction E.F. on the basis of his constitutionally protected speech, in violation of E.F.'s Fourteenth Amendment right to due process.

## **I. JURISDICTION and VENUE**

1. This action is brought under 42 U.S.C. § 1983 to redress the deprivation of E.F.'s First and Fourteenth Amendment rights under color of state law. This court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343(3).
2. This Court has personal jurisdiction of the parties under Fed. R. Civ. P. 4(k)(1)(a).
3. Venue is proper in the Newnan Division of the Northern District of Georgia under 28 U.S.C. § 1391(b) and L.R. 3.1B.(1)(a) because the events giving rise to the controversy occurred in Troup County, Georgia, and Defendants are all residents of or situated in Troup County, Georgia.

## **II. PARTIES**

4. E.F. is a seventeen-year-old African-American student who was enrolled in LaGrange High School in the Troup County School System. E.F. resides with his mother, Laquarbashaun Ford, in LaGrange, Troup County, Georgia.
5. Defendant Troup County School System ("TCSS" or "the District") is the statutory school district confined to the control and management of the Troup County Board of Education under O.C.G.A. § 20-2-50. The District may be served through Dr. Brian Shumate, Superintendent, Troup County Board of Education, 100 North Davis Road, LaGrange, Georgia, 30241.

6. Defendant Brian Shumate, Ph. D. (“Superintendent Shumate” or “Dr. Shumate”) is the Superintendent of the Troup County School System and is tasked with implementing policies established by the Troup County Board of Education under O.C.G.A. §§ 20-2-61(a); 20-2-109. Dr. Shumate is being sued in his individual and official capacities. Dr. Shumate is a resident of Troup County, Georgia and may be served personally at the Troup County Board of Education, 100 North Davis Road, LaGrange, Georgia, 30241.
7. Defendant Alton White (“Principal White” or “Mr. White”) is the Principal of LaGrange High School in the Troup County School System and is “the person who serves as administrative head of a school, and who is responsible for the coordination and direction of all school activities” under Ga. Comp. R. & Regs. Rule 160-5-1-.37(1)(k). Mr. White is being sued in his individual and official capacities. Mr. White is a resident of Troup County, Georgia and may be served personally at LaGrange High School, 516 North Greenwood Street, LaGrange, Georgia, 30240.

### **III. STATEMENT OF FACTS**

#### *E.F. is a Music Artist*

8. E.F. is a seventeen-year-old African-American male.

9. The last school that E.F. was enrolled in was LaGrange High School in the Troup County School System.
10. E.F. is an aspiring rap artist<sup>1</sup> and is actively pursuing a music career.
11. E.F. performs under the stage name “Badazz Bastard.”
12. E.F.’s mother is Laquarbashaun Deshae Ford (“Ms. Ford”); E.F.’s father passed away two months after E.F.’s birth.
13. In his spare time, E.F. rents time at recording studios in Atlanta and his hometown of LaGrange in order to record music.
14. In the past year, E.F. has had two songs published to Spotify.<sup>2</sup>
15. E.F. sells t-shirts and copies of his songs to promote his music brand.
16. In the past year, E.F. has recorded, produced, and uploaded five songs to YouTube,<sup>3</sup> including three music videos professionally produced by a production company called Cochran.

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<sup>1</sup> “Rap” is “a type of music of African American origin in which rhythmic and usually rhyming speech is chanted to a musical accompaniment.” Merriam-Webster, “Rap,” [https://www.merriam-webster.com/dictionary/rap?utm\\_campaign=sd&utm\\_medium=serp&utm\\_source=jsonld](https://www.merriam-webster.com/dictionary/rap?utm_campaign=sd&utm_medium=serp&utm_source=jsonld) (last visited Oct. 9, 2019).

<sup>2</sup> “Spotify is a digital music, podcast, and video streaming service that gives you access to millions of songs and other content from artists all over the world.” Spotify, *What is Spotify?*, [https://support.spotify.com/us/using\\_spotify/the\\_basics/what-is-spotify/](https://support.spotify.com/us/using_spotify/the_basics/what-is-spotify/) (last visited Oct. 9, 2019).

