

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

**K.K. and K.K., as parents, guardians, and
next friends to A.K., a minor,**

Plaintiffs,

v.

**CHUCK COMER, individually, and in his
official capacity, and
KNOX COUNTY, TENNESSEE,**

Defendants.

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CASE NO.:

JURY TRIAL DEMANDED

COMPLAINT

COME NOW the plaintiffs, K.K. and K.K., as parents, guardians, and next friends to A.K., a minor (hereinafter, “Plaintiffs” or “K.K./K.K.”), by and through their undersigned counsel, Law Office of James W. Friauf, PLLC, and for their Complaint against Chuck Comer, individually, and in his official capacity (hereinafter, “Comer”), and Knox County, Tennessee (hereinafter, “Knox County”) (hereinafter, collectively, “Defendants”), aver as follows:

I. PARTIES

1. Plaintiffs are resident citizens of the State of Tennessee, County of Knox.
2. Upon information and belief, Comer, is a resident citizen of the State of Tennessee, County of Knox; and, at all times material to the averments set forth herein, was employed by Knox County as a physical education and wellness teacher and was acting under the color of state law. Comer is being sued in his individual and official capacities. This Defendant may be served

with process via Richard “Bud” Armstrong, Esq., Law Director, Knox County, Tennessee, 400 Main Street, Suite 612, Knoxville, Tennessee 37902.

3. Knox County is a governmental entity responsible for the hiring, training, supervision, and discipline of Comer. This Defendant may be served with process via Richard “Bud” Armstrong, Esq., Law Director, Knox County, Tennessee, 400 Main Street, Suite 612, Knoxville, Tennessee 37902.

II. JURISDICTION AND VENUE

4. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 in that this action is brought pursuant to 42 U.S.C. § 1983 for violations of the Free Exercise Clause of the First Amendment to the United States Constitution.

5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) in that a substantial portion of the events or omissions giving rise to the claim occurred in Knox County, Tennessee.

III. GENERAL ALLEGATIONS

6. Plaintiffs re-allege and incorporate by reference each averment set forth in Paragraphs 1-5 herein, inclusive.

7. At all times material to the averments set forth herein, A.K. is and was a student at West Valley Middle School.

8. At all times material to the averments set forth herein, K.K./K.K. are and were the married, interracial, lesbian parents of A.K.

9. At all times material to the averments set forth herein, Comer was employed by Knox County as physical education and wellness teacher at West Valley Middle School.

10. At all times material to the averments set forth herein, Comer, with the knowledge and acquiescence of Knox County, maintained a school-sponsored basketball program at West Valley Middle School.

11. At all times material hereto, as a condition precedent to students participating in Defendants' school-sponsored basketball program, said students were required to participate in West Valley Middle School's "Teens for Christ" program.

12. Comer lured middle-school students into Defendants' "Teens for Christ" organization by informing students that they were simply participating in a school-sponsored basketball program.

13. Once Comer lured the students into participating in Defendants' school-sponsored basketball program, it was revealed that, in order to actually participate in such program, the students would be forced participate in the "Teens for Christ" program.

14. More specifically, for each instance of participation by students in Defendants' school-sponsored basketball program (which occurs/occurred on Tuesdays and Thursdays), the students were required to be present early in the morning before school at a lecture hall to listen to Comer read from and interpret the Bible for approximately 30 minutes.

15. If the students declined to participate in Defendants' "Teens for Christ" program, the students were denied the opportunity to participate in Defendants' school-sponsored basketball program.

16. During the 2019-2020 School Year, A.K. learned about the school-sponsored basketball program but was not initially aware he would be required to participate in the "Teens for Christ" program in order to participate in the basketball program.

17. Only after A.K. attempted to participate in the school-sponsored basketball program did he learn that listening to Comer's sermons was a condition precedent to participating in said school-sponsored basketball program.