<sup>3</sup> YouTube is a video-sharing website that believes “people should be able to speak freely, share opinions, foster open dialogue and that creative freedom leads to new

17. E.F.'s artistic influences include professional rap artists Lil Wayne, Post Malone, and YoungBoy Never Broke Again.
18. E.F. draws on his experiences and observations growing up as a young black man in a low-income community in LaGrange, Georgia, to create his music.
19. E.F.'s songs touch on issues including poverty, growing up around crime, the deaths of his family members, and his desire to make it as a rapper.
20. E.F. feels that rapping is his only chance to be successful at doing something he loves.
21. Ms. Ford supports E.F.'s artistic career aspirations.

*The Making of "Consequences 2"*

22. In July 2019, E.F. was a rising senior at LaGrange High School ("LHS").
23. Troup County Schools were on summer break from May 25, 2019 to August 12, 2019.
24. E.F. was attending summer school at LHS from June to July 2019.
25. On or around June 30, 2019, E.F. contacted Orlando Cochran, who runs the production company Cochran, to produce a music video for one of E.F.'s songs called "Consequences 2."

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voices, formats and possibilities." YouTube, <https://www.youtube.com/about/> (last visited Oct. 9, 2019).

26. Cochran charged \$480 to produce the music video.
27. Ms. Ford paid \$240 to Cochran to have E.F.'s music professionally produced; another parent paid the remaining \$240 of Cochran's price.
28. The musical lyrics to "Consequences 2" express the exaggerated and figurative consequences of hypothetical wrongs in a bravado fashion.
29. The music video was made around late June or early July 2019.
30. Cochran provided E.F. with prop toy guns to use in the music video.
31. The props were made of plastic, contained no ammunition, and did not fire.
32. E.F. returned the props to Cochran once the music video was completed.
33. E.F. does not possess an actual firearm or have any firearms in his home.
34. The lyrics and the music video do not mention or reference LHS.
35. The lyrics and the music video do not mention or reference TCSS.
36. The lyrics and the music video do not mention or reference school students, teachers, faculty, administrators, or school in general.
37. The music video was not made on school property or property in which TCSS has a property interest.
38. The music video did not bear any relationship to LHS or pose any threat to LHS operations.
39. In the music video, E.F. is exercising pure speech and expressive conduct.

*LHS Administrators Bring the Music Video to School and Use it to Remove E.F.*

40. On or about July 13 or 14, 2019, LHS Assistant Principal James Bozeman (“Mr. Bozeman”) saw the music video on his personal Facebook<sup>4</sup> feed over the weekend and recognized E.F.
41. The following Monday, July 15, 2019, Mr. Bozeman provided Principal White with a link to the music video.
42. Principal White forwarded the music video to School Resource Officer Lane Hammer (“SRO Hammer”).
43. SRO Hamer referred the music video to the Special Investigations Unit (“SIU”) of the LaGrange Police Department.
44. Investigator Jarrod Anderson (“Investigator Anderson”) of the SIU reviewed the music video and opined that some of E.F.’s expressions are “gang signs.”
45. Principal White, SRO Hammer, Investigator Anderson reviewed the music video together, took screenshots, and discussed potential courses of action.
46. E.F. continued to attend summer school at LHS for at least two weeks after Mr. Bozeman discovered the music video.

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<sup>4</sup> Facebook is a social media website that “celebrates how our friends inspire us, support us, and help us discover the world when we connect.” Facebook, *About*, [https://www.facebook.com/pg/facebook/about/?ref=page\\_internal](https://www.facebook.com/pg/facebook/about/?ref=page_internal) (last visited October 11, 2019).

47. Investigator Anderson did not identify E.F. as a gang member.
48. Investigator Anderson has never spoken to E.F. personally.
49. Investigator Anderson referred the music video to Assistant District Attorney Jack Winne (“ADA Winne”) for prosecution.
50. ADA Winne declined to press any charges.
51. E.F. did not bring the music video to school or show it to anyone at school.
52. Upon information and belief, no students watched the music video on school grounds.
53. YouTube and Facebook are blocked on LHS school computers in order to prevent students from accessing these media sites.
54. There were no disturbances at LHS due to the music video.
55. To date, E.F.’s music video is still available on YouTube.
56. Upon information and belief, E.F. is not the focus or subject of a criminal investigation for making his music video.

*Defendants Expel E.F. From School*

57. On August 12, 2019, on what would have been the first day of his senior year, E.F. was suspended from school pending a disciplinary tribunal hearing.
58. In a letter dated September 3, 2019, (hereinafter “charging letter”) Principal White charged E.F. with violating Section 7.10: “Gang Activity,” and Section

12.08: “Outside Conduct,” of the Troup County School System Student Behavior Code (“Student Code”).

59. Section 7.10 of the Student Code states, “No student shall actively participate in any street gang with knowledge that its members engage in or have engaged in a pattern of gang activity and who willfully promotes, furthers, or assists in any criminal conduct or violation of school rules, or represents himself or herself as being a gang member.”
60. Section 12.08 of the Student Code states, “A student who commits any act or exhibits conduct outside of school hours or away from school which may adversely affect the educational process or endanger the health, property, safety, morals, or well-being of other students, teachers, or employees within the school system may be disciplined hereunder.”
61. The charging letter stated that the music video served as the sole basis for both violations.
62. The Student Code also contains provisions penalizing “Disruption of the Educational Climate” (Section 12.07), “Cyberbullying” (Section 1.09), “Verbal/Visual Assault” (Section 1.10), “Possession of Weapons or Dangerous Instruments” (Section 4.01), “Threats and Intimidation” (Section 7.01), “Threat of Physical Violence to School Personnel” (Section 7.11),

“Rude or Disrespectful Behavior” (Section 11.01), and “Use of Profane or Obscene Language” (Section 11.02); E.F. was not charged with violating any of these provisions.

63. Prior to receiving the charge letter, neither E.F. nor Ms. Ford knew that making the music video could lead to E.F.’s expulsion.
64. A discipline tribunal hearing was held on September 4, 2019.
65. At the tribunal, Principal White stated there had been “gang problems” at LHS in the past, but that these problems had largely improved.
66. Neither Principal White nor any other witness provided any detail on these alleged “gang problems.”
67. Neither Principal White nor any other witness testified that the alleged “gang problems” were connected to music videos.
68. Among several other arguments, E.F. raised his right to First Amendment right to free speech before the discipline hearing tribunal (“tribunal”).
69. The tribunal found E.F. guilty of Sections 7:10: “Gang Activity” and 12:08: “Outside Conduct.”
70. The tribunal expelled E.F. for the remaining two semesters of his senior year, with the option to attend the second semester of his expulsion at the TCSS alternative school, HOPE Academy.

71. E.F. would be eligible to return to LHS for the first semester of his 2020-2021 school year if he receives a “favorable recommendation from the principal and staff of HOPE Academy.”
72. Prior to the tribunal decision, E.F. was scheduled to graduate high school at the end of the 2019-2020 school year.
73. During his expulsion, E.F. may not attend or participate in any curricular or extra-curricular activities sponsored by LHS or the TCSS.
74. Upon hearing the tribunal’s decision, E.F. “blacked out” and felt hopeless and suicidal.
75. On September 9, 2019, E.F. notified Superintendent Shumate of his intent to appeal the tribunal’s decision to the Troup County Board of Education (“Local Board”).
76. On September 23, 2019, oral argument was held before the Local Board.
77. Once again, E.F. argued, orally and in writing, before the Local Board that the tribunal’s decision violated his First Amendment rights.
78. On September 24, 2019, E.F., received a letter from Superintendent Shumate notifying him that the Local Board upheld the tribunal’s decision in its entirety.

79. From August 12, 2019 to the present, E.F. has not attended a single day of his senior year at school.
80. E.F. languishes at home.
81. E.F. is not in, nor has he ever been in, a gang.
82. As a direct result of Defendants' actions, E.F. will receive no passing academic credits for the current semester of his senior year, and thus, he will not be able to graduate from high school with his class peers.
83. Defendants' actions and policies have caused a chilling effect on E.F.'s desire and ability to make music.
84. Defendants' actions have irreparably harmed and continue to irreparably harm E.F.
85. Due to Defendants' violations, E.F. is entitled to declaratory and preliminary and permanent injunctive relief, as well as actual damages.
86. E.F. has no adequate remedy at law.