18. Even more disturbingly, during his preaching sessions, Comer singled out LGBT "issues" and its relations to "sin".

19. A.K. reported to K.K./K.K. that Defendants were coercing him to endure Comer's religious teachings, including harassment on the basis of his parents' sexual orientation, as a condition precedent to participating in Defendants' school-sponsored basketball program. A.K.'s parents were offended by such outrageous and clearly unconstitutional actions by Defendants.

20. Based on information provided to K.K./K.K. by Assistant Principal Matt Patillo, West Valley Middle School Principal David Claxton and Knox County have been aware of and have acquiesced to Comer leading the school-sponsored basketball program at West Valley Middle School for not less than eight (8) years, while using the same as pretext to recruit students to join "Teens for Christ" program.

IV. CIVIL RIGHTS CLAIMS

COUNT I

FREE EXERCISE PURSUANT TO 42 U.S.C. § 1983

21. Plaintiffs re-allege and incorporate by reference each averment set forth in Paragraphs 1-20 herein, inclusive.

22. By unconstitutionally proselytizing to students, as a condition precedent to participating in school-sponsored activities, Comer's actions violate the First Amendment's Free Exercise Clause.

23. As a direct and proximate result of Comer's violations of the First Amendment's Free Exercise Clause, Plaintiffs have suffered serious mental injury and damages and are entitled to the relief set forth more fully herein.

COUNT II

DELIBERATE INDIFFERENCE UNDER 42 U.S.C. § 1983

24. Plaintiffs re-allege and incorporate by reference each averment set forth in paragraphs 1-23 herein, inclusive.

25. Plaintiffs plead herein additionally and alternatively to all other causes of action alleged in this Complaint, as may be amended.

26. Knox County permitted its employee, Comer, to proselytize to students as a condition precedent to allowing such students to participate in a school-sponsored basketball program.

27. This misconduct is part of the unspoken policy and practice of Knox County.

28. By failing to adequately train, supervise, and control its employees, including Comer, as a matter of both policy and practice, Knox County directly encourages; and, thereby, is the moving force behind the very type of misconduct averred herein. Such failures manifest deliberate indifference to the rights of citizens such as Plaintiffs.

29. By failing to adequately punish and/or discipline prior instances of similar misconduct, thereby leading employees working for Knox County to believe their actions would not be scrutinized; and, in that way, directly encouraging abuses such as those to which A.K. was subjected, as a matter of both policy and practice, Knox County directly encourages, and is thereby

the moving force behind, the very type of misconduct averred herein. Such failures manifest deliberate indifference to the rights of citizens such as A.K.

30. By abusing citizens in the manner averred herein, Knox County has compromised its governmental policies thereby giving license to the wrongdoers to continue their misconduct with impunity.

31. Knox County exhibited deliberate indifference to the constitutional rights of citizens like A.K. by having actual or constructive notice of Comer's unconstitutional proselytizing to students as a condition precedent to participating in school-sponsored programs. Consistently, it failed to act to correct such unconstitutional practices.

32. As a direct and proximate result of Knox County's deliberate indifference, A.K. has suffered serious mental injury and damages and are entitled to the relief set forth more fully herein.

COUNT IV

FAILURE TO TRAIN AND/OR SUPERVISE

33. Plaintiffs re-allege and incorporate by reference each averment set forth in Paragraphs 1-32 herein, inclusive.

34. Plaintiffs plead herein additionally and alternatively to all other causes of action alleged in this Complaint, as may be amended.

35. Knox County has failed to adequately train its educators as to the unconstitutionality of proselytizing to students as a condition precedent to participating in school-sponsored activities.

36. This failure to adequately train its educators as to the unconstitutionality of proselytizing to students as a condition precedent to participating in school-sponsored activities, presents the obvious potential to violate a student's constitutional rights.

37. By failing to adequately train Comer as to the unconstitutionality of proselytizing to students as a condition precedent to participating in school-sponsored activities, Knox County was reckless and/or grossly negligent, thereby creating an environment where educator misconduct and constitutional violations are substantially certain to occur.