#### **IV. CLAIMS FOR RELIEF**

##### **COUNT I – VIOLATIONS OF FREEDOM OF SPEECH PROTECTED BY THE FIRST AMENDMENT**

87. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

88. Defendants violated E.F.'s right to free speech pursuant to the First Amendment by disciplining E.F. based on his speech, causing a chilling effect on E.F.'s freedom of speech and expression.
89. The Free Speech Clause of the First Amendment states, "Congress shall make no law . . . abridging the freedom of speech[.]" This prohibition has been applied to the states and state actors through the Fourteenth Amendment.
90. Defendants made their decision to punish E.F. based on E.F.'s music video.
91. E.F.'s music video constitutes pure speech and expressive conduct.
92. Defendants violated E.F.'s First Amendment rights because E.F.'s music video is a form of artistic expression in which the lyrics and expressive conduct in E.F.'s performance cannot reasonably be taken literally to establish E.F.'s past, present, or future conduct.
93. Defendants violated E.F.'s First Amendment rights because E.F.'s speech did not cause a substantial or material disruption at school.
94. Defendants violated E.F.'s First Amendment rights because E.F.'s speech has no nexus to school.
95. Defendants violated E.F.'s First Amendment rights because E.F.'s speech does not infringe upon the rights of other individuals associated with the school.

**COUNT II – VIOLATIONS OF DUE PROCESS  
PROTECTED BY THE FIRST AND FOURTEENTH AMENDMENTS**

96. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.
97. Defendants violated E.F.’s Fourteenth Amendment right to due process by punishing E.F. based on rules and policies, on their face and as applied, that are unconstitutionally overbroad and vague.
98. The Due Process Clause of the Fourteenth Amendment states, “No State shall . . . deprive any person of life, liberty, or property, without due process of law.”
99. The Georgia Constitution guarantees a free and adequate public education for its citizens. GA. Const., art. VIII, § I, para. I.
100. Defendants punished E.F. pursuant to Section 7.10—“Gang Activity” and Section 12.08—“Outside Conduct”—of the Student Code.
101. Section 7.10 of the Student Code states: “No student shall actively participate in any street gang with knowledge that its members engage in or have engaged in a pattern of gang activity and who willfully promotes, furthers, or assists in any criminal conduct or violation of school rules, or represents himself or herself as being a gang member.”

102. Section 12.08 of the Student Code states, “A student who commits any act or exhibits conduct outside of school hours or away from school which may adversely affect the educational process or endanger the health, property, safety, morals, or well-being of other students, teachers, or employees within the school system may be disciplined hereunder.”
103. Defendants violated E.F.’s First and Fourteenth Amendment rights because Sections 7.10 and 12.08 do not provide a reasonable opportunity to understand what conduct they prohibit.
104. Defendants violated E.F.’s First and Fourteenth Amendment rights because Sections 7.10 and 12.08 authorize and encourage arbitrary and discriminatory enforcement.
105. Defendants violated E.F.’s First and Fourteenth Amendment rights because Sections 7.10 and 12.08 operate to inhibit the exercise of E.F.’s constitutional right to free speech.
106. Defendants violated E.F.’s First and Fourteenth Amendment rights because Sections 7.10 and 12.08 broadly sweep within its prohibitions conduct that is constitutionally protected.

## V. REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

- A. Declare that Defendants' actions violated E.F.'s right to free speech under the First and Fourteenth Amendments;
- B. Declare that Section 7.10 and Section 12.08 of the Troup County School System Student Behavior Code, facially and as applied, are unconstitutionally overbroad and vague, in violation of the Fourteenth Amendment;
- C. Issue a preliminary and permanent injunction enjoining Defendants from punishing E.F., or taking any further disciplinary action against E.F., on the basis of his protected expression;
- D. Issue a preliminary and permanent injunction enjoining Defendants from implementing Section 7.10 and Section 12.08 of the Troup County School System Student Behavior Code;
- E. Order Defendants to allow E.F. to return, without condition, to LaGrange High School;
- F. Order Defendants to expunge E.F.'s student records of any and all allegations, findings, mentions, and consequences resulting from Defendants' violations;
- G. Order Defendants to adopt and implement a student behavior code that comports with the U.S. Constitution and other applicable laws;

- H. Order Defendants to provide remedial educational services to E.F.;
- I. Award nominal and actual damages against Defendant Troup County School System, and nominal, actual and punitive damages against individual Defendants;
- J. Award reasonable attorneys' fees, expenses, and costs of litigation under 42 U.S.C. § 1988 and as otherwise permitted by law; and
- K. Order and direct any and all other relief as this Court deems proper.

Dated: October 15, 2019.

Respectfully submitted,

/s/Eugene Choi

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