38. Without proper training as to the unconstitutionality of proselytizing to students as a condition precedent to participating in school-sponsored activities, violations of the First Amendment Free Exercise Clause are virtually certain to occur.

39. As a direct and proximate result of Knox County's failure to train and/or supervise, Plaintiffs have suffered serious mental injury and damages and is entitled to the relief set forth more fully herein.

COUNT V

FAILURE TO IMPLEMENT APPROPRIATE POLICIES, CUSTOMS, AND PRACTICES UNDER 42 U.S.C. § 1983

40. Plaintiffs re-allege and incorporate by reference each averment set forth in paragraphs 1-39 herein, inclusive.

41. Plaintiffs plead herein additionally and alternatively to all other causes of action alleged in this Complaint, as may be amended.

42. Knox County has implicitly or explicitly adopted and/or implemented careless and reckless policies, customs, or practices, that include, among other things, permitting its employees to proselytize to students as a condition precedent to participate in school-sponsored activities.

43. Knox County has implicitly or explicitly adopted and/or implemented careless and reckless policies, customs, or practices whereby its employees unconstitutionally proselytize to students as a condition precedent to participate in school-sponsored activities.

44. As a direct and proximate result of Knox County's failure to implement appropriate policies, customs, and practices, Plaintiffs have suffered serious mental injury and damages and are entitled to the relief set forth more fully herein.

COUNT VI

RATIFICATION

45. Plaintiffs re-allege and incorporate by reference each averment set forth in paragraphs 1-44 herein, inclusive.

46. Knox County has ratified and acquiesced to the unlawful conduct of Comer by allowing Comer to unlawfully proselytize to students as a condition precedent to participating in school-sponsored activities, while failing to reprimand or retrain Comer.

47. Additionally, Knox County has ratified the policies, procedures, and unspoken and unconstitutional customs of the its educators, thereby ratifying the grossly negligent practices of the Knox County's educators.

48. Because of such ratification, A.K. was unconstitutionally subjected to proselytizing by Comer as a condition precedent to participating in school-sponsored activities in blatant violation of the First Amendment to the United States Constitution.

49. Such ratification is so grossly negligent as to demonstrate willful disregard for the protections of the United States Constitutions; and, therefore, warrants the imposition of punitive damages.

50. As a direct and proximate result of Knox County's ratification, Plaintiffs have suffered serious mental injury and damages and is entitled to the relief set forth more fully herein.

V. DAMAGES

51. Plaintiffs re-allege and incorporate by reference each averment set forth in paragraphs 1-50 herein, inclusive.

52. As a direct and proximate result of each of the foregoing acts, conduct, and violations of the law alleged herein, Plaintiffs have suffered damages in an amount and according to proof including, but without limitation, medical bills, pain and suffering, emotional distress, inconvenience, embarrassment, humiliation, loss of enjoyment of life – both past and future, permanent impairment, loss or impairment of future earning capacity, and other incidental and consequential damages.

53. Plaintiffs are further entitled to and seek recovery of their reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs sue for compensatory damages directly and proximately resulting from violation of their Constitutional Rights pursuant to the Free Exercise Clause of the First Amendment as may appear reasonable to the court and jury in an amount not less than **ONE MILLION DOLLARS (\$1,000,000.00)**.

WHEREFORE, Plaintiffs sue for punitive damages, as Defendants' conduct in violation of the United States Constitution was intentional, malicious, and/or reckless, with a conscious

disregard for Plaintiffs' constitutional rights in an amount not less than **TEN MILLION DOLLARS (\$10,000,000.00)**.

WHEREFORE, Plaintiffs respectfully demand payment of their reasonable attorneys' fees and costs in bringing this action pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiffs respectfully demand a jury be empaneled to hear this cause.

WHEREFORE, Plaintiffs respectfully request that this Court award such other and further relief as may be appropriate and assess the costs of this cause against Defendants.

Respectfully submitted this 4th day of March, 2020.

**K.K. and K.K., as parents, guardians, and next friends to
A.K., a minor**

By: /s/ James Friauf
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and next friends to A.K., a minor*